Government of Bombay
Legal Department

The Bombay Code

Volume V

containing

The unrepealed Acts of the Bombay Legislative Council from 1923 to 1930: And a Chronological Table of Acts reproduced in the Volume with an index

FIFTH EDITION

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BOMBAY
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PREFACE

The present fifth edition of the Bombay Code is based partly on the last edition edited and published by the Legislative Department of the Government of India and partly on the last edition of the supplementary volumes (containing Bombay Acts from 1923–1934), edited and published by the Legal Department of the Government of Bombay. It contains, with some exceptions, the unrepealed Bombay Regulations, the Local Acts of the Governor General in Council in force in the Province of Bombay, the Acts passed by the Governor of Bombay in Council, the Bombay Legislative Council and the Bombay Legislature.

2. The exceptions referred to above are—

(*a*) certain enactments which are now only in force within narrow limits and which were excluded from the last edition of the Code;

(*b*) the following Acts, which are of a purely personal character:—

Act XVIII of 1848 (Nawab of Surat).

Act VI of 1893 (Sir Dinshah Manockjee Petit).

Act XIX of 1911 (Sir Cowasjee Jehangir Baronetcy).

Act IV of 1913 (Sir Currimbhoy Ebrahim Baronetcy).

Act II of 1915 (Sir Sassoon Jacob David Baronetcy).

Act X of 1915 (Sir Jamsetjee Jeejeebhoy Baronetcy).

Act XXV of 1917 (Sir Currimbhoy Ebrahim Baronetcy Amendment).

Bom. Act VIII of 1924 (Sir Chinubhai Madhavlal Ranchhodlal Baronetcy).

Bom. Act XVI of 1936 (Sir Chinubhai Madhavlal Ranchhodlal Baronetcy Amendment).

3. This edition of the Code consists of six volumes, and like the earlier edition is divided into parts according to the class of enactments in each part. Volume I contains Part I, which reproduces unrepealed Bombay Regulations published in the last edition; and Part II which consists of unrepealed Local Acts of the Governor General in Council, now in force in the Province of Bombay. The other five volumes contain Parts III and IV which reproduce the Acts passed by the

local Council and the Bombay Legislature, respectively, from 1862 onwards. Volume II consists of the Acts passed during the years 1862 to 1887, Volume III those passed from 1888 to 1897, Volume IV those passed from 1898 to 1922, Volume V those passed from 1923 to 1930 and Volume VI those passed from 1931 to 1937.

4. Since its last publication in 1922 a large number of amending acts and new enactments have been passed by the Bombay Legislative Council. The Government of India (Adaptation of Indian Laws) Order, 1937, passed under section 293 of the Government of India Act, 1935, has made considerable changes in almost all the Acts and Regulations enacted prior to 1st April 1937. In publishing this edition all Acts purely of an amending nature modifying the main Bombay Acts have been omitted except those which have modified the Acts of the Central Government.

5. In order to facilitate ready reference to all the changes carried out in any Act, a table has been inserted at the commencement of each Act setting out the number and years of all amending and repealing Acts. A chronological table of Acts and a short index are also appended to each of the volumes. The changes made by the Government of India (Adaptation of Indian Laws) Order, 1937, are referred to in the foot-notes as being made by the Adaptation of Indian Laws Order in Council.

All Acts are printed as modified up to 31st December 1937

LEGAL DEPARTMENT :
28th January 1938.

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Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
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*The original title of this Act was "The Bombay Totalisator Betting Tax Act, 1925".

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1	2	3	4	5
1925	XVIII	The Bombay Municipal Boroughs Act, 1925.*	Amended by Bom. Act 10 of 1926; Amended by Bom. Act 1 of 1927; Amended by Bom. Act 12 of 1927; Amended by Bom. Act 3 of 1930; Amended by Bom. Act 4 of 1930; Amended by Bom. Act 9 of 1930; Amended by Bom. Act 25 of 1930; Amended by Bom. Act 12 of 1931; Amended by Bom. Act 23 of 1931; Amended by Bom. Act 7 of 1932; Amended by Bom. Act 15 of 1932; Amended by Bom. Act 17 of 1933; Amended by Bom. Act 14 of 1934; Amended by Bom. Act 19 of 1935; Amended by Bom. Act 14 of 1936; Amended by Bom. Act 15 of 1936; Amended by Bom. Act 24 of 1936; Adapted and modified by the Adaptation of Indian Laws Order in Council.	221
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*The original title of this Act was "The Bombay City Municipalities Act, 1925".

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1	2	3	4	5
1929	XVIII	The Bombay Borstal Schools Act, 1929.	Amended by Bom. Act 10 of 1932 ; Amended by Bom. Act 3 of 1934 ; Amended by Bom. Act 18 of 1935 ; Amended by Bom. Act 2 of 1936 ; Adapted and modified by the Adaptation of Indian Laws Order in Council.	427
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4. Method of levy.
5. Punishment for non-compliance with section 4.
6. Entertainments for charitable or educational purposes exempted : exemption by Provincial Government.
7. Power to make rules.
8. Power to enter place of entertainment for purposes of the Act.
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10. Delegation of powers by Provincial Government.

BOMBAY ACT No. I OF 1923.[1]

[THE BOMBAY ENTERTAINMENTS DUTY ACT, 1923]

[*13th January, 1923*]

Amended by Bom. Act 6 of 1925.

" " " " 13 " 1931.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to impose a duty in respect of admission to entertainments in the Presidency of Bombay.

WHEREAS it is expedient to provide for the levy of a duty in respect of admission to theatres, cinemas, and other places of public entertainment in the Presidency of Bombay ; It is hereby enacted as follows :—

Short title, extent and operation.

1. (*1*) This Act may be called the Bombay Entertainments Duty Act, 1923.

(*2*) It extends to the whole of the Bombay Presidency.

(*3*) It shall come into operation in the first instance only in the city of Bombay, the Ahmedabad municipal district and cantonment, the Surat municipal district, the Poona city and suburban municipal districts, the Poona cantonment, the Sholapur municipal district and the Karachi municipal district and cantonment ; but the [2][Provincial Government] may by notification[3] in the [4][*Official Gazette*] direct that it shall come into operation in any other local area on such date as may be specified in such notification.

Definitions.

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

(*a*) " entertainment " includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment ;

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[1]For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1922, Part V, p. 177 ; for Report of Select Committee, see *ibid*, 1922, pp. 244-245 ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1922, Vol. VII.

[2]The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[3]This Act came into operation in the Kirkee Cantonment area on 1st April 1930 (*vide* Government Notification in the Revenue Department, No. 7304-E, dated the 28th January 1930, published in the *Bombay Government Gazette*, 1930, Part I, p. 187).

[4]The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

[1](*b*) "payment for admission" includes

(*i*) any payment made by a person who, having been admitted to one part of a place of entertainment, is subsequently admitted to another part thereof for admission to which a payment involving duty or more duty is required,

(*ii*) any payment for seats or other accommodation in a place of entertainment,

(*iii*) any payment for a programme or synopsis of an entertainment, and

(*iv*) any payment for any purpose whatsoever connected with an entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment if any for admission to the entertainment;

(*c*) "proprietor" in relation to any entertainment includes any person responsible for the management thereof; and

(*d*) "admission to an entertainment" includes admission to any place in which the entertainment is held.

Duty on payments for admission to entertainments.

3. (*1*) There shall, from the 1st day of February 1923, be levied and paid, to the Government of Bombay, on all payments for admission to any entertainment, a duty (hereinafter referred to as "entertainments duty") at the following rate, namely :—

Where the payment, excluding the amount of the duty, is made for admission to a race-course licensed under the [2]Bombay Race-Courses Licensing Act, 1912, [3][25] per cent. of such payment and in any other case. Bom. III of 1912.

Where the payment, excluding the amount of the duty—

exceeds four annas but does not exceed eight annas ..	.. One anna ;
exceeds eight annas but does not exceed one rupee ..	.. Two annas ;
exceeds one rupee but does not exceed two rupees ..	.. Four annas ;
exceeds two rupees but does not exceed three rupees ..	.. Six annas ;
exceeds three rupees but does not exceed four rupees ..	.. Eight annas ;
exceeds four rupees but does not exceed five rupees ..	.. Twelve annas ;
exceeds five rupees but does not exceed seven rupees eight annas	.. One rupee ;
exceeds seven rupees eight annas but does not exceed ten rupees	.. One rupee eight annas ;
for every five rupees or part thereof in excess of the first ten rupees, in addition to the payment on the first ten rupees	.. One rupee.

(*2*) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, or for any privilege, right, facility or thing combined with the right of admission

[1]This clause was substituted for the original clause by Bom. 13 of 1931, s. 2.
[2]Vol. IV of Bom. Code.
[3]These figures were substituted for the figures "50" by Bom. 6 of 1925, s. 10.

to any entertainment or involving such right of admission without further payment or at a reduced charge, the entertainments duty shall be paid on the amount of the lump sum;

but where the [1][Provincial Government] is of opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment, or covers admission to an entertainment during any period for which the duty has not been in operation, the duty shall be charged on such an amount as appears to the [1][Provincial Government] to represent the right of admission to entertainments in respect of which the entertainments duty is payable.

Method of levy.

4. (*1*) Save as otherwise provided by this Act no person shall be admitted for payment to any entertainment where the payment is subject to entertainments duty except with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not before used) issued by the [1][Provincial Government] for the purposes of revenue and denoting that the proper entertainments duty has been paid.

(*2*) The [1][Provincial Government] may, on the application of a proprietor of any entertainment in respect of which the entertainments duty is payable under section 3, allow the proprietor on such conditions as the [1][Provincial Government] may prescribe to pay the amount of the duty due—

(*a*) by a consolidated payment of a percentage, to be fixed by the [1][Provincial Government], of the gross sum received by the proprietor on account of payments for admission to the entertainment and on account of the duty;

(*b*) in accordance with returns of the payments for admission to the entertainment and on account of the duty;

(*c*) in accordance with the results recorded by any mechanical contrivance which automatically registers the number of persons admitted.

(*3*) The provisions of sub-section (*1*) of this section and of section 5 shall not apply to any entertainment in respect of which the duty due is payable in accordance with the provisions of sub-section (*2*).

Punishment for non-compliance with section 4.

5. If any person is admitted for payment to any place of entertainment and the provisions of section 4 are not complied with, the proprietor of the entertainment to which such person is admitted shall, on conviction before a Magistrate, be liable in respect of each offence to a fine which may extend to rupees five hundred and shall be liable to pay any duty which should have been paid.

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[1]The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

Entertainments for charitable or educational purposes exempted: exemption by Provincial Government.

6. (*1*) Entertainments duty shall not be levied on payments for admission to any entertainment where, in the case of the City of Bombay, the Commissioner of Police, or elsewhere, the District Magistrate, is satisfied that—

(*a*) the whole of the takings thereof are devoted to philanthropic or charitable purposes without any charge on the takings for any expenses of the entertainment; or

(*b*) the entertainment is of a wholly educational character; or

(*c*) the entertainment is provided partly for educational or partly for scientific purposes by a society, institution or committee not conducted or established for profit.

(*2*) Where the Commissioner of Police or the District Magistrate, as the case may be, is satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic or charitable purposes, and that the whole of the expenses of the entertainment do not exceed twenty per cent. of the receipts, the amount of the entertainments duty paid in respect of the entertainment shall be refunded to the proprietor.

(*3*) The [1][Provincial Government] may, by general or special order, exempt any entertainment or class of entertainments from liability to entertainments duty.

Power to make rules.

7. (*1*) The [1][Provincial Government] may make rules for securing the payment of the entertainments duty and generally for carrying into effect the provisions of this Act, and in particular—

(*a*) for the supply and use of stamps or stamped tickets, or for the stamping of tickets sent to be stamped; and for securing the defacement of stamps when used;

(*b*) for the use of tickets covering the admission of more than one person and the calculation of the duty thereon; and for the payment of the duty on the transfer from one part of a place of entertainment to another and on payments for seats or other accommodation;

(*c*) for controlling the use of mechanical contrivances (including the prevention of the use of the same mechanical contrivance for payments of a different amount), and for securing proper records of admission by means of mechanical contrivances;

(*d*) for the checking of admissions, the keeping of accounts and the furnishing of returns by the proprietors of entertainments in respect of which the duty due is payable in accordance with the provisions of section 4, sub-section (*2*);

(*e*) for the renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund;

(*f*) for the keeping of accounts of all stamps used under this Act;

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[1]The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(*g*) for the presentation and disposal of applications for exemption from payment of the entertainments duty or for the refund thereof; and

(*h*) for the exemption from entertainments duty of British and Indian soldiers and sailors in uniform.

(*2*) If any person acts in contravention of, or fails to comply with, any such rules, he shall, on conviction before a Magistrate, be liable in respect of each offence to a fine not exceeding five hundred rupees.

(*3*) Such rules shall be made after previous publication.

Power to enter place of entertainment for purposes of the Act.

8. The Commissioner of Police in the City of Bombay, or the District Magistrate elsewhere, or any officer other than a Police officer below the rank of Head Constable duly authorised by them in this behalf, may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment, at any reasonable time, with a view to seeing whether the provisions of this Act or the rules made thereunder are being complied with.

Recoveries.

9. Any sum due on account of entertainments duty shall be recoverable as an arrear of land revenue.

Delegation of powers by the Provincial Government.

10. [1]Any of the powers and duties conferred or imposed upon the [2][Provincial Government] by this Act may be exercised or performed, subject to such conditions as the [2][Provincial Government] may prescribe, by any person whom the [2][Provincial Government] may by general or special order empower in this behalf.

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[1]For Notification under this section, *see* Government Notification in the Revenue Department, No. 7230-E, dated the 17th December 1923, published in the *Bombay Government Gazette*, 1923, Part I, p. 2975.

[2]The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

BOMBAY ACT No. II OF 1923.[1]

[THE OPIUM (AMENDMENT) ACT, 1923]

[*3rd February, 1923*]

Amended by Bom. Act 14 of 1930;

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act further to amend the Opium Act, 1878.

of 78. WHEREAS it is expedient further to amend the [2]Opium Act, 1878, in its application to the Presidency of Bombay, in manner hereinafter appearing; and WHEREAS the previous sanction of the Governor General required by clause (*e*) of sub-section (*3*) of section 80A of the & 6, o. V, 61. Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

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

of 78. 2. In section 3 of the [2]Opium Act, 1878, hereinafter called the said Act, after the definition of "Magistrate" the following definition shall be inserted, namely:— Interpretation clause.

"Officer in charge of a police station" means and includes, in the City of Bombay, an officer in charge of a section, and "officer in charge of the nearest police station" means and includes, in the City of Bombay, the nearest officer in charge of a section, within the meaning of the [3]City of Bombay Police Act, 1902.

m. of 02.

3. For section 20 of the said Act, the following sections shall be substituted, namely:— New sections 20 to 20C.

"20. Every officer of the department of Salt [4][not below the rank of Inspector and every officer of the department of Excise not below the rank of Assistant Inspector] and every officer of the Customs department not below the rank of Preventive officer, who may in right of his office be authorised by the [5][Provincial Government] in this behalf, shall within the area for which he is appointed, exercise Powers of certain officers of Salt and Excise and Customs Departments with regard to offences.

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[1]For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1922, Part V, pp. 183–184; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1922, Vol. VII.

[2]Central Acts.

[3]Vol. IV of Bom. Code.

[4]These words were substituted for the words "and Excise not below the rank of Inspector" by Bom. 14 of 1930, s. 2.

[5]The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

powers with regard to offences under this Act, similar to those exercised by an officer in charge of a police station under the [1]Code of Criminal Procedure, 1898. V of 1898.

Disposal of persons arrested and things seized in certain cases.

20A. Every person arrested and thing seized under section 14, 15 or 19 shall, unless the arrest or seizure has been made by an officer of the department of Salt and Excise or the Customs department authorised under section 20, be forwarded without delay to the nearest such officer, or if there be no such officer within a reasonable distance, to the officer in charge of the nearest police station.

Disposal of person arrested by officer of department mentioned in section 20.

20B. When any person has been arrested under section 14, 15 or 19 by an officer of the department of Salt and Excise or the Customs department authorised under section 20 or been forwarded to him under section 20A, the said officer may detain such person and shall proceed to enquire into the charge against him, and

(*a*) if he is of opinion that there is sufficient evidence or reasonable ground of suspicion against him, he shall forward him to the nearest Magistrate having power to take cognizance of the offence, or admit him to bail if sufficient bail be tendered for his appearance before the Magistrate ; or

(*b*) if he is of opinion that there is not sufficient evidence or reasonable ground as aforsaid, or that the person arrested may be discharged with a warning, he shall release him on his executing a bond with or without sureties, to appear, if and when so required, before a Magistrate having power as aforesaid, and make a full report of all the particulars of the case to his official superior and be guided by the order which he shall receive upon such report.

Article seized by such officer.

20C. When anything has been seized by an officer of the department of Salt and Excise or the Customs department authorised under section 20, or been sent to him under section 20A, such officer, after such enquiry as may be necessary, shall

(*a*) if it appears that such thing is required as evidence in the case of any person arrested, forward it to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken,

(*b*) if it appears that it is liable to confiscation but is not required as evidence as aforesaid, send it with a full report of the particulars of the seizure to the Collector,

(*c*) if no offence appears to have been committed, return it to the person from whose possession it was seized ."

[1] Central Acts.

THE BOMBAY PRIMARY EDUCATION ACT, 1923.

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BOMBAY ACT No. IV OF 1923.[1]

[THE BOMBAY PRIMARY EDUCATION ACT, 1923]

[*22nd February, 1923*]

Amended by Bom. Act 15 of 1927.

" Bom. Act 6 of 1934.

" Bom. Act 15 of 1935.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for compulsory elementary education and to make better provision for the management and control of primary education in the Bombay Presidency.

WHEREAS it is the declared policy of the Government that universal, free and compulsory elementary education for boys and girls should be reached by a definite programme of progressive expansion and WHEREAS it is expedient to provide for a progressive development and expansion of primary education so as to reach that goal on lines recommended by the Compulsory Education Committee of 1921 appointed by the Government, and WHEREAS it is expedient for this purpose to provide for compulsory elementary education and to make better provision for the management and control of primary education in the Presidency of Bombay and WHEREAS the previous sanction of the Governor General required by clause (*e*) of sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; it is hereby enacted as follows:—

. & 6, Geo. V, c. 61.

1. (*1*) This Act may be called the Bombay Primary Education Act, 1923. Short title and extent.

(*2*) It extends to the whole of the Bombay Presidency except the City of Bombay.

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[1]For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1922, Pt. V, pp. 166–167; for Report of the Select Committee, see *ibid*, pp. 236–237 and for Proceedings in Council, *see* Council Debates, 1922, Vol. VII.

Definitions.

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

"approved school" means a school or part of a school in which instruction in elementary education is given and which is for the time being approved by the school board or by [1][the Provincial Government] on appeal from a decision of the school board refusing approval;

"area of compulsion" means the area in which elementary education is compulsory;

to "attend" an approved school means to be present for instruction at such school on such days and at such time and for such periods on each day as may be required by the school board with the approval of [1][the Provincial Government];

"child" means a child whose age at the beginning of the school year is not less than six and not more than eleven years;

"elementary education" means the education from time to time imparted in infant classes and vernacular standards I to IV inclusive as prescribed or sanctioned under section 17;

"local authority" means a district local board or a municipality which is authorised by [1][the Provincial Government] to manage its own schools [2]* * * * *

"parent" includes a guardian and any person who has the actual custody of a child;

"prescribed" means prescribed by rules made by [1][the Provincial Government] for the purposes of this Act.

Constitution of school boards.

3. (*1*) For every local authority there shall be a school board. The school board shall be constituted as prescribed and shall consist of not less than seven and not more than nine elected members, if the local authority is a municipality, and not less than nine and not more than sixteen elected members if the local authority is a district local board. The members shall be elected by the local authority and shall, so far as may be, include persons experienced in education, women, representatives of minorities, [3][intermediate classes and scheduled classes] and, if the local authority is a district local board, representatives of municipalities in the district which are not local authorities. Such members shall not necessarily be members of the local authority.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "and includes in the case of Aden, the Executive Committee of Aden" were omitted by *ibid.*

[3] The words "intermediate classes and scheduled classes" were substituted for the words "backward classes, and depressed classes" by Bom. 6 of 1934, s. 2 (*i*).

Explanation.—[1][Intermediate and scheduled classes] shall mean classes so declared by [2][the Provincial Government].

(*2*) [2][The Provincial Government] may appoint not more than three additional members if the local authority is a municipality and not more than four if the local authority is a district local board.

(*3*) The term of the school board shall be co-extensive with the term of the local authority; and at the end of such term the members of the school board shall vacate office, provided that they shall continue in office till a new school board is appointed.

(*4*) Casual vacancies during the terms of the school board shall be filled by election or nomination as the case may be for the remaining period.

Powers and duties of school boards. Commencement.

4. (*1*) From such date as [2][the Provincial Government] may direct in this behalf in respect of each school board, and subject to the general control of the local authority, the school board shall exercise and perform such powers and duties as may be enacted in or prescribed under this Act.

(*2*) The school board shall exercise the powers and perform the duties of the local authority for which it is constituted in respect of primary education and if the local authority is a district local board, it shall also exercise the like powers and perform the like duties of the municipalities in the district which are not local authorities. The school board shall also enforce the provisions of this Act.

(*3*) The school board shall submit its annual budget and all alterations therein for the sanction of the local authority.

(*4*) The school board shall further exercise such powers and perform such duties in respect of any educational purpose as may be delegated to it by the local authority or any such municipality as aforesaid.

(*5*) The school board shall elect its chairman from amongst the members of the board.

Delegation of duties.

5. The school board may from time to time delegate any of its powers and duties to any sub-committee or member or honorary or stipendiary officer of the board; such committee, member or officer shall conform to any instructions that may from time to time be given by the school board; the board may at any time discontinue or alter the constitution of any sub-committee so formed or withdraw any of the powers or duties so delegated.

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[1]The words "Intermediate and scheduled classes" were substituted for the words "Backward and depressed classes" by Bom. 6 of 1934, s. 2 (*ii*).

[2]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Transfer of schools by municipality to district local board; retransfer.

6. (*1*) Every municipality which is not a local authority shall on a date to be notified by [1][the Provincial Government] in this behalf transfer to the district local board of the district in which it is situate all primary schools, with their lands, buildings, records and equipment, which vest in it and shall pay over annually to the said district local board for educational purposes such amount as may from time to time be fixed by [1][the Provincial Government] on the basis of the number of children of the municipal district receiving primary education from the district local board, and the income accruing from any funds (including trust funds) held and all monies received by it for purposes of primary education.

(*2*) If any such municipality is at any time authorized by [1][the Provincial Government] to manage its own schools, the district local board of the district shall on a date to be notified by [1][the Provincial Government] in this behalf transfer to such municipality all primary schools, with their lands, buildings, records and equipment, situated in the area subject to such municipality; and such municipality shall from the aforesaid date no longer be liable to make the payments required by sub-section (*1*).

Control of primary education by school committee to cease.

7. Where in any municipality a school committee has been appointed under section 28 of the [2]Bombay District Municipal Act, 1901, the control by that committee of primary education shall from a date to be notified by [1][the Provincial Government] in this behalf cease.

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Absorption of existing educational staff by local authorities; services of such officers shared by local authorities.

8. (*1*) A local authority shall take over and employ such primary school teachers employed under the Educational Department of [1][the Provincial Government] as [1][the Provincial Government] may direct, on the same terms and conditions on which such persons were employed under the said department.

(*2*) The existing and future rights, liabilities, duties and powers of [1][the Provincial Government] in respect of such teachers shall vest in and be exercised or performed by the local authority:

Provided (*a*) that any such teacher shall have a right of appeal to [1][the Provincial Government] against any order of dismissal;

(*b*) that the scales of pay and allowances applicable to such teachers at the time at which they are taken over and employed by the local

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2]Vol. IV of Bom. Code.

authority shall not be altered without the[1]* sanction of [2][the Provincial Government] [3][and [2][the Provincial Government] may, in such cases as they think fit, direct that such alterations shall take effect from any date prior to that on which such sanction is given. Such direction shall not take effect from a date prior to that determined by the local authority in this behalf.]

(*3*) A local authority shall make such payments to such other local authority as [2][the Provincial Government] may direct in respect of services rendered to such authority by any teacher taken over by such other authority under the provisions of sub-section (*1*).

(*4*) The provisions of this section shall apply to all primary school teachers employed under the Educational Department of [2][the Provincial Government] on or before the first July 1923 or on or before the date prescribed under section 4, sub-section (*1*), whichever shall be later.

School Board Administrative Officer.

9. (*1*) The local authority shall, [4][after inviting and considering the suggestions, if any] of the school board and with the approval of [2][the Provincial Government], appoint an officer who shall be called the School Board Administrative Officer. He shall be the chief executive officer of the school board and his pay, powers and duties shall be determined by rules made in this behalf by the local authority and sanctioned by [2][the Provincial Government].

(*2*) No such officer shall, save with the previous sanction of [2][the Provincial Government], be removable from office, reduced or suspended unless by the votes of at least two-thirds of the whole number of councillors.

Declaration by local authority of intention to provide compulsory elementary education.

10. (*1*) A local authority may by resolution declare its intention to provide compulsory elementary education in the whole or any part of the area subject to its jurisdiction in the case of children of either sex or both sexes and, if the local authority is a district local board, in any area subject to the jurisdiction of a municipality situate in the district which is not a local authority and shall submit its proposals [2][the Provincial Government] in the form of a scheme.

(*2*) A local authority, if called upon by [2][the Provincial Government] so to do, shall within a time to be specified by [2][the Provincial Government] submit a scheme to provide compulsory elementary education in such area as above as [2][the Provincial Government] may direct and in the case of children of either sex or both sexes as [2][the Provincial Government] may specify.

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[1] The word "previous" was omitted by Bom. 15 of 1935, s. 2 (*1*).

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] These words were inserted by Bom. 15 of 1935, s. 2 (*2*).

[4] These words were substituted for the original words by Bom. 15 of 1927, s. 2.

(*3*) Every local authority shall, within the prescribed period, prepare as complete a programme as possible for the universal introduction of compulsory education within the area subject to its jurisdiction within a definite period.

Particulars to be contained in scheme.

11. The scheme shall contain the following particulars :—

(*a*) the area of compulsion ;

(*b*) a census of children of either sex or both sexes residing within such area and classified by communities and vernaculars ;

(*c*) a list of existing and proposed schools indicating the private schools which will be approved schools ;

(*d*) a schedule of existing and proposed teaching, inspecting and supervising staff ;

(*e*) the manner in which provision will be made for the compulsory elementary education in their vernaculars of the children of all communities in the area of compulsion ;

(*f*) the recurring and non-recurring cost of the scheme and how the local authority proposes to meet its share of it ; and

(*g*) if there is a municipality which is not a local authority within the area of compulsion, the annual contribution which the municipality in the opinion of the local authority should make.

Sanction of Provincial Government to scheme.

12. [1][The Provincial Government] may after such enquiry as shall seem necessary sanction such scheme with or without modification.

Provincial Government to make financial provision for scheme.

13. (*1*) If the scheme is sanctioned [1][the Provincial Government] shall bear half of the additional recurring and non-recurring annual cost of the scheme if the local authority is a municipality and two-thirds of the said cost if the local authority is a district local board ; but the liability of [1][the Provincial Government] shall not exceed half or two-thirds, as the case may be, as it was estimated by the local authority.

(*2*) Nothing in this section shall affect the claim of any local authority to any annual grant which at the time this Act comes into operation is being paid to it by [1][the Provincial Government] for purposes of primary education, provided that if [1][the Provincial Government] consider that the educational fund of any local authority has been or is about to be misused or misapplied, they may call upon such local authority for an explanation of such misuse or misapplication ; and if not satisfied with the explanation given may make such reduction in the grants payable to such local authority as they deem proper.

Duty of local authority.

14. When a scheme has been sanctioned the local authority shall make adequate provision for compulsory elementary education within the area of compulsion and no fee shall be charged in any school within such area managed by the school board in respect of the elementary education of any child.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council,

Modification, etc., of scheme after sanction.

15. A sanctioned scheme may with the sanction of [1][the Provincial Government] be withdrawn or from time to time modified by a local authority, or may by an order published with the reasons for making it in the [2][*Official Gazette*] be modified, cancelled or temporarily suspended by [1][the Provincial Government].

Inspection of schools. Returns.

16. (*1*) Every approved school and every primary school maintained or aided by a local authority shall be open during school hours to inspection by the inspecting officers of [1][the Provincial Government] and of the local authority, for the purpose, in particular, of ascertaining—

(*a*) whether instruction is given as prescribed or sanctioned under section 17;

(*b*) whether any instruction of a pernicious nature is given;

(*c*) whether the provisions of the Act for the compulsory attendance of children are being carried out; and

(*d*) whether the prescribed registers and records are being maintained.

(*2*) The school board in respect of any such school maintained by a local authority, and the manager of any other such school shall furnish such returns and supply such information as [1][the Provincial Government] or the local authority may from time to time require.

Subjects, curricula, etc., of approved schools.

17. The subjects, curricula, books and standards of teaching of approved schools and other primary schools maintained or aided by a local authority shall be as prescribed but may be altered by the school board with the sanction of [1][the Provincial Government] to suit local requirements.

Duty of parents to cause children to attend school.

18. In every area of compulsion the parent of every child to whom a scheme applies shall in the absence of a reasonable excuse as hereinafter provided and if such parent and child ordinarily reside in such area cause such child to attend an approved school in such area.

Meaning of reasonable excuse.

19. A parent shall be deemed to have a reasonable excuse for failure to cause a child to attend an approved school in any of the following cases:—

(*a*) where the child is prevented from attending school by sickness, infirmity or other unavoidable cause;

(*b*) where the child is receiving, otherwise than in an approved school, instruction which in the opinion of the school board is efficient, or has received from the school board a certificate of having already completed his elementary education;

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(*c*) where there is no approved school within a distance to be fixed by [1][the Provincial Government] in consultation with the school board and measured according to the nearest road, from the residence of the child;

(*d*) where after due application, entrance to an approved school has been refused to the child and there is no other approved school to which he can be admitted within the distance fixed under clause (*c*) until such time as the parent is notified that the child can be admitted;

(*e*) where there is no approved school in the locality in which instruction is given in the vernacular of the child;

(*f*) where there is no approved school in the locality to which the parent can send the child without exposing it to religious instruction to which the parent objects.

Issue of attendance order.

20. (*1*) Where the school board is satisfied that the parent of any child who is bound under the provisions of section 18 to cause such child to attend an approved school, has failed to do so, the school board, after giving the parent an opportunity of being heard and after such enquiry as it considers necessary, may pass an order directing the parent to cause such child to attend an approved school on and from a date which shall be specified in the order.

(*2*) This power may be delegated by the school board to a person or committee appointed by it.

Penalty for failure to cause child to attend school.

21. (*1*) Any parent against whom an order with reference to a child has been passed under section 20 and who fails to comply with the provisions of section 18 with respect to such child on and after the date specified in such order shall, if he resides in a town or village where there is a magistrate, on conviction by such magistrate, and, if he resides elsewhere, on conviction by a revenue or police patel or other person empowered in this behalf by the District Magistrate, be liable to a fine not exceeding two rupees and, if such failure continues after such conviction, he shall also on conviction by such magistrate, patel or person be liable to a fine of eight annas for every day that the failure continues or is repeated.

(*2*) No magistrate, patel or person shall take cognizance of an offence under sub-section (*1*) except on the complaint of the authority or person who passed the order under section 20, or by any person authorised by the said board in this behalf.

Penalty for employing child liable for compulsory education.

22. (*1*) Whoever knowingly takes into his employment, either on his own behalf or on behalf of any other person, any child in respect of whom the provisions of section 18 apply, so as to interfere with the efficient instruction of such child, shall, on conviction before a magistrate, be liable to a fine not exceeding twenty-five rupees.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(*2*) No court shall take cognizance of an offence under this section except on the complaint of the school board or the School Board Administrative Officer or any person authorized by the said board or officer in this behalf; and before making any complaint under this section against any person, the school board or the School Board Administrative Officer or such person shall, unless such person has previously been convicted under this section in respect of the same child, cause a warning to be given to such person.

23. [*Fines how dealt with.*] Omitted by the Adaptation of Indian Laws Order in Council.

24. An appeal from a conviction under section 21 by a patel or person shall lie to the nearest magistrate having jurisdiction in the town or village where the appellant resides. Appeal.

25. [1][The Provincial Government] may by notification in the [2][*Official Gazette*] exempt children of either sex of any particular class or community in any area of compulsion or part thereof from the operation of this Act. Power to exempt particular classes.

26. (*1*) If the local authority when called upon makes default in preparing a scheme or after a scheme has been sanctioned omits to make adequate provision for compulsory elementary education in accordance with a scheme as sanctioned and to bring into operation or continue to keep in operation such scheme, [1][the Provincial Government] may after due enquiry appoint a person to prepare the scheme or to bring it into operation or to continue to keep it in operation as the case may be, and the expense thereof shall be paid by the local authority to [1][the Provincial Government]. Default by local authority.

(*2*) If the expense is not so paid [1][the Provincial Government] may make an order directing any person who has for the time being custody of any moneys on behalf of the local authority either as banker or in any relation to pay such expense from such moneys as he may have in his hands or may from time to time receive and such person shall be bound to obey such order.

27. (*1*) [1][The Provincial Government] may by notification in the [2][*Official Gazette*] make rules regulating— Rules.

(*a*) the exercise and performance of the powers and duties of local authorities, municipalities which are not local authorities, school boards and School Board Administrative Officers and their relations with the [3][Educational Department of the Provincial Government] and with each other in educational matters;

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

[3] The words "Educational Department of the Provincial Government" were substituted for the words "Government Educational Department" by *ibid.*

(*b*) the maximum and minimum pay, the grant of pension or provision of provident funds, the grant of leave and other conditions of service of, to or for the teaching, inspecting and supervising staff employed by a local authority;

(*c*) matters to be prescribed under the Act.

(*2*) Rules made under sub-section (*1*) shall be made after previous publication.

(*3*) The local authority may from time to time with the sanction of [1][the Provincial Government] make regulations not inconsistent with the provisions of this Act and the rules thereunder for carrying out the purposes of this Act; in particular and without prejudice to the generality of the foregoing provisions, the local authority may make regulations—

(*a*) including in the curriculum of primary education courses of practical instruction suitable to local needs;

(*b*) for the instruction in experimental science, modelling, nature study, manual training and prevocational work including household science of children of any age receiving primary education;

(*c*) for the physical and moral training of children of any age receiving primary education;

(*d*) determining the pay and terms of employment of the teaching, inspecting and supervising staff and regulating the administration and management of primary schools;

(*e*) for the supply of books, slates and educational requisites to indigent children of any age receiving primary education;

(*f*) prescribing prevocational courses as a part of upper primary education.

Repeal of Bom. I of 1918.

28. The Bombay Primary Education (District Municipalities) Act, 1918, is hereby repealed: Bom. I of 1918.

Provided that in any municipal district where a notification under section 3 of that Act has issued the provisions of this Act shall from the date of repeal have effect as though the municipality had followed the procedure described in this Act.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

THE BOMBAY LOCAL BOARDS ACT, 1923.

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BOMBAY ACT No. VI OF 1923.[1]

[THE BOMBAY LOCAL BOARDS ACT, 1923]

[*17th March, 1923*]

Amended by Bom. Act 2 of 1925.
" " " 13 " 1925.
" " " 7 " 1926.
" " " 10 " 1927.
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" " " 13 " 1935.
" " " 16 " 1935.
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" " " 34 " 1935.
" " " 14 " 1936.
" " " 18 " 1936.
" " " 24 " 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1922, Pt. V, pp. 140-145; for Report of Select Committee *see ibid* pp. 191-194; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1922, Vol. VII.

An Act to consolidate and amend the law relating to local boards.

WHEREAS it is expedient to consolidate and amend the law relating to local boards and local funds and whereas the previous sanction of the Governor General required by clauses (*a*), (*e*) and (*h*) of sub-section (*3*) of section 80A of the Government of India Act, has been obtained for the passing of this Act; It is hereby enacted as follows :— 5 & 6 Geo. V, c. 61.

CHAPTER I.—PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Local Boards Act, 1923.

(*2*) It extends to the whole of the Presidency of Bombay[1] * *.

Repeal of certain Acts.

2. The Sind Local Funds Act, 1865, the Bombay Local Funds Act, 1869, and the Bombay Local Boards Act, 1884, are hereby repealed : Provided that such repeal shall not affect the liability of any person to pay any sum due from him under any of the said enactments. Bom. VIII of 1865. Bom. III of 1869. Bom. I of 1884.

Interpretation section.

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

(*a*) The words "salaried [2][servant of the Crown]" do not include a retired [2][servant of the Crown] in receipt of a pension or a person in receipt of a salary or fees [3][from the Crown] who is not a full-time [2][servant of the Crown];

(*b*) the word "taluka" means any local area for which a taluka board is established, [4][or a taluka committee is appointed under section 38A] inclusive of the portion of such area if any, for the time being within a municipal district or a Military cantonment;

(*c*) the word "Mamlatdar" means in Sind a Mukhtyarkar; and

(*d*) any word or expression which is defined in the [5]Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code. Bom. V of 1879.

CHAPTER II.—CONSTITUTION OF LOCAL BOARDS.

Establishment of district and taluka local boards.

4. (*1*) [6][The Provincial Government] shall establish one district local board for each district as constituted from time to time under the [5]Bombay Land Revenue Code, 1879, and may establish such number of taluka local boards for such areas within the district as it shall deem fit. Bom. V of 1879.

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[1] The words "and Aden" were omitted by the Adaptation of Indian Laws Order in Council.

[2] The words "servant of the Crown" were substituted for the words "servant of the Government" by *ibid.*

[3] The words "from the Crown" were substituted for the words "from the Government" by *ibid.*

[4] These words, figures and letter were inserted by Bom. 6 of 1935, s. 2.

[5] Vol. II of Bom. Code.

[6] The words "The Provincial Government" were substituted for the words "The Government" by the Adaptation of Indian Laws Order in Council.

(*2*) Local funds shall be administered by local boards established under the provisions of this Act.

(*3*) A district local board and subject to the authority of the district local board, a taluka local board shall have authority for the purposes of this Act over the area for which it has been established, except such portion thereof as is for the time being within the limits of a municipal district or cantonment.

Bom. I of 1884. (*4*) Any local board established under the Bombay Local Boards Act, 1884, and existing immediately prior to the coming into force of this Act, shall be deemed to have been established under this Act;

and in respect of all property, debts, obligations, contracts, agreements, civil and criminal proceedings and any other matter or thing the rights and liabilities of any such local board shall be deemed to vest in the local board so deemed to have been established;

and any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed in respect of any such local board under any law other than the Acts repealed by section 2, or, so far as consistent with the provisions of this Act, under any Act so repealed shall be deemed to have been made, issued or imposed under the provisions of such law or this Act respectively in respect of the local board so deemed to have been established under this Act, unless and until superseded by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed under such law or this Act.

Bom. V of 1879. [1][(*5*) Notwithstanding anything contained in sub-section (*1*), when two districts constituted under the [2]Bombay Land Revenue Code, 1879, are constituted into one district under the said Code, it shall be competent to [3][the Provincial Government] by notification in the [4][*Official Gazette*] to order the one district so constituted to be divided into two districts for the purposes of this Act, and thereupon the provisions of this Act and any other enactment relating to or having reference to a district local board shall, unless there is anything repugnant in the subject or context, apply to each of such two districts as if each such district were a district within the meaning of the said sub-section.]

Constitution of local boards.

5. (*1*) Every district and taluka local board shall consist of—

(*a*) elective members, and

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[1]This sub-section was added by Bom. 16 of 1933, s. 2.

[2]Vol. II of Bom. Code.

[3]The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4]The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(*b*) such persons, if any, as [1][the Provincial Government] or any officer whom it authorizes in this behalf from time to time appoints, who shall be called "nominated members".

(*2*) Any [2][servant of the Crown] may be appointed by the said authority by his official designation only to be *ex-officio* a member of the board. The holder of the office for the time being and all persons succeeding thereto shall then be members of the board in succession, provided that the combined term of office of such persons as members of the board shall be limited in the manner provided in this Act for the term of office of a person appointed to be a member otherwise than *ex-officio*.

(*3*) The number of elective members shall be not less than three-fourths of the whole board, and not more than one-half of the nominated members shall be salaried [3][servants of the Crown].

(*4*) Where in the opinion of [1][the Provincial Government] in the area subject to a local board the number of any class which in the opinion of [1][the Provincial Government] is a depressed class is sufficient to require representation on the local board and no member of such class has been elected and a member of such class is qualified and willing to be nominated a member of the board, [1][the Provincial Government] shall nominate one such member to be a member of the local board.

(*5*) Any vacancy due to failure to elect at any election or by-election the full number of elected members may be filled by appointment by [1][the Provincial Government].

Elective members of local boards by whom to be elected.

6. The elective members of local boards shall be elected by general and Mahomedan constituencies and the number and the extent of such constituencies and the number of members to be elected by each constituency shall be as prescribed by orders made by [1][the Provincial Government] under clause (*a*) of section 133.

Constitution of local boards in exceptional cases.

7. (*1*) [1][The Provincial Government] may at any time by notification in the [4][*Official Gazette*] direct that the provisions of sections 5 and 6, and the subsequent provisions of this Act which refer to those sections, or any one or more of the said provisions, shall not apply to any local board to which for exceptional reasons, which shall be set forth in the said notification, [1][the Provincial Government] shall deem such provisions to be unsuitable.

(*2*) In the said notification or any subsequent notification published as aforesaid [1][the Provincial Government] may substitute such provision or

[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2]The words "servant of the Crown" were substituted for the words "officer of the Government" by *ibid.*

[3]The words "servants of the Crown" were substituted for the words "servants of the Government" by *ibid.*

[4]The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

provisions as it deems fit for the provision or provisions declared inapplicable to any local board and the provision or provisions so substituted shall have effect, so far as concerns such board, as if they were inserted in this Act.

(*3*) In the event of any notification under sub-section (*1*) being rescinded the local board affected thereby shall, from a date to be fixed in this behalf by [1][the Provincial Government], be constituted in accordance with sections 5 and 6 and the subsequent provisions of this Act having reference thereto.

Qualifications necessary for election to local boards.

[2]8. Subject to the provisions of this Act and of any other law for the time being in force,—

(*a*) every person whose name is entered in the list prepared under section 11 for a constituency of a taluka local board may be a candidate at any election for such taluka local board; and

(*b*) every person whose name is entered in any such list for a constituency of the district local board may be a candidate at any election for the district local board.

General disqualifications of members.

9. (*1*) No person may be a member of a local board who—

(*a*) is less than 21 years of age, or

(*b*) is a Judge of a civil court, or

[3](*c*) (*i*) has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, if and so long as such sentence has not expired, or

(*ii*) is a person against whom an order has been passed under section 118 of the Code of Criminal Procedure, 1898, in proceedings instituted under section 110 of that Code, such order not having been subsequently reversed or quashed, if and so long as such order is in force, or

V of 1898.

(*iii*) has been removed from office under section 31 and five years have not elapsed from the date of the expiry of such removal,

unless he has, by an order of [1][the Provincial Government] notified in the [4][*Official Gazette*], been relieved from the disqualification arising on account of such sentence, order or removal from office, or

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2]This section was substituted for the original section by Bom. 2 of 1925, s. 2.

[3]Clause (*c*) was substituted for the original clauses (*c*) and (*d*) and the explanation to clause (*d*) by Bom. 13 of 1925, s. 2 (*1*) (*a*).

[4]The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[1](*d*) is a stipendiary officer or servant of a local board, or

[1](*e*) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of a local board, or in any contract or employment with, or under, or by, or on behalf of a local board.

(*2*) No person shall be disqualified under clause [2][(*e*)] or sub-section (*1*) for membership of a local board by reason only of such person—

(*a*) having share in any joint stock company or a share or interest in any society registered or deemed to be registered under the [3]Co-operative Societies Act, 1912, which shall contract with or be employed by or on behalf of the local board; or II of 1912.

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local board may be inserted; or

(*c*) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the local board; or

(*d*) being professionally engaged on behalf of the local board as a legal practitioner [4]; [5][or]

[6][(*e*) being a police patil, who is an *ex-officio* keeper of village cattle-pounds under the control of the local board.]

(*3*) If any person is elected or appointed to a local board and is subject to any of the disqualifications specified in this section, his seat shall be deemed to be vacant and the vacancy shall be filled up, as soon as conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the person in whose place he is elected or appointed would have held it if he had been eligible to be a member of the board.

(*4*) If any question, dispute or doubt arises whether a vacancy has occurred under this section, the orders of the Commissioner shall be final for the purpose of deciding such question, dispute or doubt.

Re-eligibility of members.

10. A person who has already been elected or appointed a member of a board on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment.

Preparation of list of voters.

11. (*1*) The Collector shall keep a list for each constituency of each local board within his district of the persons qualified to vote in such constituency at elections of members of the local board.

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[1] Clauses (*e*) and (*f*) were relettered (*d*) and (*e*) respectively by Bom. 13 of 1925, s. 2 (*1*) (*b*).

[2] The letter and brackets "(*e*)" were substituted for the original letter and brackets "(*f*)" by *ibid*, s. 2 (*2*).

[3] See now the Bombay Co-operative Societies Act, 1925 (Bom. 7 of 1925).

[4] The semicolon was substituted for the fullstop by Bom. 10 of 1931, s. 2 (*a*).

[5] The word "or" was added by *ibid*.

[6] This clause was inserted by *ibid*, s. 2 (*b*).

(*2*) Such list shall be prepared by the Collector whenever a date has been fixed for any election of persons to fill the places of persons whose term of office has expired or whenever the Commissioner so directs, and shall be based upon such information as shall be available in the records of the Collector and of the officers subordinate to him, and also upon the past decision of the Collector under section 22 of the [1]Bombay Local Boards Act, 1884, or under section 13.

Bom. I of 1884.

12. (*1*) A list prepared under section 11 shall be published by affixing, in some conspicuous place in or near the office of the local board and of each Mamlatdar and Mahalkari, and in the chavdi or some other public building of each town or village in the district, a copy of the list or of so much of the list as relates to the taluka, town or village. Publication of the lists.

(*2*) The publication aforesaid shall be made in the vernacular language of the district and where a date has been fixed for any election of persons to fill the places of members whose terms of office have expired, at least three months before such date.

13. The Collector may, on application being made to him at any time within one month after the publication of the list aforesaid by any person claiming to be qualified to vote at any election of members of the local board, correct any erroneous entry in the list, or insert therein the name of any person whose right to be entered in the list is proved to the satisfaction of the Collector. The Collector's decision shall be final and conclusive. Revision of lists.

14. (*1*) The Collector, after revising the list as provided in section 13, shall republish the same within two months from the date of publication under section 12 in the manner provided in that section. Final publication of list.

(*2*) No person whose name is not in the revised list last published before the date of any election shall be qualified [2]* * * to vote at the election of a member for the constituency for which such list has been prepared. Lists conclusive evidence of right to be elected or to vote.

[3][(*3*) No person shall be qualified to be elected for any constituency of a taluka or district local board unless his name is in the revised list last published before the date of any election for a constituency of such taluka or district local board.]

[4]**15.** (*1*) Unless disqualified under this Act or under any other law for the time being in force, the following persons shall, subject to the provisions of sub-section (*2*), be entitled to have their names entered in What persons may be voters at elections.

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[1]Bom. 1 of 1884 is repealed by this Act, s. 4.

[2]Words repealed by Bom. 2 of 1925, s. 3 (*1*) are omitted.

[3]Sub-section (*3*) was inserted by *ibid*, s. 3 (*2*).

[4]Section 15 was substituted for the original section by Bom. 18 of 1936, s. 2.

the list for a constituency prescribed under section 6 qualifying them to vote at elections of members of local boards in such constituency, namely :—

Every person who on the first day of January next preceding the date on which the list is published under section 12 had a place of residence within the constituency, and

(*a*) whose name is entered in the current electoral roll of a territorial constituency of the Bombay Legislative Assembly for an area constituting or forming part of a constituency prescribed under section 6, or

(*b*) who was assessed to any tax imposed by a local board (other than a toll or octroi) in the financial year preceding that in which the list is published under section 12.

(*2*) A person whose name is entered in the current electoral roll of a territorial constituency of the Bombay Legislative Assembly shall not, by reason only of the entry of his name in such electoral roll, be entitled to have his name entered in the list for a constituency prescribed under section 6, if the place of residence of such person on the date referred to in sub-section (*1*) is within the limits of a municipal district or a cantonment comprised in such constituency, unless such person possesses, on the aforesaid date, a property qualification entitling his name to be included in the electoral roll for the area referred to in clause (*a*) of sub-section (*1*).

(*3*) Provided that—

(*a*) no person who is not a Mahomedan shall be entered in a list for a Mahomedan constituency ; and

(*b*) no person who is a Mahomedan shall be entered in a list for a general constituency :

Provided further that no person shall be entitled to have his name registered on the electoral roll of more than one constituency of the same taluka local board or of more than one constituency of the same district local board.

Explanation.—For the purposes of this section—

(*1*) the current electoral roll of a territorial constituency of the Bombay Legislative Assembly shall mean the electoral roll for the time being in force of a territorial constituency of the Bombay Legislative Assembly prepared and published under the Bombay Legislative Assembly Electoral (Preparation, Revision and Publication of Electoral Rolls) Rules, 1936,

(*2*) 'property qualification' means any of the qualifications dependent on property as prescribed in clauses (*a*), (*b*) and (*c*) of paragraph 3 of Part III of the Sixth Schedule to the Government of India Act, 1935, or clauses (*a*) and (*b*) of paragraph 5 of Part III of the Government of India (Provincial Legislative Assemblies) Order, 1936.

16. No person who is less than twenty-one years of age shall be entitled to have his name entered in a list prepared under section 11. General disqualification of voters.

17. Every election requisite for the purposes of this Act shall be held on such date as the Collector shall fix in this behalf: Elections when to be held.

Provided that, when the elections are for the purpose of filling the places of members whose terms of office have expired, such dates shall be not sooner than two months and not later than one month before the commencement of the term of office of members of the board to which such elections are to be made.

18. (*1*) If at any election of a member of a local board under this Act there is an equal number of votes in favour of each of two or more persons who are willing to take office, and the addition of one vote will entitle any of the persons to be elected the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by the Collector, or by such officer as he may empower in this behalf, by lot in such manner as he shall deem fit. Provisions for election or nomination in particular cases.

(*2*) If any person duly elected at any such election declines to take office, the person, if any, amongst the unsuccessful candidates in whose favour the highest number of votes has been recorded and who is willing to take office shall be deemed to be the member elected.

(*3*) If at any contested election no votes are recorded, or if for any reason an election does not result in the return of the required number of qualified persons willing to take office, the Collector, in the case of a taluka local board, and the Commissioner, in the case of a district local board, shall appoint the required number of persons, being persons who would have been qualified to be elected, and the persons so appointed shall be deemed to be members of the local board as if they had been duly elected.

19. (*1*) If the validity of any election of a member of a local board, or the legality of any order or proceeding made or held under section 18 is brought in question by any person qualified to vote at the election to which such question refers, such person may, at any time within fifteen days after the date of the declaration of the result of the election or the date of the order or proceeding, apply to the District Judge of the district within which the election has been or should have been held for the determination of such question. Determination of validity of elections: enquiry by Judge: procedure.

(*2*) An enquiry shall thereupon be held by a Judge, not below the grade of an Assistant Judge, appointed by [1][the Provincial Government] either specially for the case or for such cases generally; and such Judge may, after such enquiry as he deems necessary, pass an order confirming or amending the declared result of the election or the order of the Collector

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

under section 18, or setting the election aside. For the purposes of the said enquiry the said Judge may exercise any of the powers of a civil court and his decision shall be conclusive. If he sets aside an election, a date shall forthwith be fixed and the necessary steps taken, for holding a fresh one.

[1][(*2A*) All applications received under sub-section (*1*) :—

(*a*) in which the validity of the election of members to represent the same constituency is in question shall be heard by the same Judge ; and

(*b*) in which the validity of the election of the same member elected to represent the same constituency is in question shall be heard together.

(*2B*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit (*a*) any application to be compromised or withdrawn or (*b*) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive.] V of 1908,

(*3*) (*a*) If on holding such enquiry the Judge finds that a candidate has for the purpose of the election committed a corrupt practice within the meaning of sub-section (*4*), he shall declare the candidate disqualified both for the purpose of that election and of such fresh election as may be held under sub-section (*2*), and shall set aside the election of such candidate if he has been elected.

(*b*) If, in any case to which clause (*a*) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected :

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

(*4*) A person shall be deemed to have committed a corrupt practice—

(*a*) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury, to any person, or

(*b*) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote ;

And a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

[1]Sub-sections (*2A*) and (*2B*) were inserted by Bom. 14 of 1936, s. 2.

Explanation.—The expression "a promise of individual profit"—

(*i*) does not include a promise to vote for or against any particular measure which may come before a local board for consideration, but

(*ii*) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

(*5*) If the validity of the election is brought in question only on the ground of an error made by the officer charged with carrying out the rules made in this behalf under clause (*b*) of section 133, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

(*6*) If the Judge sets aside an election under clause (*a*) of sub-section (*3*), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section to be disqualified from being a member of any local board for a term of years not exceeding five and the decision of the Judge shall be conclusive:

Provided that such person may, by an order of [1][the Provincial Government] in that behalf, be at any time relieved from such disqualification:

Provided further that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration shall not be made.

Voter disqualified for corrupt practice.

20. Any person who has been convicted under section 171E or 171F of the Indian Penal Code, or has been disqualified from exercising any electoral right for a period of not less than five years on account of malpractices in connection with an election, shall, for five years from the date of such conviction or disqualification, be disqualified from voting at any election to a local board or at any municipal election.

XLV of 1860.

Publication of names of members in the *Official Gazette*.

21. The names of all members finally elected to any local board as well as the names of the nominated members, if any, appointed thereto shall be published, as soon as conveniently may be, in the [2][*Official Gazette*]

Election of presidents.

22. (*1*) Every local board shall be presided over by a president, elected by the board from among its own members.

Vice-presidents.

(*2*) The board shall also elect one of its members to be vice-president.

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2]The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

Presidents and vice-presidents not to be salaried servants of the Crown.

(*3*) A salaried [1][servant of the Crown] shall not be elected president or vice-president of a local board and the election of any such servant as such shall be void.

Functions of presidents.

23. (*1*) The president of a local board shall—

(*a*) preside at the meetings of the board;

(*b*) watch over the financial and executive administration of the board and submit to the board all questions connected therewith which shall appear to him to require its orders;

(*c*) exercise supervision and control over the acts and proceedings of all officers and servants of the board in matters of executive administration, and in matters concerning the accounts and records of the board; and, subject to the regulations at the time being in force framed by the board under section 123, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances; and

(*d*) furnish to the Collector or to such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at every meeting of the board and any extract from the minutes of the proceedings of the board, or other document or thing which the Commissioner, Collector or other duly authorized [2][servant of the Crown] may from time to time call for under section 124.

Emergency powers of president.

(*2*) The president of a local board may in cases of emergency direct the execution or stoppage of any work or the doing of any act which requires the sanction of the local board, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the local fund:

Provided that—

(*a*) he shall not act under this section in contravention of any order of the local board prohibiting the execution of any particular work or the doing of any particular act, and

(*b*) he shall report forthwith the action taken under this section and the reasons therefor to the standing committee at its next meeting.

Functions of vice-presidents.

24. The vice-president of a local board shall—

(*a*) in the absence of the president preside at the meetings of the board;

(*b*) exercise such of the powers and perform such of the duties of the president as the president from time to time deputes to him; and

[1]The words "servant of the Crown" were substituted for the words "servant of the Government" by the Adaptation of Indian Laws Order in Council.

[2]The words "servant of the Crown" were substituted for the words "officer of the Government" by *ibid.*

(*c*) pending the election of a president, or during the absence of the president on leave, exercise the powers and perform the duties of the president.

Consequence of absence of president or vice-president without leave.

25. (*1*) Every president of a local board who for a period exceeding three months, and every vice-president who for a period exceeding one month, shall absent himself from the district or taluka for which the local board is established in such manner as to be unable to perform his duties as such president or vice-president, shall cease to be president or vice-president, as the case may be, unless leave so to absent himself has been granted by the board or in the case of a vice-president by the president.

Limit to the grant of leave, and arrangements pending absence of president or vice-president.

(*2*) Leave under sub-section (*1*) shall not be granted for a period exceeding six months, and whenever leave is granted to a president or vice-president under that sub-section, the board shall elect one of its members to exercise all the powers and perform all the duties of a vice-president in lieu of the vice-president who is exercising the powers and performing the duties of the president, or who is absent on leave during the period for which such leave is granted.

Term of office of president and vice-president and their liability to be removed.

26. (*1*) The term of office of every president or vice-president shall cease on the expiry of his term of office as a member of the local board over which he presides: provided that he shall be removable from office, as such president or vice-president, by [1][the Provincial Government] for misconduct, or neglect of or incapacity to perform his duty.

Casual vacancies in their office how to be filled up.

(*2*) In the event of the death, resignation, or removal from office of a president or vice-president, or of his becoming incapable of acting, or ceasing to be a member of the local board, previous to the expiry of his term of office, the vacancy shall be filled up as soon as conveniently may be by the election of some other member of the board thereto.

Inability of president or vice-president to call a meeting.

(*3*) Where the president and vice-president are unable or for any reason fail to call a meeting for the purpose of an election under sub-section (*2*) the Collector may exercise the powers of the president for the purpose of calling such meeting.

President and vice-president to continue to carry out certain duties until their successors take over charge.

27. On the expiry of the term of office of a local board the president and vice-president shall continue to carry out the current administrative duties of their offices until such time as a new president and vice-president shall have been elected and shall have taken over charge of their duties: Provided that in the case of the new board constituted under this Act, a meeting for the election of a new president shall be called by the president of the retiring board.

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[1][The president or vice-president of the retiring board and, in their absence, the chief officer, if any, shall preside at such meeting, and the new board shall then elect its own chairman for that meeting; provided that (*a*) if the president or vice-president so presiding is a member of the new board, he shall be entitled to vote only as such member, and (*b*) the chief officer, when so presiding, shall have no right to vote. In case of an equality of votes the result of the election of the chairman shall be decided by lot to be drawn in the presence of the person presiding in such manner as he may determine. The chairman so elected shall then preside at such meeting, and the meeting shall then proceed to elect the new president.]

[2][Provided further that, where no meeting for the purpose of such election has been held within fifteen days from the expiry of the term of office, the Collector may exercise the powers of the president for the purpose of calling such meeting.]

Term of office.

28. Except as is otherwise provided in this Act or in any other law for the time being in force, members of local boards shall hold office for a term of three years, extensible by order of the Commissioner to a term not exceeding in the aggregate four years if on any occasion the Commissioner shall think fit, for reasons which shall be notified, together with the order, in the [3][*Official Gazette*], so to extend the same.

Extension of term of office of members of local boards in Sind.

[4][**28A.** Notwithstanding anything contained in section 28, the term of office of the members of all local boards in Sind is hereby extended up to and inclusive of the 31st day of March 1933.]

Resignation of office as member of board.

[5]**29.** (*1*) The vice-president or any member of a local board other than the president may resign his office as a member of the board by giving notice in writing to the president. The president may resign his office as a member of the board by giving notice in writing to the Commissioner.

Resignation of president and vice-president.

[6][(*2*) The vice-president may resign his office as vice-president by giving notice in writing to the president. The president may resign his office as president by giving notice in writing to the Commissioner.]

Disqualification of member after election.

30. (*1*) Any member of a local board who, during the term for which he has been elected or appointed—

(*a*) becomes disqualified under sub-section (*1*) of section 9, or

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[1]These words were substituted for the words "The president of the retiring board shall preside at such meeting and the new board shall then elect its own chairman for that meeting and then the meeting shall proceed to elect the new president," by Bom. 4 of 1930, s. 3.

[2]This proviso was added by Bom. 10 of 1927, s. 2.

[3]The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4]This section was inserted by Bom. 5 of 1932, s. 2.

[5]Section 29 was renumbered section 29 (*1*) by Bom. 10 of 1927, s. 3.

[6]Sub-section (*2*) was added by *ibid.*

(*b*) having any share or interest such as is described in clause (*a*) or (*b*) of sub-section (*2*) of section 9, acts as a member of the local board in any matter relating to a contract or agreement between the local board and the company or society or the manager or publisher of the newspaper described in the said clauses, or

(*c*) is absent for more than four consecutive months from the district or taluka for which the board is established, unless leave so to absent himself, which shall not exceed six months, has been granted by the board, or in the case of a vice-president by the president, or absents himself for six consecutive months from meetings of the board without the leave of the board,

shall cease to be a member and his office shall become vacant.

(*2*) If any question, dispute or doubt arises whether a vacancy has occurred under this section, the orders of the Commissioner shall be final for the purpose of deciding such question, dispute or doubt.

Removal of member for misconduct, etc.

31. [1][The Provincial Government] in the case of a district local board, and the Commissioner in the case of a taluka local board, may, if it or he thinks fit, on the recommendation of the local board, remove any member of such local board, elected or appointed under this Act, after giving him an opportunity of being heard and after such inquiry as [1][the Provincial Government] or the Commissioner, as the case may be, deems necessary if such member has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or has become incapable of performing his duties as a member of the local board.

Vacancies to whom to be communicated.

32. (*1*) On the occurrence of any vacancy in a local board the president shall forthwith communicate such occurrence to the Collector.

(*2*) If the member of such board whose seat has become vacant was a nominated member, and the Collector is not authorised under section 5 to appoint members of such boards, the Collector shall on receipt of such communication forward it to the officer, if any, authorized, as aforesaid, or, if no officer is so authorized, to [1][the Provincial Government] through the Commissioner.

Casual vacancies how to be filled up.

33. In the event of a vacancy occurring on account of the death, resignation, disqualification, or removal of a member of a local board or through a member becoming incapable of acting, previous to the expiry of his term of office, the vacancy shall be filled up, as soon as conveniently may be, by the election or appointment, as the case may be, of a person, thereto, who shall hold office so long only as the member in whose place he is elected or appointed would have held it if the vacancy had not occurred :

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[1][Provided that notwithstanding anything contained in section 5, if the vacancy be of an elected member and occurs within four months preceding the date on which the term of office of the members of the local board expires under section 28, the vacancy shall not be filled.]

Temporary provisions pending election of boards under this Act.

34. Notwithstanding anything contained in this Act, local funds shall be administered, so far as may be under the provisions of this Act, by the local boards deemed to have been established under the provisions of this Act under clause (*4*) of section 4, as constituted immediately prior to the coming into force of the provisions of this Act, until such date as [2][the Provincial Government] shall prescribe in this behalf in respect of each such board. The president, vice-president and members of such boards as constituted immediately prior to the passing of this Act shall be deemed to have been appointed or elected under the provisions of this Act and their term of office shall expire on the aforesaid prescribed date.

CHAPTER III.—Conduct of Business of Local Boards.

Meetings of local boards.

35. (*1*) A local board shall meet together not less than once in every 3 months and shall from time to time make regulations, consistent with this Act and with any rules or orders made by [2][the Provincial Government] in this behalf under clause (*c*) of section 133 with respect to the place, day, hour, notice, management, and adjournment of such meetings and generally with respect to the transaction of business, as it thinks fit, subject to the provisions of the following sub-sections.

(*2*) (*a*) The president shall fix the dates for the quarterly meetings hereinbefore prescribed and may whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the members and for a date within twenty-one days from the receipt of such request, call a special meeting.

(*b*) [3][Fifteen] clear days' notice of a quarterly meeting and [4][ten] clear days' notice of a special meeting specifying the time and place at which such meeting is to be held and the business to be transacted thereat, shall be circulated to the members and posted up at the local board office. Such notice shall include in the case of a special meeting any motion or proposition mentioned in any written request made for such meeting.

(*c*) If less than one-third of the whole number of members be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall adjourn the meeting to such hour on the following or some other future day as he may reasonably fix; a notice of such adjournment shall be fixed up in the local board office, and the business which would have been brought before the original meeting,

[1]This proviso was inserted by Bom. 16 of 1935, s. 2.

[2]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3]The word "Fifteen" was substituted for the word "Twenty-one" by Bom. 8 of 1934, s. 2.

[4]The word "ten" was substituted for the word "fourteen" by *ibid.*

had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof, whether there be a quorum present or not.

(*d*) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the board such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings.

(*e*) Every meeting shall be presided over by the president, or if he be absent, by the vice-president, and if both the president and vice-president are absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion.

(*f*) All questions shall be decided by a majority of votes of the members present, the president, vice-president or chairman, as the case may be, having a second or casting vote in all cases of equality of votes.

(*g*) Except with the permission of the presiding authority, which permission shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof, no business shall be transacted and no proposition shall be discussed at any quarterly meeting unless it has been entered in the notice convening such meeting or, in the case of a special meeting, in the written request for such meeting. The order in which any business or proposition shall be brought forward at such meeting shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

(*h*) Any quarterly meeting may, with the consent of a majority of the members present, be adjourned from time to time ; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

(*i*) No resolution of a local board shall be modified or cancelled within three months after the passing thereof, except by a resolution supported by not less than one-half of the whole number of members and passed at a quarterly meeting, whereof notice shall have been given fulfilling the requirements of clause (*b*) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting and the motion or proposition for the modification or cancellation of such resolution.

(*j*) Except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed, or which under section 45 may only be executed for the board by the Government Executive Engineer of the district, or to any educational matter, shall be transacted, at any meeting of a local board, unless at least fifteen days previous to such meeting a letter has been addressed to an officer of the Government Public Works and Educational Departments, respectively, who is not a member of the board, but is entitled under section 40 to be

present at such meeting informing him of the intention to transact such business thereat and of the motions or propositions to be brought forward concerning such business.

(*k*) Minutes shall be kept of the names of the members and of the Government officers, if any, present under the provisions of section 40 and of the proceedings at each meeting of the board, and if any member present at the meeting so desire, of the names of the members voting, respectively, for or against any resolution, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president, vice-president or chairman of such meeting and shall at all reasonable times be open to inspection by any member of the board or by any inhabitant of the district.

(*l*) Every regulation made under this section by a taluka local board shall be subject to the approval of the district local board to which such taluka local board is subordinate.

Vacancy not to affect proceedings of board or committee.

(*3*) During any vacancy in a local board the continuing members may act as if no vacancy had occurred.

Acts of board, etc., not to be invalidated by informalities.

(*4*) No act of a board, or of any person acting as a member or as a president, vice-president or chairman, shall be deemed to be invalid by reason only of some defect in the appointment of such board, president, vice-president, chairman, or member, or on the ground that they, or any of them, were disqualified for the office of member, or that formal notice of the intention to hold a meeting of the board was not duly given, or for any other such mere informality.

Standing Committee.

36. (*1*) Every local board shall appoint a standing committee consisting of such number of members not being more than seven and not less than five as the board may determine.

(*2*) The standing committee shall perform the functions allotted to it under this Act, and subject to any limitations or other provisions contained in rules made under section 133, clause (*c*) or regulations made under section 35, sub-section (*1*), shall exercise all the powers and perform all the duties of the local board which have not been delegated to any other committee.

(*3*) The president shall be *ex-officio* a member and chairman of the standing committee in addition to the members appointed under sub-section (*1*).

Public Health Committee.

37. (*1*) Every district local board may appoint a public health committee, consisting of such members of the board as the board may elect. The said members may co-opt the Civil Surgeon of the district or any medical or sanitary [1][servant of the Crown] or a legally qualified medical practitioner to be a member of the committee for a period not exceeding the term of their own office.

[1] The words "servant of the Crown" were substituted for the words "officer of the Government" by the Adaptation of Indian Laws Order in Council.

(*2*) Such committee shall, subject to any limitations or other provisions contained in rules made under clause (*c*) of section 133 or regulations made under sub-section (*1*) of section 35, perform the duties and exercise the powers of the district local board in regard to matters of public health and sanitation, and shall give effect to the provisions of this Act and to any by-laws framed under this Act regarding such matters and may delegate any of its duties or powers to any member or honorary or stipendiary officer of the board. Such member or officer shall conform to any instructions that may from time to time be given by the board. The Committee may at any time withdraw any of the duties or powers so delegated.

Other executive committees.

38. (*1*) A local board may appoint committees consisting of such members as the local board may decide or any member or honorary or stipendiary officer of the board to exercise the powers and perform the duties of the local board in respect of any purpose subject to any limitations and provisions contained in rules made under section 133 (*c*) or regulations made under section 35 (*1*); not being where a public health committee has been appointed, powers or duties referred to in section 37, sub-section (*2*).

(*2*) Where a Committee is appointed to manage a dispensary, the local board may appoint any local residents to be members of such committee.

(*3*) Any such committee, member or officer shall comply with any instruction that may from time to time be given by the board.

(*4*) The board may at any time discontinue or alter the constitution of any such committee or withdraw any of the powers or duties which any such committee, person or officer has been appointed to exercise or perform.

Abolition of taluka local boards and appointment of taluka committees.

[1][**38A.** (*1*) When, in the opinion of [2][the Provincial Government] it is in the interest of the inhabitants of a taluka that the taluka local board should be abolished, it shall be competent to [2][the Provincial Government] by notification in the [3][*Official Gazette*] to abolish the said taluka local board, from a date to be specified in the notification.

(*2*) Where a taluka local board is abolished under sub-section (*1*) [2][the Provincial Government] may, on an application made by the district

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[1] Section 38A was inserted by Bom. 6 of 1935, s. 3.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

local board or otherwise, by a notification in the [1][*Official Gazette*] direct that a taluka committee shall be appointed from a date to be specified in the notification for the area which was subject to the authority of such taluka local board.

(*3*) On the publication of the notification under sub-section (*2*), the district local board shall appoint a taluka committee in accordance with the provisions of sub-section (*4*).

(*4*) A taluka committee shall consist of such number of members not being less than seven as shall be prescribed by an order made under clause (*cc*) of section 133. Every member of the district local board resident within the area for which a taluka committee is appointed shall be *ex-officio* a member of the taluka committee and the remaining members of the taluka committee shall be appointed by the district local board from among persons resident in the said area in a manner prescribed by rules made under clause (*cc*) of section 133.

(*5*) A taluka committee shall, subject to any limitations or other provisions contained in rules made under clause (*cc*) of section 133 or regulations made under sub-section (*1*) of section 35, exercise such powers and perform such duties of supervision and advice as may be assigned to it by the district local board.

(*6*) The provisions of sections 39 to 41 shall so far as may be, apply to a taluka committee.]

Committees. Term of Office. Vacancies. Chairman. Procedure. Meetings. Adjournments. Quorum.

39. (*1*) The term of office of the members of a committee shall expire on the termination of one year from the date of appointment of the members or on such earlier date as the local board may direct.

(*2*) A vacancy occurring in any committee shall as soon as possible be filled up by the appointment or co-option as the case may be of a member thereto. A member appointed under this sub-section shall hold office so long only as the person in whose place he is appointed would have held it if the vacancy had not occurred.

(*3*) (*a*) The president or vice-president, if appointed a member of any committee, shall be *ex-officio* chairman thereof.

(*b*) A local board may appoint a chairman for a committee of which there is no *ex-officio* chairman.

(*c*) A committee of which there is an *ex-officio* chairman or a chairman appointed by the local board, shall, at each meeting which such chairman does not attend, appoint from its members a chairman for such meeting.

[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*d*) A committee, of which there is no *ex-officio* chairman or chairman appointed by the local board, shall appoint from time to time a chairman from the members of such committee.

(*4*) The provisions of section 35, sub-section (*2*), clauses (*f*), (*j*) and (*k*) and sub-sections (*3*) and (*4*), shall apply to committees as if the word "committee" had been substituted for the words "board" or "local board".

(*5*) A committee may meet and adjourn as it thinks proper; but the chairman of a committee may whenever he thinks fit, and shall upon the written request of the president of the local board or of not less than two members of the committee and for a date not more than two days after the presentation of such request, call a special meeting of such committee.

(*6*) No business shall be transacted at any meeting of a committee unless more than one-half of the members of the committee be present thereat.

Certain Government officers may attend meetings of district local boards.

40. (*1*) The Executive Engineer, the Educational Inspector and the Deputy Director of Public Health, and the Civil Surgeon of a district, when charged with any of the duties of a health officer therein, [1]* a Deputy Director of Agriculture or an Assistant Registrar of Co-operative Societies charged with any duties of his office in the district, if not members of the district local board, [2][and, in the case of educational matters, when the chairman of the school board is not a member of the district local board, such chairman or the vice-chairman or the administrative officer of the school board or, when the chairman is a member of the district local board but is for any reason unable to be present, the vice-chairman or the administrative officer of the school board,] shall have the right of being present at any meeting of the said board, or of any committee thereof, and with the consent of the board or committee, each of them may take part at such meetings in the discussion or consideration of any question on which in virtue of the duties of his office he considers his opinion or the information which he can supply will be useful to such board or committee: provided that the said [3][persons] shall not, unless they are members of the board, be entitled to vote upon any such question.

Certain Government officers may attend meetings of taluka local boards.

(*2*) Any officer of the Government, Public Works Department not lower in rank than an overseer employed in a taluka, and any officer of the Government, Educational Department not lower in rank than the Assistant Deputy Educational Inspector of a taluka may, in the like circumstances and subject to the same proviso, take part in the discussion or consideration of any such question as aforesaid at any meeting of the taluka local board of such taluka or of any committee of the said board.

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[1] The word "and" was repealed by Bom. 10 of 1927, s. 4 (*i*).

[2] These words were inserted by *ibid*, s. 4 (*ii*).

[3] The word "persons" was substituted for the word "officers" by *ibid*, s. 4 (*iii*).

Local boards may require the presence of the said officers at their meetings.

(*3*) If it shall appear to a district local board or to a taluka local board that the presence of any of the above officers respectively is desirable in the circumstances aforesaid at any future meeting of such board, or of any committee thereof, it shall be competent to such board by letter addressed to such officer not less than fifteen days previous to the intended meeting to require his presence thereat; and the said officer, unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting.

President may circulate written propositions.

41. (*1*) Whenever it appears to the president of a local board, or to the chairman of a committee unnecessary to convene a meeting, he may instead of so doing circulate a written proposition of his own, or of any other member of such board or committee, or of any executive officer of the board for the observations and votes of the members.

(*2*) Previous to circulating any such proposition for the votes of members the president or chairman may, if he thinks fit, and if the business to which it relates is of the nature described in clause (*j*) of sub-section (*2*) of section 35 shall obtain thereupon the remarks, if any, which any Government officer, not a member of the board, who is entitled under the provisions of section 40 to be present at any meeting at which such proposition might be considered, desires to record.

(*3*) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members who vote upon it, unless a special meeting is convened to consider the proposition under clause (*a*) of sub-section (*2*) of section 35 or sub-section (*5*) of section 39.

(*4*) Every decision arrived at by the board under this section shall be recorded in the minute-book kept under clause (*k*) of sub-section (*2*) of section 35 or sub-section (*4*) of section 39.

Mode of executing contracts.

42. (*1*) The president of a local board may, on behalf of the board, enter into any contract or agreement in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf: provided that the amount or value of such contract or agreement shall not exceed five hundred rupees in the case of a district local board, or two hundred rupees in the case of a taluka local board.

(*2*) Every other contract or agreement on behalf of a local board shall be in writing, and shall be signed by the president and by two other members of the board, and sealed with the common seal of the board.

(*3*) No contract or agreement not executed as in this section provided shall be binding on a local board.

Payment of Government establishment employed by Government Executive Engineer.

(*3*) When any work is executed under this section by a Government Executive Engineer either wholly or partly with the aid of his own Government establishment, such charge shall be payable on account of such establishment by the local board at whose cost the work is being executed as shall be agreed upon between such board and the said Executive Engineer: provided that no charge shall in any case be made on account of the services of the Executive Engineer.

Repairs not to be commenced without plans and estimates.

[1][**45-A.** No work of repairs shall be commenced unless a detailed estimate of the cost of such work has been approved by the local board and in the case of a work of which the total cost is to exceed three thousand rupees, plans and estimates have either been prepared or approved by the Government Executive Engineer of the district, or by an Engineer employed by the board and approved by [2][the Provincial Government].]

Joint committees of two or more local bodies.

46. (*1*) A district local board may, from time to time, concur with any other district local board or with any municipality or cantonment [3][authority,] or with more than one such local board, municipality or [3][authority]

(*a*) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee; and

(*b*) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies; and

(*c*) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence, relating to the purpose for which the committee is appointed.

[4][(*1A*) A district local board may from time to time enter, subject to the sanction of [2][the Provincial Government], into an agreement with a district local board, municipality, cantonment authority or committee appointed for a notified area or with a combination of any such bodies, for the levy of octroi duty whereby the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies].

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[1] Section 45-A was inserted by Bom. 10 of 1927, s. 5.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] The word "authority" was substituted for the word "Committee" by Bom. 14 of 1934, s. 3 (*1*) (*i*).

[4] This sub-section was inserted by *ibid*, s. 3 (*1*) (*ii*).

Explanation.—For the purpose of this sub-section, octroi duty includes a terminal tax.

(*2*) Where [1][a district local board] has requested the concurrence of any other local authority under the provisions of sub-section (*1*) [2][or (*1A*)] in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit, requiring the concurrence of such other local authority, not being a cantonment [3][authority], in the matter aforesaid and such other local authority shall comply with such orders.

(*3*) If any difference of opinion arises between local bodies [4][acting under this section] the decision thereupon of [5]* * * [6][the Provincial Government], [7][or of such officer as it appoints in this behalf] shall be final.

[8][Provided that, where one of the local bodies is a cantonment authority, the decision of the Provincial Government, or of the officer, shall be subject to the concurrence of the Central Government.]

CHAPTER IV.—INCORPORATION OF LOCAL BOARDS. PROPERTY, POWERS AND DUTIES.

Incorporation of local boards.

47. Every local board shall be a body corporate by the name of "The District Local Board of" or "The Taluka Local Board of" as the case may be, and shall have perpetual succession and a common seal and may sue and be sued in its corporate name, and shall be competent to acquire and hold property, both moveable and immoveable, whether within or without the limits of the area over which it has authority, to lease, sell or otherwise transfer any moveable or immoveable property which may have become vested in or been acquired by it, and to contract and to do all other things necessary for the purposes of this Act:

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[1] The words "a district local board" were substituted for the words "any local authority" by Bom. 14 of 1934, s. 3 (*1*) (*iii*) (*a*).

[2] The word, figure, letter and brackets "or (*1A*)" were inserted by *ibid*, s. 3 (*1*) (*iii*) (*b*).

[3] The word "authority" was substituted for the word "Committee" by *ibid*, s. 3 (*1*) (*iii*) (*c*).

[4] The words "acting under this section" were substituted for the words, figures and brackets "having concurred in any action under sub-section (*1*) or (*2*), in respect of any matter arising out of such action" by *ibid*, s. 3 (*1*) (*iv*) (*a*).

[5] The words "the Commissioner, if the local bodies are in one division, and of" were deleted by *ibid*, s. 3 (*1*) (*iv*) (*b*).

[6] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[7] The words "or of such officer as it appoints in this behalf" were substituted for the words "if they are in different divisions," by Bom. 14 of 1934, s. 3 (*1*) (*iv*) (*c*).

[8] This proviso was inserted by the Adaptation of Indian Laws Order in Council.

Provided that no lease of immoveable property for a term exceeding seven years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Commissioner.

Vesting of future local works.

48. Every road, building or other work constructed by a local board shall vest in such local board.

Power to decide whether property vests in taluka or district board.

49. When any doubt arises whether any property vests in the local board established for any taluka or in the district local board having authority over such taluka, [1][the Provincial Government] may decide in which of the two boards it vests, and any such decision shall be final.

Obligatory duties.

50. It shall be the duty of local boards, so far as the local fund at their disposal will allow, to make adequate provision for the areas respectively subject to their authority in regard to the following matters, namely :—

(*a*) the construction of roads and other means of communication and the maintenance and repair of all roads and other means of communication vesting in them ;

(*b*) the construction and repair of hospitals, dispensaries, markets, dharmashalas and other public buildings and the visiting, management and maintenance of these institutions ;

(*c*) the construction and repair of public tanks, wells and waterworks, the supply of water from them and from other sources, and the construction and maintenance of works for the preservation of water for drinking and cooking purposes from pollution ;

(*d*) the provision of suitable accommodation for, and the visiting and maintenance of primary schools, and the payment if necessary, of stipends to persons qualifying as teachers for primary schools during the period of their training for such qualification, and the general development and extension of primary education ;

(*e*) public vaccination, and sanitary works and measures necessary for the public health ;

(*f*) the planting and preservation of trees by the side or in the vicinity of roads vesting in such boards ;

(*g*) the maintenance of any property vesting in them ; and

(*h*) the payment at such rates and subject to such conditions as [1][the Provincial Government] from time to time by general or special order may direct of the expense of maintenance and treatment in any

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

institution which [1][the Provincial Government] declares by notification to be suitable for such purpose, either within or without the district, and other necessary expenses, of persons undergoing anti-rabic treatment as indigent persons according to the rules applicable to such institutions, and proceeding to and returning from such institutions; and local boards may at their discretion provide out of the said fund for the following matters, namely,

Discretionary powers of expenditure.

(*i*) the payment to members of the board of expenses incurred in travelling for the purpose of the business of the board, in accordance with rules made in this behalf under clause (*d*) of section 133, provided that no such payment shall be made to a salaried [2][servant of the Crown] [3][who is in receipt of travelling allowance as such[4]* * *];

(*j*) the establishment and maintenance of model farms, the acclimatization of exotics, the importation and distribution of superior kinds of seed, the improvement of the breed of cattle and horses, the introduction and preservation of fish and the advancement and improvement of agriculture and local industries;

(*k*) the establishment and maintenance of relief and local relief works in time of famine or scarcity;

(*l*) educational objects other than those set forth in clause (*d*) of this section;

(*m*) the construction, management and maintenance of light-railways and tramways;

[5][(*mm*) the construction, maintenance, management, organisation or purchase of telephone lines, or the guaranteeing of payment of interest on money expended for the construction of a telephone line, provided however, that, when the line extends beyond the limits of the area subject to the authority of the local board, the previous sanction of the Commissioner is necessary.]

(*n*) any other local works or measures likely to promote the health, safety, comfort or convenience of the public; and

(*o*) with the previous concurrence of the Collector, any public reception, ceremony, entertainment or exhibition.

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2]The words "servant of the Crown" were substituted for the words "servant of the Government" by *ibid*.

[3]These words were added by Bom. 5 of 1928, s. 2.

[4]The words "Government servant" were omitted by the Adaptation of Indian Laws Order in Council.

[5]Clause (*mm*) was inserted by Bom. 10 of 1927, s. 6.

Power of district local board to construct other works and manage other institutions.

[1][**50A.** It shall be lawful for a district local board to undertake upon such terms and conditions as may be agreed upon, the construction, maintenance or repair of any work or the management of any institution on behalf of [2][the Central or the Provincial Government] or any other local authority or the Court of Wards.]

Relative duties of taluka and district local boards.

51. (*1*) Subject to the control of the district local board and, as regards educational matters, to the provisions of proviso (*b*) to section 80, each taluka local board shall, within the area subject to its authority, have the control and administration of all purely local roads, works and buildings maintained at its cost and also of all local services and institutions except such as the district local board thinks fit to take under its own direct control and administration.

(*2*) In respect of roads, works, buildings, services and institutions in the control and administration of the district local board, each taluka local board shall, if the district local board so desires, be the agent of the district local board and, as such agent, shall exercise such authority and perform such duties as the district local board may from time to time in writing delegate to it.

CHAPTER V—SANITARY AND OTHER POWERS.

Power to enter and inspect, etc., buildings.

52. The president of the district local board, or any person authorized by the said board in this behalf, may at any time between sunrise and sunset, on giving notice in the manner hereinafter provided, enter into and inspect all buildings and lands, and by written notice direct that all or any part thereof shall be cleansed, cleared or otherwise put in a proper state for sanitary reasons.

Filthy buildings, etc.

53. Whoever, being the owner or occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy or unwholesome state, or, in the opinion of the district local board, a nuisance to persons residing in the neighbourhood, or overgrown with prickly pear or rank and noisome vegetation, and who shall not, within a reasonable time after notice in writing from any person authorised by the district local board in this behalf to cleanse, clear or otherwise put the same in a proper state, have complied with the requisition contained in such notice, shall on conviction before a Magistrate be liable to a fine not exceeding rupees twenty-five and if the offence be a continuing one to a further fine not exceeding rupees five for every day during which the said offence is continued after conviction.

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[1]Section 50A was inserted by Bom. 16 of 1935, s. 3.

[2]The words "the Central or the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Powers and duties with regard to sources of water-supply.

54. The president of the district local board or any person authorised by the said board in this behalf may at any time by written notice require that the owner of, or any person who has control over, any well, stream, channel, tank, or other source of water-supply shall, whether it is private property or not,

(*a*) if the water is used for drinking—

(*i*) keep and maintain any such source of water-supply, other than a stream, in good repair, or

(*ii*) within a reasonable time to be specified in the notice, cleanse any such source of water-supply from silt, refuse and decaying vegetation, or

(*iii*) in such manner as the board directs, protect any such source of water-supply from pollution by surface drainage, or

(*iv*) desist from using and from permitting others to use for drinking purposes any such source of water-supply, which not being a stream in its natural flow, is in the opinion of the board unfit for drinking, or

(*v*) if notwithstanding any such notice under sub-clause (*iv*) such use continues and cannot in the opinion of the board be otherwise prevented, close, either temporarily or permanently, or fill up or enclose or fence in such manner as the board considers sufficient to prevent such use, such source of water-supply, or,

(*vi*) drain off or otherwise remove from any such source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the board considers it injurious to health or offensive to the neighbourhood;

(*b*) within twenty-four hours of such notice, repair, protect or enclose in such manner as the board may direct or approve, any such source of water-supply, whether used for drinking purposes or not, other than a stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water-supply is in the opinion of the board dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same.

Remedy on non-compliance with directions issued.

55. If the owner or the person having control as aforesaid fails or neglects to comply with any such requisition within the time required by or under the provisions of section 54 the district local board may, and, if in the opinion of the president immediate action is necessary to protect the health or safety of any person, shall at once proceed to execute the work required by such notice, and all the expenses incurred thereon shall be paid by the owner of, or person having control over, such water-supply, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII:

Provided that in the case of any well or private stream or any private channel, tank or other source of water-supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by such owner or person having control may, if the district local board so directs, be paid from the portion of the local fund at the disposal of such board.

Power to set apart public springs, etc., for certain purposes.

56. (*1*) The district local board may by public notice, which shall be put up at the spring, tank, well or other place concerned and otherwise as required by this Act, set apart public springs, tanks, wells and other places and parts of public water courses for drinking purposes or for bathing or for washing clothes or animals or for any other purpose calculated to promote the health, cleanliness, comfort or convenience of the inhabitants ; and with the consent of the owners, may also set aside any private springs, tanks, wells or other places for any of the aforesaid purposes.

Power to prohibit use of water from certain sources.

(*2*) The district local board may, during epidemics, on receipt of a certificate from any medical officer in the employ of the board or of the [1][Crown] stating that such action is desirable, summarily by notice prohibit the use of water from any source to which the public have access. Such notice shall be served by putting up a copy thereof near the source of water-supply or by beat of drum, stating the number of days during which such prohibition shall last. The district local board may extend or modify the notice from time to time without the production of a further certificate.

Penalty for using places set apart for other purposes.

57. Whoever—

(*a*) bathes in or defiles the water in any place set apart for drinking purposes by the board, or in the case of private property by the owner thereof, or

(*b*) deposits any offensive or deleterious matter in the dry bed of any place set apart as aforesaid for drinking purposes, or

(*c*) washes clothing in any place set apart as aforesaid for drinking or bathing, or

(*d*) washes any animal or any cooking utensils or wool, skins or other foul or offensive substance, or deposits any offensive or deleterious matter in any place set apart as aforesaid for drinking purposes or bathing or washing clothes, or

(*e*) allows the water from a sink, sewer, drain, engine or boiler, or any other offensive matter belonging to him or flowing from any building or land belonging to or occupied by him, to pass into any place set apart as aforesaid for drinking purposes or for bathing or for washing clothes,

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[1]The word " Crown " was substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

shall, on conviction before a Magistrate be liable to a fine not exceeding rupees fifty, and if the offence be a continuing one, to a further fine not exceeding rupees ten for every day during which the said offence is continued after conviction.

Abatement of nuisance from foul water.

58. When any pool, ditch, tank, pond, well, hole or any waste or stagnant water, or any channel or receptacle of foul water or other offensive or injurious matter, whether the same be within any private enclosure or otherwise, shall appear to the district local board to be likely to prove injurious to the health of the inhabitants or offensive to the neighbourhood, the district local board may by written notice require the owner of the same to cleanse, fill up, drain off or remove the same, or to take such measures as shall in its opinion, be necessary to abate or remove the nuisance.

Closing of places for the disposal of the dead.

59. (*1*) If the district local board is of opinion that any place in the district which is used for the disposal of the dead is in such a state as to be, or to be likely to become injurious to health, it may submit its opinion, with the reasons therefor, to the Commissioner. The Commissioner may thereupon, after such further inquiry, if any, as he shall deem fit to cause to be made, by notification direct that such place shall cease to be so used from such date as may be specified in that behalf in the notification.

(*2*) A copy of the said notification with a translation thereof in the vernacular of the district, shall be published in the local newspapers, if any, and shall be posted up at the district local board office and in one or more conspicuous spots on or near the place to which it relates.

(*3*) Any person who buries or otherwise disposes of any corpse in any such place after the date specified in the said notification for closure thereof or buries any corpse in any unoccupied [1][Crown] land not set aside for the burial of the dead under the provisions of any law for the time being in force or by established usage, shall on conviction before a Magistrate be liable to a fine not exceeding rupees one hundred.

President, etc., to have power of entry for inspection into buildings, etc., where infectious disease exists.

60. (*1*) The president of any district local board or any person authorized by the board in this behalf, may enter at any time, after reasonable notice, into any building or premises in which any dangerous infectious disease is reputed or suspected to exist, for the purpose of inspecting such building or premises.

Inspection to be made between sunrise and sunset.

(*2*) No such inspection shall be made except between sunrise and sunset.

[1] The word "Crown" was substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Disinfection of buildings, etc.

(*3*) If the district local board is of opinion that the cleansing or disinfecting of a building or premises or of a part thereof, or of any articles therein likely to retain infection, would tend to prevent or check the spread of any dangerous infectious disease, it may by notice require the owner or occupier to cleanse or disinfect the same within a time to be specified in such notice: provided that if the board considers that immediate action is necessary or that the owner or occupier is, by reason of poverty or otherwise, unable effectually to comply with its requisition, the board may itself cause such building or premises or articles to be cleansed or disinfected, and for this purpose may cause such articles to be removed from such building or premises; and the expenses incurred by the board under this sub-section shall be recoverable from the said owner or occupier unless he was, by reason of poverty, unable effectually to comply with its requisition.

District local board to notify places for washing and disinfecting articles exposed to infection.

61. (*1*) The district local board shall, from time to time, notify places at which articles of clothing or bedding or other articles which have been exposed to infection from any dangerous infectious disease may be washed or disinfected.

Infected articles may be destroyed.

(*2*) The district local board may direct the destruction of clothing, bedding or other articles likely to retain such infection, and shall on demand give compensation for the articles destroyed.

Penalty.

(*3*) Whoever washes such clothing or bedding or other articles at any place other than those set apart for such purposes under sub-section (*1*), shall on conviction before a Magistrate be liable to a fine not exceeding rupees fifty.

Obstructions and encroachments upon public roads, land or building.

[1][**61A.** (*1*) Whoever on any part of a public road, land or building, after it has vested in, or has become the property of, a local board, shall build, or set up, any wall or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or shall deposit, or cause to be placed or deposited, any box, bale, package or merchandise or any other thing on any part of any such road, land or building, or in, or over, or upon, any open drain, gutter, sewer or aqueduct in such road, land or building, shall be punished with fine which may extend to twenty-five rupees.

(*2*) The local board shall have power to remove any such obstruction or encroachment, and the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII:

Provided that, before proceeding to remove any such obstruction or encroachment, the local board shall by written notice call upon the person

[1] Section 61A was inserted by Bom. 10 of 1927, s. 7.

who has caused such obstruction or encroachment to remove it within a reasonable time to be specified in the notice, or to show cause why the same should not be removed.

(*3*) Nothing contained in this section shall prevent a local board from allowing any temporary occupation of or erections on any public road, which vests in it or is its property, on occasions of festivals and ceremonies, or for the piling of fuel on any part of such road for not more than [1][fifteen days] and in such manner as not to inconvenience the public or any individual.

[2][(*4*) Notwithstanding anything contained in section 47, it shall be competent to a local board to lease or to permit the temporary use of land forming part of a public road when such land is not, in the opinion of the local board, required for a public road or for any other of the purposes of this Act, for a period not exceeding seven years :

Provided that if the lease or permit does not exceed one year, the previous sanction of the Collector, and if the lease or permit exceeds one year but does not exceed seven years, the previous sanction of the Commissioner, shall have been obtained to such lease or permit].]

[3][**61B.** The president, vice-president, or any councillor or officer authorised by the local board in this behalf may at all reasonable times enter into any place [4][(other than a place prescribed by rules made under the Bombay Weights and Measures Act, 1932)] where weights or measures or weighing or measuring instruments are used or kept for the purpose of trade and inspect such weights or measures or weighing or measuring instruments.] Powers of inspection of weights and measures, etc.

62. (*1*) The district local board may, from time to time, with the sanction of the Commissioner, make by-laws and cancel or alter the same :— District local board empowered to make by-laws.

(*a*) for the general or special regulation, control or prohibition of the use of markets, dairies, creameries, granaries, grainshops, slaughter houses, cart-stands, burial and burning grounds, offensive trades, and all matters connected with conservancy ;

(*b*) for regulating the use of public roads and the traffic thereon ; and for securing cleanliness, safety and order in respect of the same ; and

(*c*) for carrying out all the purposes of this Act,

and may impose fines and penalties for the infringement of such by-laws.

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[1] The words "fifteen days" were substituted for the words "a week" by Bom. 16 of 1933, s. 3 (*a*).

[2] This sub-section was added by *ibid*, s. 3 (*b*).

[3] This section was inserted by Bom. 15 of 1932, Second Schedule, Pt. I.

[4] These words, figures and brackets were inserted by Bom. 9 of 1935, s. 6 (*1*).

Infringement of by-laws.

(*2*) No by-law shall be repugnant to any law in force, and no fine for any one infringement shall exceed rupees fifty; provided that in the case of a continuing infringement the offender may by any by-law be made liable to further fine not exceeding rupees ten for every day during which such infringement is continued after conviction.

Confirmation of by-laws.

(*3*) No by-law or cancellation or alteration of a by-law shall have effect until the same has been approved and confirmed by [1][the Provincial Government.]

By-laws to have the force of law.

(*4*) All by-laws when they have been duly confirmed shall have the force of law.

Service of notices, etc., addressed to individuals.

63. The service of every notice and the presentation of every bill under this Act, on any person or to any person to whom it is by name addressed shall, in all cases not otherwise specially provided for in this Act, be effected by a district local board officer or servant or other person authorized by the district local board in this behalf, or on such terms as may be agreed upon, by any officer or [2][servant of the Crown]—

(*a*) by giving or tendering the notice or bill to the person to whom it is addressed; or

(*b*) if such person is not found by leaving the notice or bill at his last known place of abode, if within the district, or by giving or tendering the notice or bill to some adult male member or servant of his family; or

(*c*) if such person does not reside within the district, and his address elsewhere is known to the president or other person directing the issue of the notice or bill, then by forwarding the notice or bill to such person by registered post under cover bearing the said address; or

(*d*) if none of the means aforesaid be available then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates.

Service of notices on owners or occupiers of buildings and lands.

64. When any notice under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in cases not otherwise specially provided for in this Act, shall be effected either—

(*a*) by giving or tendering the notice to the owner or occupier, or if there be more owners or occupiers than one, to any one of them; or

(*b*) if no such owner or occupier be found, then by giving or tendering the notice to some adult male member or servant of the family of any such owner or occupier as aforesaid; or

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "servant of the Crown" were substituted for the words "servant of the Government" by *ibid.*

(*c*) if none of the means aforesaid be available, then by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

Public and general notices how to be published.

65. Every notice which this Act requires or empowers a district local board to give or to serve either as a public notice, or generally, or by provisions which do not expressly require notice to be given to individuals therein specified, shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the district local board office during such period and in such other public buildings and places, or is published in such local papers or in such other manner as the district local board in by-laws in this behalf directs.

Defective form not to invalidate notice.

66. (*1*) No notice or bill shall be invalid for defect of form.

Execution of acts required to be done by any notice.

(*2*) When any notice under this chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(*3*) In the event of non-compliance with the terms of the notice the district local board may take such action or such steps as may be necessary for the doing of the act thereby required to be done, and all the expenses thereby incurred by the district local board shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner provided in section 69.

Punishment for disobedience of orders and notices not punishable under any other section.

67. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by or on behalf of a district local board under any power conferred by this chapter, or fails to comply with the conditions subject to which any permission was given to him by the district local board under any power so conferred, shall, on conviction before a Magistrate if the disobedience or failure is not an offence punishable under any other section, be liable to a fine not exceeding rupees fifty and to a further fine not exceeding rupees five for every day during which the said disobedience or failure continues after conviction:

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

District local board in default of owner or occupier may execute works and recover expenses.

68. (*1*) Whenever, under the provisions of this Act, any work is required to be executed by the owner or occupier of any building or land, and default is made in the execution of such work, the district local board, whether any penalty is or is not provided for such default, may cause such work to be executed; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to it by

the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII either in one sum or by instalment as to the district local board may seem fit.

Power to levy charges on occupier, who may deduct the sum from his rent.

(*2*) If the defaulter be the owner of the building or land, the district local board may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require, subject to the provisions of sub-section (*3*), the payment of all or any part of the expenses payable by the owner for the time being, from the person who then, or any time thereafter, occupies the building or land under such owner; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier; and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not to be liable for more than the amount of rent due.

(*3*) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord, has accrued and become payable by such occupier, unless he neglect or refuse, upon application made to him for that purpose by the district local board, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier.

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of the expense of any such works as aforesaid.

Expenses or costs how determined and recovered.

69. If a dispute arises with respect to any expenses or costs which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same, shall, save where it is otherwise expressly provided in this Act, be ascertained and determined by the district local board, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

District local board may prosecute.

70. (*1*) The district local board may direct any prosecution for any public nuisance whatever, and may order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, or of any by-law thereunder, and may order the expenses of such prosecutions or other proceedings to be paid out of the local fund:

Provided that no prosecution for an offence under this Act or of any by-law thereunder shall be instituted except within six months next after the commission of such offence.

Jurisdiction of Magistrate.

(2) Any prosecution under this Act or under any by-law thereunder may, save as therein otherwise provided, be instituted before any Magistrate, and every fine or penalty imposed under or by virtue of this Act or any by-law thereunder, and also all claims to compensation or other expenses for the recovery of which no special provision is otherwise made in this Act, may be recovered on application to such Magistrate, by the distress and sale of any moveable property within the limits of his jurisdiction belonging to the person from whom the money is claimed.

Damage to any local board property how made good.

71. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of any local board shall have been caused by such person, he shall be liable to make good such damage as well as to pay such penalty, and the value of the damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and on non-payment of such value on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

Alternative procedure by suit.

72. In lieu of proceeding by distress and sale, or in case of failure to realise by so proceeding the whole or any part of any amount recoverable under the provisions of Chapter VIII or of any compensation, expenses, charges or damages awarded under this Act, the district local board may sue in any Court of competent jurisdiction the person liable to pay the same, as also any other person who may have in any way caused any injury to any property, rights or privileges of the district local board.

Powers of police officers

73. (1) Any police officer may arrest any person committing in his presence any offence against any of the provisions of this Act or of any by-law thereunder, if the name and address of such person be unknown to him, and if he decline to give his name and address, or if the police officer have reason to doubt the accuracy of such name and address if given, and such person may be detained at the station-house until his name and address shall be correctly ascertained:

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for bringing him before a Magistrate, or than twenty-four hours at the utmost.

(2) It shall also be the duty of all police officers to give immediate information to the president or an officer of the local board of the commission of any offence against the provisions of this Act or of any by-law thereunder, and to assist all local board officers and servants in the exercise of their lawful authority.

CHAPTER VI.—REVENUE AND EXPENDITURE.

Local fund, its custody and investment.

74. (*1*) There shall be in each district a fund which shall be called the local fund.

(*2*) The local fund shall be kept in the Government treasury or in the bank to which the Government treasury business has been made over or in such other bank or co-operative society registered or deemed to be registered under the Co-operative Societies Act, 1912,[1] as may be approved by [2][the Provincial Government]: II of 1912.

Provided that the district local board may from time to time, with the previous sanction of [2][the Provincial Government], [3]* * * * * invest any portion of the fund in securities of the [4][Central Government] or such other securities as the [5][Provincial Government] may approve in this behalf, and vary such investments for others of the like nature; and the income resulting from the securities and proceeds of the sale of the same shall be credited to the local fund.

Income of local fund.

75. The following shall form part of, or be paid into, the local fund :—

(*a*) the balance of the local fund of the district at the commencement of this Act;

(*b*) the net proceeds (after deducting the expenses of assessment and collection) of any residue of the cesses payable in the district under the [6]Sind Local Funds Act, 1865, and [6]Bombay Local Funds Act, 1869; Bom VIII of 1865 Bom III of 1869.

(*c*) the net proceeds (after deducting the expenses of assessment and collection) of the cesses in the district authorized by sections 93 and 95;

[7](*d*) * * * *

(*e*) all rents and profits accruing from property (including ferries) [8]* * * * vested in a local board;

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[1] *See* now the Bombay Co-operative Societies Act, 1925 (Bom. 7 of 1925).

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "and subject to any general or special orders of the Governor-General in Council" were omitted by *ibid.*

[4] The words "Central Government" were substituted for the words "Government of India" by *ibid.*

[5] The words "Provincial Government" were substituted for the words "Governor-General in Council" by *ibid.*

[6] These Acts have been repealed by Bom. 6 of 1923, s. 2.

[7] Clauses (*d*), (*g*), (*h*) and (*i*) were omitted by the Adaptation of Indian Laws Order in Council.

[8] The words "placed by the Government under the management of a local board or" were omitted by *ibid.*

(*f*) the net proceeds (after deducting the expenses of collection) of all tolls and leases of tolls on roads and bridges vested in the local board which are levied in the district under the Tolls on Roads and Bridges Act, 1875;

Bom. III of 1875.

[1](*g*) * * * *

[1](*h*) * * * *

[1](*i*) * * * *

(*j*) all sums received by a local board in the execution of, or from taxation under, this Act and the interest on and the sale proceeds of any securities held by such board;

(*k*) all sums contributed by private persons;

(*l*) the proceeds of any fisheries vesting in a local board;

(*m*) the receipts on account of charities and trusts placed under the management of a local board; and

(*n*) all grants [2] * * * made by [3][the Provincial Government]:

Provided that when a public ferry, road or bridge [4][vested in one or more than one Local Board] is partly in one district and partly in another, the Commissioner, if the districts are in one division, and [3][the Provincial Government] if they are in different divisions, may assign to the local fund of each district such proportion of the net proceeds of such ferry, or of the toll, or of the lease of the tolls levied on such road or bridge, as he or it shall think fit:

Provided further that if any road in a district is vested partly in a local board and partly in [3][the Provincial Government], the Collector may assign to the local fund of the district such proportion of the net proceeds of the toll or of the lease of the toll levied on such road as he shall think fit:

[5][Provided also that a local board may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on it by or under this Act or any other law for the time being in force, credit to a separate heading in the local

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[1] Clauses (*d*), (*g*), (*h*) and (*i*) were omitted by the Adaptation of Indian Laws Order in Council.

[2] The words "and assignments of revenue" were omitted by *ibid.*

[3] The words "the Provincial Government" were substituted for the words "the Government" by *ibid.*

[4] These words were inserted by *ibid.*

[5] This proviso was added by Bom. 4 of 1930, s. 3.

board accounts any portion of the local fund set apart by it for any special purpose and shall credit to a separate heading any grant or donation received by it for any special purpose. Any grant or donation so credited by it shall be applied exclusively to the special purpose for which the same was received.]

Local fund by what boards to be expended.

76. (*1*) The local fund of a district shall be available for expenditure by or under the direction of each taluka local board for the purposes of this Act as follows :—

(*a*) the balance available for expenditure by or under the direction of such board at the commencement of this Act; and

(*b*) the balance of the revenue described in clauses (*b*), (*c*), (*e*), [1]* * * (*j*) and (*k*) of section 75 accruing in the areas subject to the authority of such taluka local board, after the district local board shall have made provision therefrom for the portion to be devoted to educational purposes under section 80 and for such share of the charges payable by the district local board under sections 78 and 81 as the said board shall deem equitable.

(*2*) The remaining portion of the fund shall be available for expenditure by or under the direction of the district local board for the purposes of this Act.

Local fund where to be expended.

77. Expenditure by the local boards out of the local fund shall, save as otherwise provided by this Act, be made within the areas respectively subject to their authority only, but may, [2][where it does not exceed rupees two hundred with the sanction of the Collector and where it exceeds rupees two hundred] with the sanction of the Commissioner, be made outside that area for any of the purposes of this Act.

General charges to be defrayed by district local boards.

78. Every district local board shall, from the portion of the local fund at its disposal, defray—

(*a*) the salaries and other emoluments of all officers and servants maintained under section 119, and the pensions or other retiring allowances, if any, of such officers and servants, and the gratuities or compassionate allowances payable to the surviving relatives of such officers and servants; and such charges as may be agreed upon for the performance of any services for the board by any officer or [3][servant of the Crown];

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[1] The letters and brackets "(*g*), (*h*), (*i*)", were omitted by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 16 of 1935, s. 4.

[3] The words "servant of the Crown" were substituted for the words "servant of the Government" by the Adaptation of Indian Laws Order in Council.

(*b*) such sum as shall from time to time be fixed by [1][the Provincial Government] for the payment of the salaries [2][and allowances], of any officers or [3][servants of the Crown] employed by the board [4][and of such contributions for the pension of any such officers and servants as may be required, by the conditions of their service under the Crown, to be paid by them or on their behalf.]

Assignment of certain portions of revenue to municipalities or cantonment committees.

79. (*1*) Every district local board shall assign and cause to be paid out of the district local fund to every municipality and cantonment committee within the district for which such board has been established a sum equal to two-thirds of the amount of the revenue described in clauses (*b*) and (*c*) of section 75 levied from lands within the municipal district or cantonment subject to such municipality or committee, and may, in its discretion, assign and pay to every such municipality or committee, the whole of the said amount and such amount shall, at the request of the district local board, be ascertained and certified by the Collector.

(*2*) The sum assigned and paid shall be expended by the municipality or cantonment committee only for such purposes as are described in section 50, or for the remuneration of officers and servants whom it entertains for any of the said purposes; and a portion thereof equal to not less than one-third of the revenue described in sub-section (*1*) shall be expended by it for educational purposes only, as defined in clause (*d*) of section 50.

Expenditure for educational purposes to be made by district local boards only.

80. In every district the expenditure from the local fund for educational purposes as defined in clauses (*d*) and (*l*) of section 50 shall be made by the district local board only or by such authority as may be prescribed in any enactment for the time being in force, and for this purpose a sum equal to not less than one-third of the revenue described in clauses (*b*) and (*c*) of section 75 shall be set apart by the said board for expenditure by it on the said purposes [after deducting the sum or sums described in sub-section (*1*) of section 79]:

Provided that—

(*a*) [5]* * * *

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "and allowances" were substituted for the words "allowances and contributions for pension, according to the rules from time to time made by the Government" by *ibid.*

[3] The words "servants of the Crown" were substituted for the words "servants of the Government" by *ibid.*

[4] These words were inserted by *ibid.*

[5] Proviso (*a*) and the word "and" occurring at the end of the proviso were deleted by Bom. 16 of 1935, s. 5.

(*b*) the charges to be necessarily defrayed by each district local board or by such authority as aforesaid on account of primary education, the extent of the independent authority of district and taluka local boards in education and their relations generally with the Government Educational Department and with each other in educational matters shall be from time to time prescribed by rules made by [1][the Provincial Government] in this behalf under clause (*e*) of section 133.

The provisions of proviso (*b*) of this section shall apply also to municipalities and cantonment committees in respect of the sums to be expended by them under section 79 for educational purposes.

Cess on water-rate to be utilized towards improvement of communications in irrigated tracts.

[2][**80A.** In any district notified by [3][the Provincial Government] in this behalf, such specified portion of the net proceeds of the cess levied therein under section 95, as may be determined by [3][the Provincial Government], after consultation with the District Local Board concerned, shall be utilised towards the improvement of communications in irrigated tracts in that district.]

Provisions for determining by which boards expenditure should be incurred for other purposes.

81. (*1*) The responsibility of district and taluka local boards, respectively, for expenditure in respect of matters other than education, shall be determined in accordance with the following provisions, namely :—

(*a*) each local board shall be responsible for the maintenance of any building or other property which vests in it, and of any work which has been executed at its cost ;

(*b*) district local boards shall be responsible for the construction, maintenance and repair of the main roads and other means of through communication in the district vesting in them, for the maintenance of public vaccination and dispensaries and other similar local services and institutions of general benefit to the district, and for all matters in which two or more talukas are, or may be, interested ;

(*c*) taluka local boards shall be responsible for the construction and maintenance of all other roads and works which are purely local, and for all local services and institutions not maintained by the district local board ; and

(*d*) large works of the nature described in clause (*c*) of this section which are beyond the means at the disposal of a taluka local board may be undertaken by the district local board at its own cost, or the

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This section was inserted by Bom. 22 of 1931, s. 2.

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

district local board may assist the taluka local board in undertaking the same by a grant-in-aid conditional upon a certain portion of the cost being contributed by the taluka local board or by private persons, or by both.

(*2*) If a difference of opinion arises between a district and a taluka local board as to which board is responsible for any charge, work, institution or service, the question shall be referred for the decision of the Commissioner, which shall be final.

How the local fund shall be drawn against.

82. (*1*) Subject to the provisions of sections 126 to 131 inclusive no payment shall be made from the Government treasury or by a bank or a co-operative society out of a local fund except upon a cheque or letter of credit signed by the president of the local board which requires such payment.

(*2*) Payment of any sum in excess of one hundred rupees shall be made by a local board by means of a cheque or letter of credit signed as aforesaid and not in any other way.

[1][Provided that in the case of expenditure from the local fund for educational purposes such payments shall be made in accordance with the provisions of the Bombay Primary Education Act, 1923, and of the rules made thereunder.]

Bom. IV of 1923.

Accounts to be kept in form prescribed by the Provincial Government.

83. Accounts of the receipts and expenditure of every local board shall be kept in such form as [2][the Provincial Government] may from time to time by rule made in this behalf under clause (*f*) of section 133 prescribe, and shall be balanced annually on the last day of every financial or revenue year, as [3][the Provincial Government] may prescribe.

Publication of abstract of accounts annually.

84. An abstract of the accounts of every local board showing the amounts drawn from the local fund, the charges for establishment, and for all other expenses, the works undertaken, and the sums expended on each work, and the balance, if any, in hand, shall be forwarded by the president of the board every year, as soon as may be after the end of the year, in such form as [2][the Provincial Government] may from time to time by rule made in this behalf under clause (*f*) of section 133 prescribe, to the Collector or such other officer as the Collector nominates in this behalf and shall be published in the [4][*Official Gazette*].

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[1] This proviso was added by Bom. 10 of 1927, s. 8.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "the Provincial Government" were substituted for the word "Government" by *ibid.*

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

Return to be rendered to local boards of actual and estimated income of local funds.

85. (*1*) To enable local boards to prepare annual budget estimates, as hereinafter provided the Collector shall annually render to each taluka local board in his district, on or before such date and in such form as [1][the Provincial Government] from time to time directs, a return setting forth, for the taluka for which such board is established,—

(*a*) the actual receipts in the last complete official year,

(*b*) a revised estimate of the receipt in the current official year, and

(*c*) a first estimate of the probable receipts in the next following official year,

} from each of the sources from which the local fund is derived;

and to the district local board a similar return for the whole district.

(*2*) The district local board shall, on or before such date as [1][the Provincial Government] from time to time may direct, communicate to each taluka local board in the district the probable amount of the revenue described in clauses (*b*) and (*c*) of section 75, which will be at the disposal of such taluka local board in the next following official year, explaining the manner in which, with reference to clause (*b*) of sub-section (*1*) of section 76 the said amount has been fixed.

Preparation of annual budget estimates of income and expenditure.

86. (*1*) Every local board shall have prepared annually, on or before such date and in such form as [1][the Provincial Government] from time to time by rule made in this behalf under clause (*f*) of section 133 prescribes, a budget estimate of the income and expenditure of the board for the next official year.

Consideration and approval of budget estimates by the board.

(*2*) The board shall, on or as soon as may be after the said date, consider the budget estimate so prepared and approve the same with or without modification as it shall think fit.

Taluka local board's budget estimates to be submitted for sanction to the district local board.

87. Every budget estimate, as approved by a taluka local board, shall be forthwith submitted to the district local board to which such taluka board is subordinate which, may—

(*a*) as often as it thinks fit, send back such estimate to the taluka local board for revision, or

(*b*) sanction any budget estimate, or revised budget estimate submitted to it, either as it stands, or subject to such modification as it deems expedient.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

88. (*1*) Every local board may, at any time during the year for which any such budget estimate has been approved or sanctioned, cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary estimate shall be considered and approved by the local board and in the case of a taluka local board submitted to the district local board for sanction, in the same manner as if it were an original annual budget estimate. Revised or supplementary budget estimates may be made when necessary.

(*2*) Re-appropriation of funds in a budget estimate may be made from time to time subject to the same approval or sanction as is required for the budget estimate. Re-appropriation to be subject to approval or sanction like budget estimate.

89. (*1*) No budget estimate of a local board and no re-appropriation of a budget item shall be approved or sanctioned as aforesaid, unless— Budget estimates and re-appropriations when to be approved or sanctioned.

(*a*) provision is therein made for such board having at its credit at the end of the official year a balance of not less than five thousand rupees in the case of a district local board, and two hundred rupees in the case of a taluka local board ;

(*b*) for every work, [1]* of first construction, [1]* * there is attached to the budget estimate in which provision is made therefor a detailed estimate of the cost of such work, which has been approved by the board, and in the case of a road of which the cost is to exceed on an average three hundred rupees per mile or of any other work of which the total cost is to exceed three thousand rupees, plans and estimates have [2][either] been prepared or approved by the Government Executive Engineer of the district or by an engineer employed by the board and approved by [3][the Provincial Government] :

[4]Provided that [3][the Provincial Government] may, in any case, for special reasons direct that the provisions of this clause shall not apply.

(*2*) A copy of every budget estimate and a statement of every re-appropriation as finally approved or sanctioned under the foregoing provisions shall be forwarded by the president of each local board without delay to the Collector, or such officer as he nominates in this behalf. Annual budget estimates shall be so forwarded not later than the 18th February. Copies of budget estimates and re-appropriation statements to be sent to the Collector.

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[1] The words " whether " and " or repair " were deleted by Bom. 10 of 1927, s. 9 (*a*).

[2] The word " either " was inserted by *ibid*, s. 9 (*b*).

[3] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[4] This proviso was added by Bom. 10 of 1927, s. 9 (*c*).

Except on a pressing emergency no sum not provided for in a budget estimate to be expended.

90. (*1*) Save in case of pressing emergency, no sum shall be expended by, or on behalf of, any local board, unless such sum is included in some budget estimate at the time in force which has been approved or sanctioned as aforesaid.

(*2*) If any sum is so expended on a pressing emergency, the circumstances shall be forthwith communicated in writing by the president to the Collector (through the district local board, if the sum has been expended by a taluka local board) with an explanation of the way in which it is proposed by the local board to cover such extra expenditure.

Provision as to budget estimates in force when this Act comes into operation.

91. Every budget estimate prepared, approved or sanctioned by any local board under the [1]Bombay Local Boards Act, 1884, before the commencement of this Act shall be deemed to have been duly prepared, approved or sanctioned under this Act. Bom. I of 1884.

Audit to be made periodically under the orders of the Provincial Government.

92. [2](*1*) Independently of the audit provided for under the provisions of the Bombay Local Fund Audit Act, 1930, the accounts of local boards may be examined and audited at such intervals, in such manner, and by such agency as [3][the Provincial Government], on the application of the local board or local boards concerned, directs. Bom. XXV of 1930.

Auditor to have power to see all accounts, etc.

(*2*) Every auditor appointed under this section shall have access to the accounts and to all books, deeds, contracts, vouchers and all other documents and records in the possession, or under the control of the local board.

[4](*3*) [5] * * * Every local board shall publish the report and audit notes with the replies thereto in its administrative report and in a local newspaper selected by the board. A copy of the report on every taluka local board shall also be sent to the district local board of the district.

CHAPTER VII.—TAXATION.

Levy of one anna cess on every rupee of land-revenue.

93. (*1*) [6][The Provincial Government] shall levy, on the conditions and in the manner hereinafter described, a cess [7][at the rate] of one anna or, on an application of the district local board to which the cess is payable made in pursuance of a resolution of the board passed at

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[1] Bom. 1 of 1884 is repealed by this Act, s. 2.

[2] Sub-section (*1*) was substituted for the original sub-section by Bom. 25 of 1930, s. 16 (*2*).

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] Sub-section (*3*) was substituted for the original by Bom. 10 of 1927, s. 10.

[5] The words "The report of the auditor on each local board shall be sent to each board concerned and to the Collector and shall be published in the *Bombay Government Gazette*" were repealed by Bom. 10 of 1931, s. 4.

[6] The words "the Provincial Government" were substituted for the words "The Government" by the Adaptation of Indian Laws Order in Council.

[7] These words were inserted by Bom. 10 of 1927, s. 11 (*i*) (*1*).

a special meeting called for the purpose, an increased cess [1][at the rate] not exceeding two annas, on every rupee of—

(*a*) every sum payable to [2][the Provincial Government] as ordinary land-revenue except sums payable on account of any of the charges mentioned in Schedule A, and except sums payable on account of any charge which may be notified by [2][the Provincial Government] in this behalf,[3]

(*b*) every sum which would have been assessable on any land as land-revenue had there been no alienation of land-revenue [4][, and] [5][(*c*) every sum which would have been assessable on any land as land-revenue had the land not been talukdari land]:

Provided that [6][the rate of] any increased cess leviable as aforesaid shall be a multiple of 3 pies.

[7][Provided further that no cess shall be levied on sums below four annas, and that the amount of the cess shall, if not a multiple of three pies, be increased to the next highest multiple of three pies.]

(*2*) [2][the Provincial Government] may, on the application of the local board to which the cess is payable, suspend the collection of the cess or any portion thereof in any year in any area [8][subject to the authority of such local board].

Rules for assessment.

Bom. V of 1879.

94. [9](*1*) In the assessment of the said cess on villages alienated as defined in the [10]Bombay Land Revenue Code, 1879;

(*a*) if the village has been surveyed and assessed in the manner laid down in the said Code and the rules made thereunder, the cess shall be fixed on the total amount of assessment of the village as fixed under the said Code or the rules made thereunder;

Bom. II and VII of 1863.

(*b*) if the village has come under summary settlement under the [10]Exemptions from Land Revenue (No. 1) Act, 1863, or the [10]Exemptions from Land Revenue (No. 2) Act, 1863, and clause (*a*) of this section does not apply, the cess shall be fixed on the total annual assessment as settled for the purpose of summary settlement; and

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[1] These words were inserted by Bom. 10 of 1927, s. 11 (*i*) (*1*).

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] This comma was substituted for the word "and" by Bom. 10 of 1927, s. 11 (*i*) (*2*) (*a*).

[4] The comma and the word "and" were substituted for the mark ":" by *ibid*, s. 11 (*i*) (*2*) (*b*).

[5] This clause was inserted by *ibid*, s. 11 (*i*) (*2*) (*c*).

[6] These words were inserted by *ibid*, s. 11 (*i*) (*3*).

[7] This proviso was inserted by *ibid*, s. 11 (*i*) (*4*).

[8] These words were substituted for the words "in which the Government has declared that famine exists" by *ibid*, s. 11 (*ii*).

[9] Original section 94 was renumbered section 94 (*1*) by Bom. 5 of 1928, s. 3 (*a*).

[10] Vol. II of Bom. Code.

(*c*) in villages to which neither of clauses (*a*) or (*b*) of this section applies, the cess shall be fixed on the old or kammal rate recorded in the books of the Collector; and if no such rate is recorded, or if the rate so recorded is objected to by the holder or proprietor of the alienated village, the cess may be fixed as agreed upon by the Collector [1][in agreement with the district local board who shall pass a special resolution to that effect] and such holder or proprietor, or, failing agreement, by a rough survey and assessment to be made by [2][the Provincial Government], the expense of such rough survey being borne half by the local board and half by the holder or proprietor of such village.

[3](*2*) The provisions of sub-section (*1*) shall apply, so far as may be, to talukdari land.

Levy of cess on water-rate.

95. [2][The Provincial Government] may levy a cess not exceeding two annas on every rupee of water-rate leviable under the provisions of the [4]Bombay Irrigation Act, 1879. Bom. VII of 1879.

Manner of levying cess described in section 93.

96. The cess described in section 93 shall be levied, so far as may be, in the same manner, and under the same provisions of law, as the land revenue.

Manner of levying cess described in section 95.

97. The cess described in section 95 shall be levied, so far as may be, in the same manner, and under the same provisions of law, as water-rates payable to[2] [the Provincial Government] under the [4]Bombay Irrigation Act, 1879. Bom. VII of 1879.

Assistance to superior holders.

98. The provisions of law relative to the assistance to be given to superior holders and owners of water-courses for the recovery of their dues from their tenants and occupants under them, or from persons authorized to use their water-courses, shall be applicable to all superior holders, whether of alienated or unalienated land, and to all owners of water-courses in respect of the recovery of the said cesses from their tenants, occupants or persons authorised to use their water-courses, and shall be applicable also to occupants of land under the [4]Bombay Land Revenue Code, 1879, for the recovery of the said cesses from their tenants or joint occupants. Bom. V of 1879.

Taxes which may be imposed by district local board.

99. Subject to any general or special orders which may be made by [2][the Provincial Government] in this behalf, every district local board may—

(*a*) after observing the preliminary procedure required by section 100, and

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[1] These words were inserted by Bom. 5 of 1928, s. 3 (*b*).

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] New sub-section (*2*) was added to the original section 94 by Bom. 5 of 1928, s. 3 (*c*).

[4] Vol. II of Bom. Code.

(*b*) with the sanction of the Commissioner, and subject to such modifications or conditions as under section 101 the Commissioner, in according such sanction, deems fit,

impose, for the purposes of this Act, any tax [1][(other than a toll on [2][vehicles or animals] save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)] which, [3][the Provincial Legislature has power under the Government of India Act, 1935, to impose in the Province.]

Provided that no tax imposed as aforesaid other than a special sanitary cess or a water-rate, shall, without the express [4][consent of the Government concerned] be leviable in respect of any building or part of any building, or of any vehicle, animal or other property, [5][belonging to the Crown] and used solely for public purposes, and not used or intended to be used for purposes of profit, and no toll shall be leviable for the passage of troops, the conveyance of Government stores or of any other Government property, the passage of Military or Police officers on duty, or the passage or conveyance of any person or property in the custody of such officers.

[6][Until provision to the contrary is made by the Central Legislature a district local board which was, immediately before the commencement of Part III of the Government of India Act, 1935, lawfully levying any tax under this section as then in force, may continue to levy that tax notwithstanding that it is not a tax which the Provincial Legislature has, under that Act, power to impose in the Province.]

Procedure of board preliminary to imposing tax.

100. (*1*) Every district local board shall, before imposing a tax, by resolution passed at a meeting of the board—

(*a*) select a tax which may under section 99 be imposed; and

(*b*) approve rules describing the tax selected; and shall in such resolution and in such rules specify;

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[1] These words, figures and brackets were inserted by Bom. 34 of 1935, s. 22, Sch. II.

[2] The words "vehicles or animals" were substituted for the words "motor vehicles or trailers" by Bom. 24 of 1936, s. 2, Sch.

[3] These words were substituted for the words "under rules made under clause (*a*) of sub-section (*3*) of section 80A of the Government of India Act, a local authority may be authorised to impose by any law made by the local legislature without the previous sanction of the Governor General" by the Adaptation of Indian Laws Order in Council.

[4] The words "consent of the Government concerned" were substituted for the words "consent of the Government" by *ibid.*

[5] The words "belonging to the Crown" were substituted for the words "belonging to the Government" by *ibid.*

[6] These words were inserted by *ibid.*

(*c*) the class or classes of persons or of property, or of both, which the district local board desires to make liable, and any exemptions which it desires to make;

(*d*) the amount for which, or the rate at which it is desired to make such classes liable; and

(*e*) all other matters which [1][the Provincial Government] may require to be so specified.

(*2*) When such resolution has been passed, the district local board shall publish the rules with a notice in the form of Schedule B prefixed thereto.

(*3*) Any inhabitant of the district objecting to the imposition of the said tax, or to the amount or rate proposed, or to the class of persons or property to be made liable thereto, or to any exemptions proposed, may within one month from the publication of the said notice send his objection in writing to the district local board, and the board shall take all such objections into consideration, or shall authorize a committee of its members to consider and report on them, and, unless it decides to abandon or modify the proposed tax in accordance with the said objections, shall submit them with its opinion thereon, together with the notice and rules as aforesaid, to the Commissioner.

Power to sanction, modify and impose conditions.

101. The Commissioner may either refuse to sanction the rules submitted, or may return them to the district local board for further consideration, or, if no objection, or no objection which is in his opinion sufficient, was made to the proposed tax within one month from the publication of the said notice, may sanction the said rules either—

(*a*) without modification, or

(*b*) subject, as he deems fit,

(*i*) to such modifications not involving an increase of the amount to be imposed, or

(*ii*) to such conditions as to the application within the district to any purpose or purposes of this Act specified in such conditions of the whole or any part of the proceeds of such tax.

Publication of sanctioned rules with notice.

102. All rules sanctioned under section 101 with all modifications subject to which the sanction is given, shall be published by the district local board in the district for which they are made, together with a notice reciting the sanction and the date and serial number thereof; and the tax as described in the rules so published shall, from a date which shall be specified in such notice and shall not be less than one month

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

from the publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the district local board in accordance with the conditions, if any, subject to which under section 101 the sanction was given :

Provided that—

(*a*) a tax leviable by the year—

(*i*) shall not come into force except on one of the following dates, *viz.*, the first day of April, the first day of July, the first day of October, or the first day of January, in any year, and

(*ii*) if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April then next ensuing ;

(*b*) on or before the day on which a notice is issued under this section the district local board shall publish such further detailed rules as may be required, and as may have been approved by the Commissioner, prescribing the mode of levying and recovering the tax therein specified, and the dates on which it or the instalments, if any, thereof shall be payable ; and

(*c*) if the levy of a tax, or of a special portion of a tax, has been sanctioned, for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards any unpaid arrears which have become due during the period.

Collection of octroi by one public body on behalf of others.

[1][**102A.** Where any agreement such as is referred to in sub-section (1A) of section 46 has been entered into, such one of the bodies entering into the agreement as by the terms thereof shall be specified in this behalf shall have the same power to establish such octroi limits and stations as that body may deem necessary for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought within the limits so established, and the provisions of the Act under which that body is constituted relating to octroi, shall apply in the same way as if the limits so established were wholly comprised within the area subject to the control of that body ; and the collections made and the costs thereby incurred shall, subject to the provisions of section 46, be divided between the bodies entering into the agreement in such proportions as shall have been determined in the agreement.]

Power of Provincial Government to suspend levy of objectionable taxes.

103. If it shall at any time appear to [2][the Provincial Government] on complaint made or otherwise, that any tax leviable by a district local board is unfair in its incidence, or that the levy thereof, or of any part thereof, is obnoxious to the interest of the general public or violates

[1] This section was inserted by Bom. 14 of 1934, s. 3 (*2*).

[2] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

any promises made or undertakings incurred by [1][the Provincial Government], [2][the Provincial Government] may require the said district local board, within such period as it shall fix in this behalf, to take measures for removing any objection which appears to it to exist to the said tax, and if within the period so fixed, such requirement shall not be carried into effect to the satisfaction of [2][the Provincial Government], [2][the Provincial Government] may, by notification in the [3][*Official Gazette*], suspend the levy of such tax or of such part thereof, until such time as the objection thereto shall be removed.

CHAPTER VIII.—COLLECTION OF TAXES.

Presentation of bill for amount of tax.

104. (*1*) When any amount which

(*a*) by or under any provision of this Act, is declared to be recoverable in the manner provided by this chapter, or

(*b*) not being payable on demand on account of a toll, is claimable as an amount or instalment on account of any tax which is imposed in the district shall have become due,

the district local board shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the sum claimed as due.

Contents of bill.

(*2*) Every such bill shall specify—

(*a*) the period for which, and

(*b*) the property, occupation or thing in respect of which, the sum is claimed, and shall also give notice of—

(*i*) the liability incurred in default of payment, and

(*ii*) the time within which an appeal may be preferred, as hereinafter provided, against such claim.

If bill not paid within fifteen days, notice of demand to issue.

(*3*) If the sum for which any bill has been presented as aforesaid is not paid into the local board office, or to a person authorized by any rule in that behalf to receive such payments, within fifteen days from the presentation thereof, the district local board may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form of Schedule C, or to the like effect.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the words "the Government" by *ibid.*

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Governmen Gazette*" by *ibid.*

105. If the person liable for the payment of the said sum does not, within fifteen days from the service of such notice of demand, either— In what cases warrant may issue.

(*a*) pay the sum demanded in the notice, or

(*b*) show cause to the satisfaction of the district local board, or of such officer as the board by rule may appoint in this behalf, why he should not pay the same, or

(*c*) prefer an appeal in accordance with the provisions of section 113 against the demand,

such sum with all costs of the recovery may be levied under a warrant caused to be issued by the district local board in the form of Schedule D or to the like effect by distress and sale of the moveable property of the defaulter.

106. Every warrant issued under section 105 shall be signed by the president of the district local board causing the same to be issued, or by an officer authorized by the district local board for this purpose or with the sanction of [1][the Provincial Government], by [2][a servant of the Crown]. Warrant by whom to be signed.

107. When the property is in the district, the warrant shall be addressed to an officer of a local board established in the district or with the sanction of [1][the Provincial Government], to [2][a servant of the Crown]. To whom warrant should be addressed.

When the property is in another district, the warrant shall be addressed to the president of the district local board in such other district: provided that such president may endorse such warrant to a subordinate officer or with the sanction of [1][the Provincial Government] to [2][a servant of the Crown]. When the property is in the City of Bombay, the warrant shall be addressed to the Registrar of the Court of Small Causes of Bombay: provided that the Registrar may endorse such warrant to a subordinate officer.

108. Any officer to whom a warrant is addressed by endorsement or otherwise may, if the warrant contains a special order authorizing him in this behalf, but not otherwise, break open at any time between sunrise and sunset any outer or inner door or window of a building in order to make the distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance, he cannot otherwise Power of entry under special order.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "a servant of the Crown" were substituted for the words "an officer of the Government" by *ibid.*

obtain admittance provided that such officer shall not enter or break open the door of any apartment appropriated for women until he has given three hours' notice of his intention and has given such women an opportunity to remove themselves.

Warrant how to be executed.

109. Such officer may distrain, wherever it may be found, any moveable property of the person named in the warrant as defaulter subject to the following conditions, exceptions and exemptions, namely :—

(*a*) the following property shall not be distrained—

(*i*) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(*ii*) the tools of artizans, and

(*iii*) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable him to earn his livelihood ;

(*b*) the distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any articles have been distrained which, in the opinion of a person authorized by or under section 106 to sign a warrant should not have been so distrained they shall forthwith be returned ; and

(*c*) the officer shall on seizing the property forthwith make an inventory thereof, and shall before removing the same give to the person in possession thereof at the time of seizure a written notice in the form of Schedule E, that the said property will be sold as shall be specified in such notice :

Provided that if after the property is distrained and before it has been removed, the sum due by the defaulter together with all costs incidental to the notice, warrant and distress of the property is paid, the officer shall remove the distress.

Sale of goods distrained.

110. (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the president or officer by whom the warrant was signed shall at once give notice to the person in whose possession the property was when seized to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

Application of proceeds of sale.

(*2*) If not sold at once under sub-section (*1*), the property seized or a sufficient portion thereof may, unless the warrant is suspended by the person who signed it, or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress and detention of the property is paid, be, on the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under

the orders of the district local board and the proceeds, or such part thereof as shall be requisite, shall be applied in discharge of the sum due and of all such incidental costs as aforesaid.

Surplus, if any, how dealt with.

(*3*) The surplus, if any, shall be forthwith credited to the local fund, notice of such credit being given at the same time to the person from whose possession the property was taken. But if the same be claimed by written application to the district local board within one year from the date of the notice, a refund thereof shall be made to such person. Any sum not claimed within one year from the date of such notice shall be the property of the district local board.

Distraint and sale outside the district.

111. When the warrant is addressed outside the district, the authority issuing the warrant may by endorsement direct the president or registrar to whom the warrant is addressed to sell the property distrained, and in such case it shall be lawful for such president or registrar to sell the property and do all things incidental to the sale, and the foregoing provisions shall be modified accordingly. Such president or registrar shall, after deducting all costs of recovery incurred by him, remit the amount recovered under the warrant to the authority by whom it was issued.

Fees and cost chargeable.

112. Fees for—

(*a*) every notice issued under sub-section (*3*) of section 104,

(*b*) every distress made under section 109, and

(*c*) the costs of maintaining any live stock seized under the said section,

shall be chargeable at the rates respectively specified in such behalf in the rules of the district local board, and shall be included in the costs of recovery to be levied under section 105.

Appeals to Magistrates.

113. Appeals against any notice of demand issued under sub-section (*3*) of section 104 may be made to any Magistrate or Bench of Magistrates by whom under the directions of [1][the Provincial Government], or of the District Magistrate, such class of cases is to be tried. But no such appeal shall be heard and determined unless—

(*a*) the appeal is brought within fifteen days next after service of the notice of demand complained of ;

(*b*) an application in writing, stating the ground on which the claim of the district local board is disputed, has been made to the district local board as follows : that is to say :

(*i*) in the case of a rate on buildings or lands, within a time to be notified in the notice given of the assessment or alteration thereof, according to which the bill is prepared, and

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

(*ii*) in the case of any other claim for which a bill has been presented under sub-section (*1*) of section 104, within fifteen days next after the presentation of such bill; and

(*c*) the amount claimed from the appellant has been deposited by him in the local board office.

Liability of lands, buildings, etc., for rates.

114. All sums due on account of any tax imposed in the form of a rate on lands or buildings or on both shall, subject to prior payment of land-revenue, if any, due thereupon, be a first charge upon the building or land in respect of which such tax is leviable, and upon the moveable property, if any, found within or upon such building or land, and belonging to the person liable for such tax:

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner, if it has been due for more than one year or for a period during which such occupier was not in occupation.

Suspension of power to recover by distress and sale.

115. [1][The Provincial Government] may at any time by notification suspend the operation of sections 105 to 110 inclusive in any district and from such date as shall be fixed in this behalf in the notification, every amount due on account of any tax theretofore recoverable under the said sections, shall be recoverable on application to a Magistrate, in the manner provided in sub-section (*2*) of section 70 for the recovery of such fines as are therein referred to, and not otherwise.

Power to seize vehicle or animal on non-payment of toll.

116. (*1*) In the case of the non-payment on demand of any toll leviable by a district local board the person appointed to collect such toll may seize any vehicle or animal on which the toll is chargeable or any part of its burden, which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the property seized a list of the property together with a written notice in the form of Schedule E that the said property will be sold as shall be specified in such notice.

Power to sell property seized at once.

(*2*) When any article seized is subject to speedy and natural decay, or when the expense of keeping it together with the amount of the toll chargeable is likely to exceed its value, the person seizing such article may inform the person in whose possession it was that it will be sold at once, and shall sell it or cause it to be sold accordingly unless the amount of toll demanded be forthwith paid.

Release of property on payment.

(*3*) If at any time before the sale has begun, the person whose property has been so seized tenders at the local board office the amount of all expenses incurred, and of toll payable, the property seized shall forthwith be released.

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(*4*) If no such tender is made, the property may be sold, and the proceeds of such sale shall be applied in payment of such toll and of the expenses incidental to the seizure, detention and sale. Sale.

(*5*) The surplus, if any, of the sale proceeds shall be credited to the local fund and may, on application made to the district local board in writing within six months next after the sale, be paid to the person in whose possession the property was when seized, and, if no such application is made, shall be the property of the district local board. Surplus how dealt with.

117. (*1*) The district local board may lease the levy of any toll that may be imposed under this Act by public auction or private contract : Farming of tolls.

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

(*2*) When any toll has been leased under this section, any person employed by the lessee to collect such toll shall, subject to the conditions of the lease, have the powers referred to in sub-sections (*1*) and (*2*) of section 116 : Person employed by the lessee of toll to have power of seizure.

Provided that no article seized may be sold except under the orders of the district local board.

(*3*) Any sum due from a lessee to a local board in respect of any toll leased under this section may be recovered as an arrear of land-revenue.

118. For all sums paid on account of any tax under this Act, a receipt stating the amount and the tax on account of which it has been paid shall be tendered by the person receiving the same. Receipts to be given for all payments.

CHAPTER IX.

OFFICERS AND SERVANTS OF LOCAL BOARDS.

119. (*1*) Every district local board may appoint and pay such officers and servants as it shall deem necessary and proper to maintain for the efficient execution of its duties and the duties of the taluka local boards in the district under this Act, and shall from time to time prepare and sanction a schedule of the staff to be so maintained, setting forth the designations and grades of the different officers and servants, the boards under which they are to be respectively employed, their respective duties and the amount and nature of the salaries, fees and allowances to be paid to each, and determining which of the said officers and servants are to be maintained permanently and which temporarily only. Schedule of establishment to be prepared and sanctioned by district local boards : Chief Officer : Health Officer : Engineer.

(*2*) Where any district local board appoints a Chief Officer or an Engineer and such appointment is approved by [1][the Provincial Government], [1][the Provincial Government] shall pay two-thirds of the

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

salary of such Chief Officer or Engineer; and where any district local board appoints a Health Officer and such appointment is approved by [1][the Provincial Government], [1][the Provincial Government] shall pay two-thirds of the salary of such officer.

[2][(*3*) If at any time after a Chief Officer, Engineer or Health Officer has been appointed by a district local board and such appointment has been approved by [1][the Provincial Government] under sub-section (*2*), it shall appear to [1][the Provincial Government] after an enquiry held under section 128, that any of such officers is incapable of performing the duties of his office or has been guilty of any misconduct or neglect which renders his removal necessary in the public interest, [1][the Provincial Government] may, by a written notice require the district local board to remove such officer from office on or before a date specified in the notice. If the district local board fails to remove such officer from office on or before such date, the liability of [1][the Provincial Government] to pay any part of the salary of such officer shall, notwithstanding anything contained in sub-section (*2*), cease from the said date.]

Delegation of power to engage officers and servants.

120. The district local board may, subject to any rule or order made by [1][the Provincial Government] in this behalf under clause (*g*) of section 133, delegate to its president [3][or Chief Officer] or to the president of any taluka local board subordinate to it the power of appointing any officer or servant on a salary not exceeding such limit as may be prescribed by [1][the Provincial Government] by rule in this behalf.

Power of Commissioner to prevent extravagance in establishments.

121. If in the opinion of the Commissioner the number of persons maintained by a district local board as officers or servants, or whom a district local board proposes to maintain, or the remuneration assigned by the board to those persons or to any particular person, is excessive, the said board shall, on the requirement of the Commissioner, reduce the number or remuneration of the said persons:

Provided that the district local board may appeal against any such requirement to [1][the Provincial Government] whose decision shall be conclusive.

Punishment and dismissal of officers and servants.

122. The power of punishing or dismissing any officer or servant maintained by a district local board shall, subject to any regulation framed under section 123, and to any rule or order made by [1][the Provincial Government] in this behalf under clause (*g*) of section 133, vest in the said board:

Provided that, subject as aforesaid, the power of punishing or dismissing any such officer or servant not receiving salary beyond such

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] Sub-section (*3*) was added by Bom. 30 of 1935, s. 3.

[3] The words "or Chief Officer" were inserted by Bom. 8 of 1934, s. 3.

limit as may be prescribed by [1][the Provincial Government] by rule made in this behalf under clause (*g*) of section 133 may be delegated by a district local board to its president [2][or to its Chief Officer] [3][Engineer or Health Officer] or to the president of any taluka local board subordinate to it.

123. Every district local board may from time to time frame regulations, District local boards to frame regulations;

(*a*) fixing the amount and nature of the security to be furnished by any officer or servant maintained by the board from whom it may be deemed expedient to require security; fixing the amount of the security to be furnished;

(*b*) regulating the grant of leave to the permanent officers and servants maintained by the board; regulating leave;

(*c*) authorizing the payment of allowances to the said officers and servants or to certain of them, whilst absent on leave; settling absentee allowances;

(*d*) determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave; fixing acting allowances;

(*e*) regulating the period of service of all such officers and servants; regulating length of service;

[4][(*ee*) regulating, subject to any rule or order made by [1][the Provincial Government] in this behalf under clause (*g*) of section 133, the punishment and dismissal of such officers and servants;] regulating punishment and dismissal;

(*f*) determining the conditions under which such officers and servants or any of them, shall, on retirement, receive pensions, gratuities, or compassionate allowances; the conditions under which gratuities or compassionate allowances may be paid to the surviving relatives of such officers and servants; and the amount of such pensions, gratuities or compassionate allowances; and fixing pensions, etc.;

(*g*) authorizing the payment of contributions at certain specified rates and subject to certain specified conditions to any pension or provident fund which may, with the approval of the said board, be established by the said officers and servants: Provided that fixing contributions to provident funds;

(*i*) if an officer is lent to any local board by [1][the Provincial Government] or if an officer is employed partly in the service of [1][the Proviso as to officers lent by Provincial Government;

[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2]These words were inserted by Bom. 10 of 1927, s. 12.

[3]The words "Engineer or Health Officer" were inserted by Bom. 8 of 1934, s. 4.

[4]Clause (*ee*) was inserted by *ibid*, s. 5.

Provincial Government] and partly in the service of a local board, such board shall contribute to his pension and leave allowances to such extent as may be required by rules made by [1][the Provincial Government] in this behalf under clause (*g*) of section 133 and shall not except with the assent of [1][the Provincial Government], dispense with his further services at any time without giving [1][the Provincial Government] six months' previous notice ; and

and as to approval of regulations by the Provincial Government.

(*ii*) no regulation made by any district local board under this section shall have effect unless and until it has been approved by [1][the Provincial Government].

CHAPTER X.

CONTROL.

Powers of inspection and supervision.

124. (*1*) The Commissioner, Collector or any [2][servant of the Crown] authorised by general or special order of [1][the Provincial Government] may—

(*a*) enter on and inspect any immoveable property occupied by any local board or any institution under its control and management, or any work in progress under it or under its direction, or cause such immoveable property, institution or work to be entered upon and inspected by any other person authorized by him in this behalf in writing ; and

(*b*) call for any extract from the proceedings of any local board or any committee appointed by such board, and call for or inspect any book or document in the possession of or under the control of a local board.

(*2*) The Collector may—

(*a*) call for any return, statement, account or report which he may think fit to require a local board to furnish ; and

(*b*) require a local board to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done by such board, or any information furnished by him which appears to him to necessitate the doing of a certain thing by such board and to make a written reply to him within a reasonable time, stating its reasons for not desisting from doing, or for not doing, such thing.

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2]The words "servant of the Crown" were substituted for the words "officer of the Government" by *ibid.*

125. (*1*) If, in the opinion of the Collector, the execution of any order or resolution of a local board, or the doing of anything which is about to be done, or is being done by or on behalf of a local board, is causing, or is likely to cause, injury or annoyance to the public, or to lead to a breach of the peace or is unlawful, he may, by order in writing, under his signature, suspend the execution or prohibit the doing thereof. Collector's power of suspending execution of orders, etc., of local boards.

(*2*) When a Collector makes any order under sub-section (*1*), he shall forthwith forward to the Commissioner and to the local board affected thereby a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force with or without modification permanently or for such period as he thinks fit. Collector's order to be reported to the Commissioner, who may confirm or modify it.

(*3*) The Commissioner shall forthwith submit to the [1][the Provincial Government] a report of every case occurring under this section, and [1][the Provincial Government] may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made. Every case under this section to be reported to the Provincial Government for its final orders.

126. (*1*) In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which a local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the local board. Extraordinary powers of Collector in case of emergency.

(*2*) If the expense and remuneration are not so paid, the Collector may direct the officer in charge of the treasury or bank or society in which the local fund is kept or the whole or portion thereof is deposited or lent on interest, to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hand.

(*3*) The Collector shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

127. (*1*) When [1][the Provincial Government] is informed, on complaint made or otherwise that a local board has made default in performing any duty imposed on it by or under this Act, [2][or by or under any enactment for the time being in force] [1][the Provincial Government], if satisfied after due enquiry that the local board has been guilty of the alleged default, may fix a period for the performance of that duty: Power of the Provincial Government to provide for performance of duties in default of local board.

Provided that no such period shall be fixed unless the local board has been given an opportunity to show cause why such order shall not be made.

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2]These words were inserted by Bom. 5 of 1932, s. 3.

(*2*) If that duty is not performed within the period so fixed, [1][the Provincial Government] may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the local board.

[2](*3*) If the expense and remuneration are not so paid [1][the Provincial Government] may make an order directing the officer in charge of the treasury or bank or society in which the local fund is kept or the whole or portion thereof is deposited or lent on interest to pay such expense and remuneration from such moneys as may be standing to the credit of the local board in such treasury or bank or society or as may, from time to time, be received from or on behalf of the local board by way of deposit by such treasury or bank or society; and such officer or bank or society shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such officer, bank or society from all liability to the local board in respect of any sum or sums so paid by him or it out of the moneys so received or standing to the credit of the local board in such treasury or bank or society.

Inquiry into affairs of local board.

128. (*1*) [1][The Provincial Government] may from time to time cause inquiry to be made by any of its officers in regard to any local board, or matters concerning it, or any matters with respect to which the sanction, approval, consent or order of [1][the Provincial Government] is required by this Act.

(*2*) The officer holding such inquiry shall have the powers of a court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and the production of documents for the purposes of the inquiry.

(*3*) [1][The Provincial Government] may make orders as to the costs of inquiries made under sub-section (*1*) and as to the parties by whom and the funds out of which they shall be paid, and such order may, on the application of [1][the Provincial Government] or of any person named therein, be executed as if it were a decree of a civil court.

Power of the Provincial Government to dissolve or supersede local boards in case of incompetence, default, or abuse of powers.

129. (*1*) If in the opinion of [1][the Provincial Government] a local board is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, [1][the Provincial Government] may by an order published, with the reasons for making it, in the [3][*Official Gazette*], declare the local board to be incompetent or

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2]This sub-section was substituted for original sub-section (*3*) by Bom. 23 of 1931, s. 3.

[3]The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

in default, or to have exceeded or abused its powers, as the case may be, and either—

(*a*) dissolve the board, or

(*b*) supersede it for a period to be specified in the order.

(*2*) When a local board is dissolved or superseded, all members of the board shall, as from the date of the order, vacate their offices as such members.

Reconstitution of local board after dissolution.

130. When a local board is dissolved, it shall be reconstituted by such nominations and elections as may be necessary, as if the term of office of its members had expired; and a president and vice-president of the board shall be elected in the manner provided in this Act.

Consequences of supersession of local board.

131. When a local board is superseded—

(*a*) all powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as [1][the Provincial Government] from time to time appoints in that behalf; such person or persons may appoint a person or a committee or committees and delegate to them all the powers which the local board could have delegated to a person or committee under this Act, and empower such person or committee or committees to perform the duties which a board could have delegated; and

(*b*) all property vested in the board shall, during the period of supersession, [2][vest in the Crown, for the purpose of the Province];

(*c*) when more persons than one are appointed to exercise the powers and perform the duties of the board, such persons may authorise one or more of their number to sue or be sued on their behalf.

Power of Provincial Government to dissolve and reconstitute local boards on the alteration of limits of districts or talukas.

[3][**131A.** (*1*) When, on account of the constitution of a new district under the Bombay Land Revenue Code, 1879, or for any other reason, the limits of a district or taluka are, during the term of office of the members of the district or taluka local board, altered, [1][the Provincial Government] may, by order published in the [4][*Official Gazette*], dissolve such local board from a date specified in the order and direct a local board—

Bom. of 1879.

(*i*) to be reconstituted for the district or taluka of which the local board has been dissolved, or

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "vest in the Crown for the purpose of the Province" were substituted for the words "vest in the Government" by *ibid.*

[3] Sections 131A and 131B were inserted by Bom. 5 of 1932, s. 4.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*ii*) to be established for a new district or taluka which has been constituted.

The members of the local board which has been dissolved shall vacate their offices from the date specified in the order.

(*2*) The district or taluka local board reconstituted or established under the provisions of sub-section (*1*) shall consist of members nominated by [1][the Provincial Government]. Such members shall, so far as may be practicable, in the opinion of [1][the Provincial Government], be persons who were members of the local boards which have been dissolved under sub-section (*1*).

The president and vice-president of the local board so reconstituted or established shall be elected in the manner provided in this Act.

(*3*) The members of a local board reconstituted or established under the provisions of sub-section (*2*) shall hold office for such period, not exceeding one year, as [2][the Provincial Government] shall, by order in writing, specify.

(*4*) On the expiry of the period of office of the members of a local board under the provisions of sub-section (*3*), the local board of the district or taluka, as the case may be, shall be constituted in the manner provided in sections 5 and 6.]

Vesting of property, etc., of local boards which have been dissolved in reconstituted local boards.

[3][**131B.** (*1*) When a local board has been dissolved and reconstituted or established under section 131A, so much of the local fund and other property vesting in the local board which has been dissolved shall vest in, and such portion of the debts and obligations shall be transferred to, a local board reconstituted or established under section 131A as the Commissioner may, by order in writing, direct.

(*2*) The rights and liabilities of the local board which has been dissolved in respect of civil and criminal proceedings, contracts, agreements, and other matter or thing arising in or relating to any part of the area subject to the authority of the local board reconstituted or established, shall vest in such local board.

(*3*) Any notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed by the local board which has been dissolved, in respect to any part of the area subject to the authority of the local board which has been reconstituted or established, shall be deemed to have been made, issued or imposed by such local

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the words "the Government" by *ibid.*

[3] Sections 131A and 131B were inserted by Bom. 5 of 1932, s. 4.

board, unless and until it is superseded by any notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed by such local board.]

[1][**131C.** (*1*) When a taluka local board is abolished, all property vesting in the said taluka local board shall vest in the district local board of the district and all rights and liabilities of the said taluka local board in respect of civil and criminal proceedings, contracts, agreements and other matter or thing arising in or relating to any area subject to the authority of the said taluka local board shall vest in the said district local board. Vesting of property, etc., of a taluka local board which has ceased to exist in the district local board.

(*2*) Any notice, order, scheme, licence, permission or form made or issued by the said taluka local board shall be deemed to have been made or issued by the said district local board, unless and until it is superseded by any notice, order, scheme, licence, permission or form made or issued by the said district local board.]

132. In all matters connected with this Act, [2][the Provincial Government] and the Commissioners and Collectors shall have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, respectively, as they have and exercise over them in the general and revenue administration. Powers of the Provincial Government and of Commissioners over Collectors, etc.

CHAPTER XI.—RULES.

133. [2][The Provincial Government] may by notification in the [3][*Official Gazette*] from time to time make rules or orders, consistent with this Act. Purposes for which rules and orders may be made.

(*a*) prescribing the number of members of each local board, the proportion of the elective and nominated members for each local board and the number of members to be elected by each constituency;

(*b*) determining the mode in which and the places at which, and the authorities, if any, under whose supervision elections of members of local boards shall be held, and the manner in which votes thereat shall be recorded, and how and by whom the results of such elections shall be declared;

(*c*) prescribing such general conditions as shall seem fit as to the manner in which the business of local boards shall be conducted;

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[1] Section 131C was inserted by Bom. 6 of 1935, s. 4.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

[1][(*cc*) prescribing the number of members of a taluka committee, the manner of appointment of such members and regulating the exercise of powers and performance of duties by taluka committees ;]

(*d*) prescribing, for the purposes of clause (*i*) of section 50, the conditions under which, and the rates at which, payment of travelling expenses shall be made ;

(*e*) prescribing for the purposes of proviso (*b*) to section 80, the charges to be defrayed by each district local board on account of primary education, the extent of the independent authority of district and taluka local boards, in respect of education and their relations generally with [2][the Provincial Government], Educational Department and with each other in educational matters ;

(*f*) prescribing, for the purposes of sections 83, 84 and sub-section (*1*) of section 86 the form in which the accounts of local boards shall be kept and the forms in which their abstracts of accounts and budget estimates shall be prepared and regulating the audit of local board accounts ;

(*g*) regulating, for the purposes of sections [3][120 and 122 and clause (*ee*)] of and proviso (*i*) to section 123 the appointment, control, punishment and dismissal of the officers and servants of local boards and the extent of contributions to the pensions and leave allowances of Government officers employed by local boards ; and

(*h*) generally, for the guidance of local boards and Government officers in all matters connected with the administration of this Act and not therein specially provided for :

Provided that rules made under this section shall be made after previous publication.

CHAPTER XII.—MISCELLANEOUS.

Penalty for member, officer or servant of a local board having an interest in any contract, etc., with that board.

134. If any member of a local board or any officer or servant maintained by or employed under a local board, has directly or indirectly any share or interest in any work done by order of the board of which he is a member or by which he is maintained or under which he is employed or in any contract with or under such board, he shall be liable on conviction before a Magistrate to a fine not exceeding rupees five hundred :

Provided that no person shall be convicted under this section by reason only of such person—

(*a*) having a share in any joint stock company or a share or interest in any society registered or deemed to be registered under the

[1] Clause (*cc*) was inserted by Bom. 6 of 1935, s. 5.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] The figures, words, letters and brackets "120 and 122 and clause (*ee*)" were substituted for the figures "120, 122" by Bom. 8 of 1934, s. 6.

II of 1912. [1]Co-operative Societies Act, 1912, which shall contract with or be employed by or on behalf of the local board, or

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local board may be inserted, or

(*c*) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the local board, or

(*d*) being professionally engaged on behalf of the local board as a legal practitioner.

Members, etc., of boards to be public servants.

135. Every member of a local board and every officer and servant maintained by or employed under a district local board shall be deemed XLV of 1860. to be a public servant within the meaning of section 21 of the Indian Penal Code.

Limitation of suits.

136. [2][(*1*) No suit, prosecution or other legal proceeding shall lie against any member, officer or servant of a local board or any person acting under the order of a local board in respect of anything which is, in good faith, done or intended to be done under this Act or under any other law for the time being in force which entitles or requires a member, officer, servant as such, or other person so acting to exercise any powers or perform any duties.]

[3](*2*) No suit [4][prosecution or other legal proceeding] shall be commenced against any local board, or against any [5][member], officer or servant of a local board, or any person acting under the orders of a local board, for anything done, or purporting to have been done, in pursuance of this Act, [6][or any other law for the time being in force which entitles or requires a local board, member, officer, servant as such, or other person so acting to exercise any powers or perform any duties] without giving to such local board, [7][member], officer, servant, or person one month's previous notice in writing of the intended action and of the cause thereof, nor after three months from the date of the act complained of.

[8](*3*) In the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

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[1] This Act is repealed by Bom. 7 of 1925, s. 73, Schedule.

[2] Sub-section (*1*) was inserted by Bom. 13 of 1935, s. 2 (*1*).

[3] Sub-section (*1*) was renumbered as sub-section (*2*) by *ibid*, s. 2 (*2*).

[4] These words were inserted by *ibid*, s. 2 (*3*) (*i*).

[5] The word "member," was inserted by *ibid*, s. 2 (*3*) (*ii*).

[6] These words were inserted by *ibid*, s. 2 (*3*) (*iii*).

[7] The word "member," was inserted by *ibid*, s. 2 (*3*) (*iv*).

[8] Sub-section (*2*) was renumbered as sub-section (*3*) by *ibid*, s. 3.

Acquisition of land.

137. [1]When any land is required for the purposes of this Act, [2][the Provincial Government] may, on the request of the local board requiring it, proceed to acquire it under the provisions of the [3]Land Acquisition Act, 1894, or other law for the time being in force, and, on payment by the local board of the compensation awarded under that Act and of all other charges incurred by [2][the Provincial Government] on account of the acquisition, the land shall vest in the local board. I of 1894.

SCHEDULE A.

[*See clause* (*a*) *of section 93.*]

1. Penalties and fines, including any charge imposed under section 148 of the [4]Bombay Land Revenue Code, 1879, as penalty or interest in case of default, but not including any fine levied under section 65 of the same on grant of permission to use land for a purpose unconnected with agriculture. Bom. V of 1879.

2. Occasional fixed payments, in commutation of all claims of [2][the Provincial Government], in respect of succession to or transfer of inams, payable on each succession or transfer.

3. Land revenue on service inam land, recovered from inferior village servants for periods of unauthorised absence from service; and all other such charges of assessment on inams and watans for broken periods and past years.

4. Fees for grazing, when charged per head of cattle.

SCHEDULE B.

[*See sub-section* (*2*) *of section 100.*]

FORM OF NOTICE OF PROPOSED TAX.

Notice is hereby given to the inhabitants of the district of that the district local board desires to impose the tax, rate, toll, octroi or cess (as the case may be) defined in the rules appended [in lieu of the tax known as the , which is published at page of the sanctioned rules*].

*To be inserted if the tax is to be substituted for any existing tax.

[1] This section was substituted for the original by Bom. 10 of 1927, s. 13.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] Central Acts.

[4] Vol. II of Bom. Code.

Any inhabitant of the district objecting to the proposed tax may, within one month from the date of this notice, send his objection in writing to the district local board.

RULES.

[*The rules prepared by the district local board under sub-section (1) of section 100 are to be appended here.*]

SCHEDULE C.

[*See sub-section (3) of section 104.*]

FORM OF NOTICE OF DEMAND.

To

A. B., residing at

Take notice that the district local board of

demands from

the sum of

due from on account of

(*Here describe the property or other subject in respect of which the tax is leviable.*)

leviable under rule No. for the period of commencing on the day of 19 and ending on the day of 19 , and that if, within fifteen days from the service of this notice, the said sum is not paid into the local board office at , and sufficient cause for non-payment is not shown to the satisfaction of the district local board, a warrant of distress will be issued for the recovery of the same with cost.

Dated this day of 19

(Signed)
By order of the district local board of

SCHEDULE D.

(*See section 105.*)

FORM OF WARRANT.

(*Here insert the name of the officer charged with the execution of the warrant.*)

Whereas A. B. of has not paid, and has not shown satisfactory cause for the non-payment of, the sum of - due for the tax* mentioned in the margin for the period commencing on the day of 19 , and ending with the day of 19 , and leviable under rule No. ;

*Here describe the tax.

And whereas fifteen days have elapsed since the service on him of notice of demand for the same ;

This is to command you to distrain, subject to the provisions of sections 108 and 109 of the Bombay Local Boards Act, 1923, the goods and chattels of the said A. B. to the amount of , being the amount due from him, as follows :—

	Rs. a. p.
On account of the said tax	
For service of notice	

and forthwith to certify to me together with this warrant all particulars of the goods seized by you thereunder.

Dated this day of 19 .

(Signed)

President

(or as the case may be, *see* section 106).

SCHEDULE E.

[*See clause (c) of section 109 and sub-section (1) of section 116.*]

FORM OF INVENTORY AND NOTICE.

To

A. B.

residing at

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the value of due for the tax* mentioned in the margin for the period commencing with the day of 19 and ending with the day of 19 together with Rs. due as for service of notice of demand and that unless within five days from the day of the date of this notice you pay into the local board office at the said amount together with the cost of recovery, the said goods and chattels will be sold.

*Here describe the tax.

Dated this day of 19

(Signature of officer executing the warrant.)

INVENTORY.

(*Here state particulars of goods and chattels seized.*)

BOMBAY ACT No. IX OF 1923.[1]

[THE PREVENTION OF CRUELTY TO ANIMALS (BOMBAY AMENDMENT) ACT, 1923]

[*4th October, 1923*]

An Act further to amend the Prevention of Cruelty to Animals Act, 1890.

WHEREAS it is expedient further to amend the [2]Prevention of Cruelty to Animals Act, 1890, in its application to the Presidency of Bombay in manner hereinafter appearing; It is hereby enacted as follows:—

XI of 1890.

1. This Act may be called the Prevention of Cruelty to Animals (Bombay Amendment) Act, 1923. Short title.

2. In section 11 of the [2]Prevention of Cruelty to Animals Act, 1890, after the words "offence to" the words "abandon, turn loose or" shall be inserted. Amendment of section 11 of XI of 1890.

XI of 1890.

[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1923, Part V, pp. 7-8; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1923, Vol. X.

[2] Central Acts.

THE BOMBAY PREVENTION OF PROSTITUTION ACT, 1923.

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BOMBAY ACT No. XI OF 1923.[1]

[THE BOMBAY PREVENTION OF PROSTITUTION ACT, 1923.]

[*27th October, 1923*]

Amended by Bom. Act No. 9 of 1926.

Amended by Bom. Act No. 9 of 1927.

Amended by Bom. Act No. 12 of 1930.

Amended by Bom. Act No. 20 of 1931.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to consolidate and amend the Law relating to Prostitution in the City of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to prostitution in the City of Bombay and to provide for the extension thereof to other local areas in the Presidency of Bombay, and WHEREAS the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the Government of India Act, has been obtained for passage of this Act; It is hereby enacted as follows:—

Short title.

1. (*1*) This Act may be called the Bombay Prevention of Prostitution Act, 1923.

Extent: Extension.

(*2*) The section 6, [2][section 8 (*3*)], section 9, [3][section 12 and section 13, sub-section (*1*)] extend to the whole of the Bombay Presidency. The rest of this Act shall extend in the first instance to the City of Bombay, but the [4][Provincial Government] may by notification extend to any other [4]local area all or any of its provisions, with such verbal modifications as having regard to the principles of this Act may be necessary, for the purposes of such extension.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1923, Part V, pp. 22-23; for Report of Select Committee, see *ibid*, pp. 28-29; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1923, Vol. X.

[2] The word, brackets and figures "section 8 (*3*)" were substituted for the original words, brackets and figures "sub-section 8 (*3*)" by Bom. 9 of 1926, s. 2.

[3] The words, brackets and figures "section 12 and section 13, sub-section (*1*)" were substituted for the original words and figures "and section 12", by *ibid*.

[4] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Definition.

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

[1] " brothel " means any house, room or place, or any part thereof, occupied or let or intended to be occupied or let as a single tenement, which is habitually used by more than one person for the purposes of prostitution ;

" place of public amusement " shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing, or any diversion or game or the means of carrying on the same, is provided, and to which the public are admitted either on payment of money, or with the intention that money may be collected from those admitted ; and shall include a race-course, circus, theatre, music hall, billiard-room, bagatelle-room, gymnasium or fencing school ;

" place of public entertainment " shall mean any place whether enclosed or open, to which the public are admitted, and where any kind of food or drink is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in or managing such place ; and shall include a refreshment-room, eating-house, coffee-house, liquor-house, boarding-house, lodging-house, hotel, tavern or wine, beer, spirit, arrack, toddy, ganja, bhang or opium shop.

Soliciting.

*3. Whoever in any street or public place or place of public resort or within sight of and in such manner as to be seen or heard from any street or public place, whether from within any house or building or not,—

(*a*) by words, gestures, wilful and indecent exposure of his person or otherwise attracts or endeavours to attract attention for the purpose of prostitution, [2][or carnal intercourse] or

(*b*) solicits or molests any person or loiters for the purpose of prostitution, [2][or carnal intercourse]

shall be punished with imprisonment for a term which may extend to [3][three months] or with fine which may extend to [4][one hundred] rupees.

Prostitutes in places of public amusement.

*4. Whoever being the keeper of any place of public amusement or entertainment, knowingly permits prostitutes, or persons of notoriously bad character, for the purposes of their trade to meet or remain in such place, shall be punished with fine which may extend to one hundred rupees.

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[1] This definition was substituted for the original definition by Bom. 12 of 1930, s. 2.

[2] These words were inserted by *ibid*, s. 3.

[3] The words " three months " were substituted for the original words " eight days " by Bom. 9 of 1926, s. 3 (*a*).

[4] The words " one hundred " were substituted for the original word " fifty " by *ibid*, s. 3 (*b*).

*The provisions of this section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia ; the Bombay Suburban District ; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

Living on the earnings of prostitution.

*5. (*1*) Any [1][person not below the age of 16 years] who knowingly lives, wholly or in part, on the earnings of prostitution [2][of another person] shall be punished with imprisonment which may extend to [3][three] years, or with fine which may extend to one thousand rupees, or with whipping, or with any two of those punishments.

Presumption thereof.

(*2*) Where [4][any] person is proved to be living with or to be habitually in the company of a prostitute or is proved to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting or compelling her prostitution with any other person or generally, [5][or to be keeping or managing or assisting in the management of a brothel] it shall be presumed, until the contrary is proved, that he is knowingly living on the earnings of prostitution.

Procuration.

6. Any person who procures or attempts to procure any woman or girl, whether with or without her consent, to become a prostitute, or who with intent that she may for the purposes of prostitution become the inmate of or frequent a brothel, persuades a woman or girl to leave her usual place of abode, shall be punished with imprisonment which may extend to three years or with fine which may extend to one thousand rupees, or with whipping, or with any two of those punishments.

Importing woman or girl for prostitution.

*7. Any person who brings or attempts to bring into the City of Bombay any woman or girl with a view to her becoming a prostitute, shall be punished with imprisonment which may extend to three years or with fine which may extend to one thousand rupees, or with whipping or with any two of those punishments.

Unlawful detention for prostitution:

8. †(*1*) Whoever detains any woman or girl against her will,—

(*a*) in any house, room or place in which the business of a common prostitute is carried on, or

(*b*) in or upon any premises with intent that she may have sexual intercourse with any man, other than her husband, whether any particular man or generally,

shall be punished with imprisonment which may extend to two years, or with fine which may extend to one thousand rupees, or with whipping, or with any two of those punishments.

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[1] These words were substituted for the words "male person" by Bom. 12 of 1930, s. 4 (*a*) (*i*).

[2] These words were inserted by *ibid*, s. 4 (*a*) (*ii*).

[3] The word "three" was substituted for the word "two" by *ibid*, s. 4 (*a*) (*iii*).

[4] The word "any" was substituted for the words "a male" by *ibid*, s. 4 (*b*) (*i*).

[5] These words were inserted by *ibid*, s. 4 (*b*) (*ii*).

* The provisions of this section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia; the Bombay Suburban District; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

†The provisions of this sub-section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia, the Bombay Suburban District; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

Presumption thereof:

*(2) Where a woman or girl is in any house, room or place in which the business of a common prostitute is carried on or is in or upon any premises for the purpose of having sexual intercourse referred to in sub-clause (1) (b), a person shall be deemed to detain such woman or girl in such house, room, place or in or upon such premises if, with intent to compel or induce her to remain there, such person withholds from her any wearing apparel, personal ornaments or other property belonging to her; or, where wearing apparel, personal ornaments, other personal property, or money has been lent or otherwise supplied to such woman or girl by or by the direction of such person, if such person threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel or personal ornaments or other personal property so lent or supplied, or for recovery of such money.

Bar of certain legal proceedings.

(3) No civil suit shall lie and no proceedings whether civil or criminal shall be taken, against any such woman or girl or against any person on her behalf, by or on behalf of any person occupying or managing or acting or assisting in the management of any such house, room, place or premises, for the recovery of any wearing apparel, personal ornaments or other property alleged to have been lent or supplied to or for such woman or girl or to have been pledged by or for her or for the recovery of any money alleged to be payable by or on behalf of such woman or girl.

No punishment of whipping under sections 5 to 8 for females.

[1]†[8A. Nothing in sections 5, 6, 7 and 8 shall render a female liable to be punished with whipping.]

Punishment for letting, or permitting use of premises of brothel.

[1]‡[8B. Any person who—

(a) being the owner, tenant, lessee, occupier or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel; or

(b) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same or any part thereof, with the knowledge that the same or any part thereof may be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof, as a brothel; shall be punished with imprisonment, which may extend to three months, or with fine which may extend to five hundred rupees, or with both.]

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[1] Sections 8A, 8B, 8C and 8D were inserted by Bom. 12 of 1930, s. 5.

* The provisions of this sub-section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia; the Bombay Suburban District; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

†The provisions of this section have been extended to the Bombay Suburban District; the towns of Ahmedabad, Nasik, Dhulia, Ahmednagar and Belgaum; Poona Taluka; the (revenue) villages of Dapodi, Bopkhel, Kalas, Hadapsar and Kondna Khurd in the Haveli taluka of the Poona district; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

‡This section has been extended to the Bombay Suburban District, and the towns of Poona and Belgaum.

[1]*[**8C.** Any person who, having been convicted of an offence punishable under section 8B, is convicted of a subsequent offence punishable under the said section, shall be punished with imprisonment, which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and may, in addition to such punishment, be required by the Court to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Court may direct, and, in default of executing such bond, may be imprisoned for a period not exceeding six months in addition to any punishment awarded in respect of his offence.] Punishment for subsequent offence.

[1]*[**8D.** (*1*) On conviction of the tenant, lessee or occupier of any offence under section 8B, clause (*a*), the convicting court shall give notice thereof in writing to the landlord or lessor, who shall then be entitled to require the person so convicted to assign the lease or other contract, under which the said premises are held by him to some person approved by the landlord or lessor, which approval shall not be unreasonably with held, and, in the event of the person so convicted failing within three months to assign the lease or contract as aforesaid, the landlord or lessor shall be entitled to determine the lease or other contract, but without prejudice to the rights or remedies of any party to such lease or contract accruing before the date of such determination. Determination of tenancy of premises on conviction for permitting use as a brothel or for purposes of habitual prostitution.

(*2*) If the landlord or lessor determines a lease or contract of tenancy under the provisions of sub-section (*1*), the Court which has convicted the tenant, lessee or occupier may make an order for delivery of possession to the landlord or lessor within such time not being less than seven days as the Court may direct. The order shall be served on the person against whom it is made in the manner provided in the Code of Criminal Procedure, 1898, for the service of a summons, an if such person fails to comply with it, he shall be punished with imprisonment which may extend to one month or with fine which may extend to two hundred rupees or with both.

V of 1898.

(*3*) If the landlord or lessor, after he has received notice in writing of such conviction, fails to exercise his rights under sub-section (*1*) and subsequently during the subsistence of the lease or contract any such offence is again committed in respect of the premises, the landlord or lessor shall be deemed to have abetted that offence, unless he proves that he had taken all reasonable steps to prevent the recurrence of the offence.

(*4*) Where a landlord or lessor determines a lease or other contract under this section, and subsequently grants another lease or enters into another contract of tenancy to, with, or for the benefit of the same person, without causing to be inserted in such lease or contract all reasonable

[1] Sections 8A, 8B, 8C and 8D were inserted by Bom. 12 of 1930, s. 5.

*This section has been extended to the Bombay Suburban District, and the towns of Poona and Belgaum.

provisions for the prevention of a recurrence of any such offence, he shall be deemed to have failed to exercise his rights under the provisions of this section, and any such offence committed during the subsistence of the subsequent lease or contract shall be deemed, for the purposes of this section, to have been committed during the subsistence of the previous lease or contract.]

Segregation of brothels:

9. (*1*) The Commissioner of Police may at any time cause a notice to be served upon any person who occupies or manages or acts or assists in the management of, or upon any woman who resides in, uses or frequents, any house, room, or place in the City of Bombay in which the business of a common prostitute is carried on, requiring such person or woman after a date to be mentioned in the notice, which shall not be less than seven days from the date of the notice, not to reside in, use or frequent any street or place specified in the notice; or directing such person or woman after a date to be mentioned and fixed as aforesaid to remove himself or herself to such place, whether within or without the City of Bombay, by such route or routes and within such time as the Commissioner of Police shall prescribe.

(*2*) If any person or woman so directed under sub-section (*1*) fails or refuses to remove himself or herself as directed within the time specified the Commissioner of Police may cause such person or woman to be arrested and removed in police custody to the place prescribed.

(*3*) No direction under the second alternative in sub-section (*1*) shall be made without the previous sanction of [1][the Provincial Government].

Penalties.

(*4*) Any person on whom a notice under this section shall have been served, disobeying the requisition therein contained, shall be punished with imprisonment for a term which may extend—

(*a*) in the case of a first offence to one month, and

(*b*) in the case of a second or subsequent offence, to three months.

(*5*) Whoever, within two years from the date of his removal under the provisions of this section, returns to any place within the City of Bombay, without the permission in writing of the Commissioner of Police, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council,

[1][(6) (*a*) Elsewhere than in the City of Bombay all or any of the powers conferred by this section on the Commissioner of Police for the City of Bombay may be exercised, as regards his district or part of his district, by the District Magistrate when empowered in that behalf by the [2][Provincial Government] by a notification in the [3][*Official Gazette*].

(*b*) Any person on whom a notice issued by the District Magistrate under the powers exercisable by him under clause (*a*) shall have been served, disobeying the requisition therein contained shall be liable to the punishment provided in sub-section (*4*).

(*c*) Whoever, within two years from the date of his removal under the provisions of this sub-section, returns to any place within the district from which he has been removed without the permission in writing of the District Magistrate shall be liable to the punishment provided in sub-section (*5*).]

Arrest without warrant.

*10. [4][(*1*) Any police officer on information, and, if the offence is committed in his view, any police officer specially authorised in this behalf by the Commissioner of Police, may arrest without a warrant any person committing any offence punishable under section 3.]

(*2*) Any police officer may, without an order from a magistrate and without a warrant arrest any person who has been concerned in any offence punishable under section 8 or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in an offence under that section or of his having committed an offence under section 9, sub-section (*5*).

11. [5][Repealed.]

Offences triable by certain magistrates only.

12. Offences punishable under sections 5, 6, 7 or 8 shall be triable by the Courts of Session, stipendiary Presidency Magistrates and stipendiary Magistrates of the First Class only.

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[1] Sub-section (*6*) was added by Bom. 9 of 1926, s. 4.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*, by *ibid.*

[4] Sub-section (*1*) was substituted for the original sub-section (*1*) by Bom. 9 of 1926, s. 5.

[5] Repealed by Bom. 12 of 1930, s. 6.

*The provisions of this section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia; the municipal boroughs of Sholapur, Pandharpur, Surat, Ehusawal and Jalgaon; and the Bombay Suburban District.

Repeals and amendments.

13. (*1*) [*The repeals and amendments made by sub-section* (*1*) *in the City of Bombay Police Act, 1902, have been incorporated in the principal Act.*] Bom. IV of 1902.

*(*2*) In any municipal district [1][or municipal borough] to which section 3 may be extended under section 1, sub-section (*2*), section 152 of the [2]Bombay District Municipal Act, 1901, [3][or section 188 of the Bombay Municipal Boroughs Act, 1925, as the case may be] shall be deemed to have been repealed from the date of such extension. Bom. III of 1901; Bom. XVIII of 1925.

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[1] The words "or municipal borough" were inserted by Bom. 20 of 1931, s. 2 (*1*).

[2] Vol. IV of Bom. Code.

[3] These words were inserted by Bom. 20 of 1931, s. 2 (*2*).

*The provisions of this sub-section have been extended to the towns of Ville Parle, Ghatkopar, Kirol and Juhu in the Bombay Suburban District; and to the municipal boroughs of Sholapur, Pandharpur, Poona City, Poona Suburban, Belgaum, Bandra, Ahmedabad, Ahmednagar, Dhulia, Nasik, Kurla, Surat, Bhusawal and Jalgaon.

BOMBAY ACT No. IX OF 1924.[1]

[THE CATTLE-TRESPASS (AMENDMENT) ACT, 1924]

[*6th January, 1925,*]

An Act further to amend the Cattle-trespass Act, 1871.

WHEREAS it is expedient further to amend the [2]Cattle-trespass Act, 1871, in its application to the Presidency of Bombay, in manner hereinafter appearing; It is hereby enacted as follows :— I of 1871.

1. This Act may be called the Cattle-trespass (Amendment) Act, 1924. Short title.

2. After the proviso to section 6 of the [2]Cattle-trespass Act, 1871, the following shall be inserted, namely :— I of 1871. Amendment of section 6 of Act I of 1871.

"Provided further that in the Presidency of Bombay, in any local area which has been declared to be a village under clause (*a*) of section 3 of the [3]Bombay Village Panchayats Act, 1920, when the police patel, or the head of the village, is the Sar-Panch of the panchayat, the panchayat may appoint another person to be pound-keeper." Bom. IX of 1920.

[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1924, Part V, pp. 86-87; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1924, Vol. XIII.

[2] Central Acts.

[3] See now the Bombay Village Panchayats Act, 1933 (Bom. 6 of 1933).

THE BOMBAY CHILDREN ACT, 1924.

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[1]BOMBAY ACT No. XIII OF 1924.

[THE BOMBAY CHILDREN ACT, 1924]

[*5th February, 1925*]

Supplemented by Act 35 of 1925.
Amended by Bom. Act 10 of 1925.
" " " 13 " 1927.
" " " 19 " 1929.
" " " 8 " 1931.
" " " 11 " 1933.
" " " 11 " 1935.
" " " 7 " 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to make further provision for the custody and protection of children [2]* * and for the custody, trial and punishment of youthful offenders and for the amendment of the Reformatory Schools Act, 1897, in its application to the Presidency of Bombay.

WHEREAS it is expedient to make further provision for the custody and protection of children [2]* * * and for the custody, trial and punishment of youthful offenders and for the amendment of the [3]Reformatory Schools Act, 1897, in its application to the Presidency of Bombay; and whereas the previous sanction of the Governor General required by clauses (*e*),(*f*) and (*h*) of sub-section (*3*) of section 80A of the Government of India Act has been obtained to the passing of this Act; It is hereby enacted as follows:—

VIII of 1897.

5 & 6 Geo. V, c. 61.

PART I.

PRELIMINARY.

1. (*1*) This Act may be called the Bombay Children Act, 1924. Short title and extent.

(*2*) It extends to the whole of the Presidency of Bombay.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1923, Part V, pp. 51-53; for Report of Select Committee, see *Bombay Government Gazette*, 1924, Part V, pp. 90-93; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1924, Vols. XI, XII and XIII.

[2] The words "and young persons" were omitted by Bom. 7 of 1936, s. 2.

[3] General Acts.

(*3*) Notwithstanding the introduction of this Act in any local area the [1][Provincial Government] may by notification in the [2][*Official Gazette*] exclude any class of children, [3]* * * or youthful offenders from the operation of all or any of the provisions of this Act.

Commencement.

2. Section 1 shall come into operation at once. The rest of the Act shall come into operation in the City of Bombay on such date as the [4][Provincial Government] may, by notification in the [2][*Official Gazette*], appoint: the [1][Provincial Government] may further by notification in the [2][*Official Gazette*], direct that the rest of the Act, or any part thereof, shall come into operation in any district or place other than the City of Bombay on such date as may be specified in such notification.

Interpretation clause.

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

(*a*) "child" means a person under the age of [5][sixteen] years and when used with reference to a child sent to a certified school applies to that child during the whole period of his detention, notwithstanding that the child may have attained the age of [5][sixteen] years;

(*b*)[6] * * * * *

(*c*) "youthful offender" means any [7][child] who has been [8][found to have committed] an offence punishable with transportation or imprisonment [9]* * *;

(*d*) "certified school" means an industrial school established under sub-section (*1*) or, certified under sub-section (*2*) of section 34 of this Act or any other educational institution certified in this behalf by the [1][Provincial Government];

(*e*) "guardian" in relation to a youthful offender, [10][or] child [11]* * includes any person who in the opinion of the court having cognizance of any proceedings in relation to the youthful offender, [10][or] child [11]* * * or in which the youthful offender, [10][or] child [11]* * * is concerned, has for the time being the actual charge of or control over the youthful offender, [10][or] child [11]* *;

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[1] The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

[3] The words "young persons" were omitted by Bom. 7 of 1936, s. 2.

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[5] The word "sixteen" was substituted for the word "fourteen" by Bom. 7 of 1936, s. 3 (*i*).

[6] Clause (*b*) was deleted by *ibid*, s. 3 (*ii*).

[7] The word "child" was substituted for the word "person" by *ibid*, s. 3 (*iii*) (*a*).

[8] The words "found to have committed" were substituted for the words "convicted of" by *ibid.*

[9] The words "and who, at the time of such conviction, was under the age of sixteen years" were deleted by *ibid*, s. 3 (*iii*) (*b*).

[10] The word "or" was inserted by *ibid*, s. 3 (*iv*).

[11] The words "or young person" were omitted by *ibid*, s. 2.

(*f*) "fit person" in relation to the care of any child [1]* * includes any society or body corporate established for the reception or protection of poor children or the prevention of cruelty to children which undertakes to bring up or to give facilities for bringing up any child entrusted to its care in conformity with the religion of its birth;

(*g*) "place of safety" includes any orphanage, hospital, surgery or any other suitable place or institution the occupier or manager of which is willing temporarily to receive a child [1]* * *; or where such orphanage, hospital, surgery or other suitable place or institution is not available, in case of a male child [1]* * * only a police station;

[2](*h*) "Brothel" means any house, room or place, or any part thereof, occupied or let or intended to be occupied or let as a single tenement, which is habitually used by more than one person for the purposes of prostitution;

(*i*) "prescribed" means prescribed by rules under this Act;

[3](*j*) "Juvenile court" means a separate court established under sub-section (*1*) of section 46 of this Act and includes a court hearing charges against children [4]* * * under sub-section (*2*) of that section;

[3](*k*) "Caning" means the punishment authorized under the [5]Whipping Act, 1909, and inflicted with a cane, less than half an inch in diameter, as directed by the [6][Provincial Government] under section 392 of the Code of Criminal Procedure, 1898;

[7](*l*) "Probation officer" means an officer appointed under section 24A.

[8]**4.** (*1*) The provisions of the Reformatory Schools Act, 1897, shall cease to apply to any area in which Parts I, IV, V, VI, VII and VIII of this Act shall be or have been brought into operation. The Reformatory Schools Act, 1897, to cease to extend to the area to which certain provisions of Bom. XIII of 1924 apply.

(*2*) Any youthful offender detained in a Reformatory School in any area in pursuance of an order passed by a Court under the Reformatory Schools Act, 1897, immediately preceding the date on which the said Act ceases to apply to the said area under sub-section (*1*) shall, from such date, be deemed to have been ordered to be detained, as if such youthful offender was originally dealt with under this Act and the Reformatory School in which he was detained shall be deemed to be a

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[1] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[2] This clause was substituted for the original clause (*h*) by Bom. 8 of 1931, s. 2 (*1*).

[3] Clauses (*j*) and (*k*) were inserted by *ibid*, s. 2 (*2*).

[4] The words "or young persons" were omitted by Bom. 7 of 1936, s. 2.

[5] General Acts.

[6] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[7] Clause (*l*) was added by Bom. 7 of 1936, s. 3 (*v*).

[8] Section 4 was substituted for the original section by *ibid*, s. 4.

certified school established under this Act. Any order of detention or placing out on licence of such youthful offender under the Reformatory Schools Act, 1897, shall, from such date, be deemed to be an order passed under the corresponding provision of this Act and the provisions of this Act shall, so far as may be, apply to such youthful offender accordingly. VIII of 1897.

Powers of courts.

5. The powers conferred on courts by this Act shall be exercised only by—(*a*) the High Court; (*b*) a Court of Session; (*c*) a District Magistrate; (*d*) a Sub-divisional Magistrate; (*e*) a salaried Presidency Magistrate; (*f*) any Juvenile Court constituted under section 46; and (*g*) any magistrate of the first class and may be exercised by such courts whether the case comes before them originally or on appeal or revision.

Procedure when Magistrate is not empowered to pass an order under this Act.

6. (*1*) When any magistrate not empowered to pass an order under this Act is of opinion that a child [1]* * * brought before him [2]* * * is a proper person to be sent to a certified school or to be dealt with in any other manner in which the case may be dealt with under this Act, he shall record such opinion and submit his proceedings and forward the child [1]* * * to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate or to the magistrate presiding over the nearest Juvenile Court having jurisdiction in the case or in the City of Bombay to a salaried Presidency Magistrate.

(*2*) The magistrate to whom the proceedings are so submitted may make such further inquiry, if any, as he may think fit and may pass such order dealing with the case as he might have passed if the child [1]* * * had originally been brought before or tried by him.

PART II.

MEASURES FOR THE CUSTODY AND PROTECTION OF CHILDREN [3]* * * WHO ARE DESTITUTE, ETC.

[4]Children found homeless, destitute, etc.

7. (*1*) Any police-officer or other person authorized in this behalf in accordance with rules made by the [5][Provincial Government] may bring before a court any person who in his opinion is a child [1]* * * and who—

(*a*) [6]* * * has no home, settled place of abode or visible means of subsistence, or [6]* * * has no parent or guardian who exercises regular and proper guardianship; or

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[1] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[2] The words "or convicted by him" were omitted by *ibid*, s. 5.

[3] The words "and young persons" were omitted by *ibid*, s. 2.

[4] This marginal note was substituted for the original marginal note by Bom. 8 of 1931, s. 4 (*e*).

[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[6] The words "is found wandering and" were deleted by Bom. 8 of 1931, s. 4 (*a*) (*i*).

(*b*) is found destitute and his parents or surviving parent or other guardian, or in the case of an illegitimate child his mother or other guardian, are or is, as the case may be, undergoing transportation or imprisonment; or

(*c*) is under the care of a parent or guardian who, by reason of criminal [1][or drunken] habits, is unfit to have the care of such person; or

(*d*) frequents the company of any reputed thief or prostitute; or

(*e*) is lodging or residing in [1][or frequenting] a house used by a prostitute for the purposes of prostitution; [2][or

(*f*) is otherwise likely to fall into bad association or to be exposed to moral danger or to enter upon a life of crime]:

Provided that when any such child [3]* * * * has a parent or guardian who has the actual charge or control over the child [3]* * * the police-officer or other person as aforesaid shall, in the first instance, make a report to the nearest court or magistrate having jurisdiction under this Act. Such court or magistrate may call upon such parent or guardian to show cause why the said child [3]* * * should not during the pendency of the proceedings, be removed from his care; and may on suitable sureties being offered for the safety of such child [3]* * * and for his being brought before the court, permit the child [3]* * * to remain in the actual charge or control of his parents or guardian or may order his removal till the court passes orders under this Act.

(*2*) The court before which a child [3]* * is brought as coming within one of these descriptions shall examine the information and record the substance of such examination and shall if it thinks that there are sufficient grounds for inquiring further fix a date for such inquiry.

[4][Provided that when the court is presided over by a salaried Presidency Magistrate, such examination need not be reduced to writing, but the court may, if it thinks fit, before the matter is brought before it, require the matter to be reduced to writing.]

(*3*) On the date fixed for the production of the child [3]* * * * or for the inquiry or on any subsequent date to which the proceedings may be adjourned the court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order sending the child [3]* * * * to a certified school should not be passed and make any further inquiry it thinks fit.

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[1] These words were inserted by Bom. 8 of 1931, s. 4 (*a*) (*ii*) and (*iii*).

[2] The word "or" and Clause (*f*) were inserted by *ibid*, s. 4 (*a*) (*iv*).

[3] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[4] This proviso was added by Bom. 13 of 1927, s. 2.

[1](*4*) If the court is satisfied on the inquiry that such person is a child [2]* * and is as described within the provisions of sub-section (*1*) and that it is expedient so to deal with him, the court may order him to be sent to a certified school or may order him in the prescribed manner to be committed to the care of a relative or other fit person named by the court (such relative or other person being willing to undertake such care) until such child [2]* * attains the age of eighteen years or for any shorter period ;

[3](*5*) [4]The court which makes an order committing a child [2]* * * to the care of a relative or other fit person may, when making such order, require such relative or other person to execute a bond, with or without sureties, as the court may require, to be responsible for the good behaviour of the child [2]* * * and for the observance of such other conditions as the court may impose for securing that the child [2]* * * may lead an honest and industrious life.

[4](*6*) The court which makes an order committing [5][a child [2]* *] to the care of a relative or other fit person under this section may, in addition, order that he be placed under the supervision of a [6][probation officer or other] person named by the court :

Provided that when the magistrate thinks fit, he may allow such child [2]* * to remain in the custody of a parent or guardian [7][with a direction that he be placed under the supervision of a [8][probation officer or other] person named by the court] on such parent or guardian giving an undertaking [9][with or without sureties] in a prescribed form to the court, and the court may from time to time adjourn the enquiry and compel the production of the child [2]* * * in court to satisfy it that the said undertaking is being carried out.

Uncontrollable children.

8. Where the parent or guardian of a child [2]* * * proves to a court that he is unable to control the child [2]* * *, and that he desires the child [2]* * * to be sent to a certified school, the court, if satisfied on inquiry that it is expedient so to deal with the child [2]* * * and that the parent or guardian understands the results which will follow, may order him to be sent to any such school.

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[1] This sub-section was substituted for the original sub-sections (*4*), (*5*) and (*6*) by Bom. 11 of 1933, s. 3 (*b*).

[2] The words " or young person " were omitted by Bom. 7 of 1936, s. 2.

[3] This sub-section was inserted by Bom. 8 of 1931, s. 4 (*b*).

[4] The sub-sections (*6A*) and (*7*) were renumbered as sub-sections (*5*) and (*6*), respectively, by Bom. 11 of 1933, s. 3 (*c*).

[5] The words " a child or young person " were substituted for the words " a person " by Bom. 8 of 1931, s. 4 (*c*).

[6] The words " probation officer or other " were inserted by Bom. 7 of 1936, s. 6.

[7] These words were inserted by Bom. 8 of 1931, s. 4 (*d*) (*i*).

[8] The words " probation officer or other " were inserted by *ibid*, s. 6.

[9] The words " with or without sureties " were inserted by *ibid*, s. 4 (*d*) (*ii*).

PART III.

OFFENCES AGAINST CHILDREN [1]* * * AND THEIR PREVENTION.

Punishment for cruelty to children.

*9. (*1*) Whoever having the actual charge of or control over a child [2]* * * abandons, exposes or wilfully neglects or ill-treats such child [2]* * * * in a manner likely to cause such child [2]* * * unnecessary suffering or injury to his health shall be punishable with imprisonment of either description for a term which may extend to six months or with fine which may extend to two hundred rupees or with both.

(*2*) For the purposes of this section injury to health includes injury to, or loss of, sight or hearing and injury to limb or organ of the body and any mental derangement, and a parent or other person legally liable to maintain a child [2]* * * shall be deemed to have neglected him in a manner likely to cause injury to his health if he wilfully fails to provide adequate food, clothing, medical aid or lodging for the child [2]* * *.

(*3*) A person may be convicted of an offence under this section notwithstanding the actual suffering or injury to health was obviated by the action of another person.

(*4*) Nothing in this section shall be construed to take away or affect the right of any parent, teacher or other person having the lawful control or charge of a child [2]* * * to administer punishment to such child [2]* * *.

Causing or allowing child to beg.

10. (*1*) Whoever for his own profit causes any child [2]* * *, or having the actual charge of or control over a child [2]* * * allows that child [2]* * * to be in any street, premises or place for the purpose of begging or receiving alms, or of inducing the giving of alms, shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to one hundred rupees or with both.

(*2*) The [3][Provincial Government] may by notification in the [4][*Official Gazette*] exempt from liability to punishment under this section any class of persons in any district or place where this Act may be in operation.

Penalty for being drunk while in charge of a child.

[5]**10A.** If any person is found drunk in any highway or other public place whether a building or not or on any licensed premises, while having the charge of a child apparently under the age of seven years and if such person is incapable by reason of his drunkenness of taking due care of

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[1] The words "and Young Persons" were omitted by Bom. 7 of 1936, s. 2.

[2] The words "or young person" were omitted by *ibid.*

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

[5] Section 10A was inserted by Bom. 10 of 1925, s. 2.

*The provisions of this section were extended to the City of Ahmedabad by H. D. Notification No. 3857/2, dated the 16th November 1931, published in the *Bombay Government Gazette*, 1931, Part I, page 2540.

the child, he may be arrested and shall, if the child is under that age, be punishable with fine which may extend to fifty rupees.

Presumption as to age of child.

Explanation.—For the purposes of this section a child shall be deemed to be under the age of seven if it appears to the court to be under that age unless the contrary is proved.

Penalty for giving intoxicating liquor to a child.

[1]**10B.** Whoever in any highway or other public place whether a building or not or on any licensed premises gives, or causes to be given to any child any intoxicating liquor except upon the order of a duly qualified medical practitioner, or in case of sickness or other urgent cause, shall be punishable with fine which may extend to fifty rupees.

Seizure by police officer of any bidis, cigarettes, tobacco or smoking mixture in possession of a child.

[1]**10C.** It shall be the duty of a police officer to seize any bidis, cigarettes, tobacco or smoking mixture in the possession of a child whom he finds smoking in any street or public place and any bidis, cigarettes, tobacco or smoking mixture so seized shall be forfeited to [2][Provincial Government]; and every such police officer shall be authorised to search any boy so found smoking but not a girl.

Penalty for inciting a child to bet or borrow.

[1]**10D.** Whoever by words either spoken or written or by signs, or otherwise, incites or attempts to incite a child [3]* * * to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites or attempts to incite a child [3]* * * to borrow money or to enter into any transaction involving the borrowing of money shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Penalty for taking pawn from a child.

[1]**10E.** Whoever takes an article in pawn from a child [3]* * * whether offered by that person on his own behalf or on behalf of any other person shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Allowing child to be in brothel.

*[4]**11.** Whoever having the actual charge of or control over a child [3]* * * between the ages of four and sixteen allows that child [3]* * * to reside in or frequent a brothel shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

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[1]Sections 10B, 10C, 10D and 10E were inserted by Bom. 10 of 1925, s. 2.

[2]The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3]The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

*The provisions of this section were extended to the City of Ahmedabad, by H. D. Notification No. 3857/2, dated the 16th November 1931, published in the *Bombay Government Gazette*, 1931, Part I, page 2540.

Causing or encouraging seduction, etc., of young girl.

*12. (*1*) Whoever having the actual charge of or control over a girl under the age of sixteen years causes or encourages the seduction or prostitution of that girl or causes or encourages any one other than her husband to have sexual intercourse with her shall be punishable with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

(*2*) For the purposes of this section a person shall be deemed to have caused or encouraged the seduction or prostitution of, or the unlawful sexual intercourse with a girl who has been seduced or become a prostitute or with whom such sexual intercourse has been had if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of any prostitute or person of known immoral character.

Young girls exposed to risk of seduction, etc., or cruelly treated.

13. If it appears to a court on the complaint of any person that a girl under the age of sixteen is being treated with cruelty by her parent or guardian or that such girl with the knowledge of her parent or guardian is exposed to the risk of seduction or prostitution or living a life of prostitution the court may direct the parent or guardian to enter into a recognizance to exercise due care and supervision in respect of such girl.

Detention of child in place of safety.

14. (*1*) Any police-officer, not below the rank of Sub-Inspector or a police-officer or a person authorized in this behalf in accordance with rules made by the [1][Provincial Government] may take to a place of safety any child [2]* * * in respect of whom an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, 1860, has been, or there is reason to believe has been, committed.

XLV of 1860.

(*2*) A child [2]* * * so taken to a place of safety and also any child [2]* * * who seeks refuge in a place of safety may there be detained until he can be brought before the court but such detention shall not in the absence of a special order of the court exceed a period of twenty-four hours exclusive of the time necessary for the journey from the place of detention to the court and the court may make such order as is mentioned in the next following sub-section or may cause the child [2]* * * to be dealt with as circumstances may admit and require until the charge made against any person in respect of any offence as aforesaid with regard to the child [2]* * * has been determined by the conviction, discharge or acquittal of such person.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

*The provisions of this section were extended to the City of Ahmedabad by H. D. Notification No. 3857/2, dated the 16th November 1931, published in the *Bombay Government Gazette*, 1931, Part I, page 2540.

(*3*) Where it appears to the court that an offence as aforesaid has been committed in respect of any child [1]* * * who is brought before the court and that it is expedient in the interests of the child [1]* * * that an order should be made under this sub-section, the court may make such order as circumstances may admit and require for the care and detention of the child [1]* * * until a reasonable time has elapsed for a charge to be made against some person for having committed the offence and if a charge is made against any person within that time, until the charge has been determined by the conviction, discharge or acquittal of that person and in case of conviction for such further time not exceeding one month as the court which convicted may direct and any such order may be carried out notwithstanding that any person claims the custody of the child [1]* * *.

Disposal of child by order of court.

*15. (*1*) Where any person having the actual charge of or control over a child [1]* * * has been—

(*a*) convicted of committing in respect of such child [1]* * * an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, 1860; or XLV of 1860.

(*b*) committed for trial for any such offence; or

(*c*) bound over to keep the peace towards such child [1]* * *,

by any court, that court may either at the time when the person is so convicted, committed for trial or bound over or at any other time, order that the child [1]* * * be taken out of the charge and control of the person so convicted, committed for trial or bound over and be committed to the care of a relative of the child [1]* * * or other fit person named by the court (such relative or other person being willing to undertake such care) until he attains the age of [2][eighteen] years or for any shorter period and that court or any court of like jurisdiction may, of its own motion or on the application of any person, from time to time by order renew, vary and revoke any such order.

(*2*) The court which makes an order committing a child [1]* * * to the care of a relative or other fit person under this section may [3][require such relative or other person to execute a bond, with or without sureties, to be responsible for the good behaviour of the child [1]* * * and for the observance of such other conditions as the court may impose for securing that the child [1]* * * may lead an honest and industrious life and] in addition, order that the child [1]* * * be placed under the supervision of a [4][probation officer or other] person named by the court.

[1] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[2] The word "eighteen" was substituted for the word "sixteen" by Bom. 11 of 1933, s. 5 (*1*).

[3] These words were inserted by Bom. 8 of 1931, s. 5 (*1*).

[4] The words "probation officer or other" were inserted by Bom. 7 of 1936, s. 7.

* The provisions of this section were extended to the City of Ahmedabad by H. D. Notification No. 3857/2, dated the 16th November 1931, published in the *Bombay Government Gazette*, 1931, Part I, p. 2540.

[1](3) If the child [2]* * * has a parent or legal guardian, no order shall be made under this section unless—

(*i*) the parent or legal guardian has been convicted of or committed for trial for the offence or has been bound over to keep the peace towards the child [2]* * * or cannot be found; or

(*ii*) the court has reason to believe that the parent or legal guardian has either been party or privy to the offence or has by any act or omission facilitated the offence, or is otherwise unfit to have the care of the child [2]* * * :

Provided that if the court thinks fit, it may on such parent or guardian giving an undertaking with or without sureties in a prescribed form to the court allow such child [2]* * * to remain in the custody of such parent or legal guardian subject to the supervision of a [3][probation officer or other] person named by the court.

(4) Every order under this section shall be in writing and any such order may be made by the court in the absence of the child [2]* * *; and the consent of any person to undertake the care of the child [2]* * * in pursuance of any such order shall be taken in such manner as the court may think sufficient to bind him.

(5) Where an order is made under this section and the conviction or order binding the person to keep the peace is set aside or the person is acquitted, the order shall forthwith be void except with regard to anything that may have been lawfully done under it.

(6) [4]* * * The Court may, instead of ordering the child [2]* * * to be committed to the care of a relative or other fit person, order that the child [2]* * * shall be sent to a certified school.

Warrant to search for child ill-treated.

16. (1) If it appears to a magistrate duly empowered under this Act from information on oath or solemn affirmation laid by any person who in the opinion of the magistrate is acting in the interests of a child [2]* * *, that there is reasonable cause to suspect that—

(*a*) the child [2]* * * has been or is being wilfully ill-treated or neglected in any place within its jurisdiction in a manner likely to cause the child [2]* * * unnecessary suffering or to be injurious to his health; or

(*b*) that an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, 1860, has been or is being committed in respect of the child [2]* * *,

XLV of 1860.

[1] This sub-section was substituted for the original sub-section (3) by Bom. 8 of 1931, s. 5 (2).

[2] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[3] The words "probation officer or other" were inserted by *ibid*, s. 7.

[4] The words "In the case of a child" were omitted by Bom. 11 of 1933, s. 5 (2) (*a*).

the magistrate may issue a summons in the first instance against the person or persons in whose care, custody or control such child [1]* * * is, to produce forthwith the said child [1]* * *. in court, or may issue a warrant authorising any police officer named therein to search for such child [1]* * * and if it is found that he has been or is being wilfully ill-treated or neglected in manner aforesaid or that any offence as aforesaid has been or is being committed in respect of the child [1]* * *, to take him to and detain him in a place of safety until he can be brought before the magistrate, or authorizing any police officer to remove the child [1]* * * with or without search, to a place of safety and detain him there until he can be brought before the magistrate; and the magistrate before whom the child [1]* * * is brought may commit him to the care of a relative or other fit person in like manner as if the person in whose charge or control he was had been committed for trial for an offence punishable under this Act:

Provided that if the said child [1]* * * is in the custody or control of a parent or guardian who being a female does not according to the customs and manners of the country appear in public, the magistrate shall ordinarily issue a summons and the person to whom such summons is issued shall be deemed to have complied with the summons if instead of personally attending in court she causes the said child [1]* * * to be produced in court.

(2) A magistrate issuing a warrant under this section may in his discretion by the same warrant direct that any person accused of any offence in respect of the child [1]* * *. be apprehended and brought before him, or direct that if such person executes a bond with sufficient sureties for his attendance before the magistrate at a specified time and thereafter until otherwise directed by the magistrate the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(3) The police-officer executing the warrant shall be accompanied by the person laying the information if such person so desire, and may also, if the magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

(4) In any information or warrant under this section the name of the child [1]* * * shall be given if known.

17. (1) If in any case in which an information has been laid by any person under the provisions of section 16 the magistrate after such inquiry as he may deem necessary is of opinion that such information was false and either frivolous or vexatious the magistrate may for reasons to be recorded in writing direct that compensation to such an amount not exceeding one hundred rupees as he may determine be paid by such informer to the person against whom the information was laid.

[1] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

(*2*) Before making any order for the payment of compensation, the magistrate shall call upon the informer to show cause why he should not pay compensation and shall consider any cause which such informer may show.

(*3*) The magistrate may by the order directing payment of the compensation further order that in default of payment the person ordered to pay such compensation shall suffer simple imprisonment for a period of 30 days.

(*4*) When any person is imprisoned under sub-section (*3*) the provisions of sections 68 and 69 of the Indian Penal Code, 1860, shall, so far as may be, apply.

XLV of 1860.

(*5*) 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 information given by him but any amount paid as compensation shall be taken into account in any subsequent civil suits relating to such matter.

(*6*) An informer who has been ordered to pay compensation exceeding fifty rupees may appeal from the order as if such informer had been convicted on a trial held by the magistrate directing the payment of compensation.

(*7*) When an order for the payment of compensation is made in a case which is subject to appeal under sub-section (*6*) the compensation shall not be paid to the person ordered to receive it before the period allowed for the presentation of the appeal has elapsed or if an appeal is presented before the appeal has been decided and where such order is made in a case which is not subject to appeal the compensation shall not be paid before the expiration of one month from the date of the order.

PART IV.

YOUTHFUL OFFENDERS.

Bail of children arrested.

18. Where a person apparently under the age of sixteen years is arrested on a charge of a non-bailable offence and cannot be brought forthwith before a court, the officer in charge of the police station or section to which such person is brought may in any case and shall unless the charge is one of culpable homicide or any other offence punishable with death or transportation release him on bail if sufficient security is forthcoming, unless for reasons to be recorded in writing the

officer believes that such release would bring him into association with any reputed criminal:

Provided that when any girl apparently under the age of sixteen years is arrested the officer in charge of a police station who has made the arrest or before whom the girl is produced shall release her at once if any person who in his opinion is a sufficient surety enters into a bond for such sum of money as the officer considers sufficient to produce her before the court and to appear in her stead if required at the police station.

Custody of children not discharged on bail after arrest.

19. Where a person apparently under the age of sixteen years having been arrested is not released under section 18 or otherwise, the officer in charge of the police station or section shall cause him to be detained in the prescribed manner until he can be brought before a court.

Remand or committal to custody.

20. A court, on remanding or committing for trial a child [1]* * * who is not released on bail, shall order him to be detained in the prescribed manner.

Attendance at court of parent of child charged with an offence, etc.

21. (*1*) Where a child [1]* * * is charged with any offence or [2]* * * is brought before a court on an application for an order to send him to a certified school, his parent or guardian may in any case, and shall, if he can be found and resides within a reasonable distance [3]* * *, be required to attend at the court before which the case is heard during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.

(*2*) Where the child [1]* * * is arrested, the officer in charge of the police station or section to which he is brought shall cause the parent or guardian of the child [1]* * *, if he can be found, to be warned to attend at the court before which the child [1]* * * will appear.

(*3*) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual charge of or control over the child [1]* * * :

Provided that if such parent or guardian is not the father, the attendance of the father may also be required.

(*4*) The attendance of the parent of a child [1]* * * shall not be required under this section in any case where the child [1]* * * was before the institution of the proceedings removed from the custody or charge of his parent by an order of a court.

(*5*) Nothing in this section shall be deemed to require the attendance of the mother or the female guardian of a child [1]* * * if such mother or female guardian does not according to the customs and manners of the country appear in public, but any such mother or female guardian may appear before the court by a pleader or agent.

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[1] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[2] The words "when a child" were omitted by Bom. 11 of 1933, s. 6.

[3] The words "and the person so charged or brought before the court is a child" were omitted by *ibid.*

Sentences that may not be passed on child.

22. Notwithstanding anything to the contrary contained in any law no child [1]* * * shall be sentenced to death or transportation or committed to prison:

Provided that a [2][child who is fourteen years of age or upwards] [3]* * * may be committed to prison where the court certifies that he is of so unruly or of so depraved a character that he is not a fit person to be sent [4][[5] * * to a certified school [6]*] [6]* * and that none of the other methods in which the case may legally be dealt with is suitable.

No proceedings under Chapter VIII of Criminal Procedure Code against a child.

[7] **22A.** Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898, no proceedings shall be instituted and no order shall be passed against a child under Chapter VIII of the said Code.

V of 1898.

Commitment of child to a certified school.

23. (*1*) Where a child [1]* * * is found to have committed an offence punishable with transportation or imprisonment, the court, if satisfied on enquiry that it is expedient so to deal with the child [1]* * * may order him to be sent to a certified school.

(*2*) [8]* * * * * *

(*3*) Where prior to the commencement of this Act a youthful offender has been sentenced to transportation or imprisonment, the [9][Provincial Government] may direct that in lieu of undergoing or completing such sentence he shall, if under the age of fourteen years, be sent to a certified school; and thereupon the offender shall be subject to all the provisions of this Act as if he had been originally sentenced to detention in such school.

Power to discharge youthful offender or to commit him to suitable custody.

[10]**24.** (*1*) A court may, if it shall think fit instead of directing any youthful offender to be detained in a certified school, order him to be—

(*a*) discharged after due admonition, or

[11] (*b*) released on probation of good conduct and committed to the care of his parent or guardian or other adult relative or other fit person on such parent, guardian, relative or person executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding

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[1] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[2] These words were inserted by *ibid*, s. 8 (*a*).

[3] The words "young person" were omitted by *ibid*, s. 2.

[4] The words "either to a certified school or" were inserted by Bom. 8 of 1931, s. 6.

[5] The word "either" was omitted by Bom. 7 of 1936, s. 8 (*b*).

[6] The words "or to a reformatory school" were omitted by *ibid*.

[7] Section 22A was inserted by *ibid*, s. 9.

[8] Sub-section (*2*) of section 23 was deleted by *ibid*, s. 10.

[9] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[10] Section 24 was renumbered as section 24 (*1*) by Bom. 7 of 1936, s. 11.

[11] Clause (*b*) was substituted by Bom. 7 of 1936, s. 11 (*2*), for clause (*b*) (which was substituted for the original clause by Bom. 8 of 1931, s. 7).

three years and for the observance of such other conditions as the Court may impose for securing that the youthful offender may lead an honest and industrious life. The Court may order that the youthful offender released under this clause be placed under the supervision of a probation officer.

[1](2) If it appears to the Court on receiving a report from the probation officer or otherwise, that the offender has not been of good behaviour during the period of his probation, it may, after making such enquiry as it deems fit, order the offender to be detained in a certified school.

Appointment of probation officers.

[2]**24A.** (*1*) A probation officer shall be

(*a*) any person appointed to be a probation officer by the [3] [Provincial Government], or

(*b*) any person appointed for this purpose by a society recognised in this behalf by the [3] [Provincial Government], or

(*c*) when there is no person appointed under clause (*a*) or (*b*), any other person appointed from time to time by the Court for any particular case subject to general or special orders of the [3][Provincial Government].

(*2*) A probation officer, in the exercise of his duties under any supervision order, shall be subject to the control, in the City of Bombay, of the Chief Presidency Magistrate, and elsewhere, of the District Magistrate of the district, in which the Court which passes any order under this Act in respect of the child, is situate.

Duties of probation officers.

[2]**24B.** A probation officer shall, subject to the rules made under this Act and to the directions of the Court—

(*a*) visit or receive visits from the child or the youthful offender at such reasonable intervals as may be specified in the order passed by the Court or, subject thereto, as the probation officer may think fit;

(*b*) see that the relative of the child or the youthful offender, as the case may be, or other person to whose care such child or youthful offender is committed, observes the conditions of the bond;

(*c*) report to the Court as to the behaviour of the child or the youthful offender, as the case may be;

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[1] Sub-section (*2*) was inserted by Bom. 7 of 1936, s. 11 (*3*).

[2] Sections 24A and 24B were inserted by *ibid*, s. 12.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(*d*) advise, assist and befriend the child or the youthful offender, and when and where necessary, endeavour to find him suitable employment; and

(*e*) perform any other duty which may be prescribed.

Power to order parent to pay fine, etc., instead of child.

25. (*1*) Where a child [1]* * * is [2][found to have committed] an offence punishable with fine and the court is of opinion that the case would be best met by the imposition of a fine, whether with or without any other punishment, the court may in any case, and shall if the [3][child is under fourteen years of age], order that the fine be paid by the parent or guardian of the child [1]* * *, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child [1]* * *.

(*2*) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(*3*) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898.

of 1898.

(*4*) A parent or guardian may appeal against any such order as if it had been an order passed in proceedings against himself.

Detention in the case of certain crimes committed by children.

26. (*1*) When a child [1]* * * is [4][found to have committed] an offence of so serious a nature that the court is of opinion that no punishment which under the provisions of this Act [5]* * *, it is authorised to inflict is sufficient, the court shall order the offender to be kept in safe custody in such place or manner as it thinks fit and shall report the case for the orders of the [6][Provincial Government].

(*2*) Notwithstanding the provisions of section 22, the [6][Provincial Government] may order any such child [1]* * * to be detained in such place and on such conditions as [7][it] thinks fit, and while so detained the child [1]* * * shall be deemed to be in legal custody:

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[1] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[2] The words "found to have committed" were substituted for the words "convicted of" by *ibid*, s. 13 (*i*).

[3] The words "child is under fourteen years of age" were substituted for the words "offender is a child" by *ibid*, s. 13 (*ii*).

[4] The words "found to have committed" were substituted for the words "convicted of" by *ibid*, s. 14 (*a*).

[5] The words and figures "or of the Reformatory Schools Act, 1897" were omitted by *ibid*, s. 14 (*b*).

[6] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[7] The word "it" was substituted for the word "he" by *ibid*.

Provided that no period of detention so ordered shall exceed the maximum period of imprisonment to which the child [1]* * * could have been sentenced for the offence committed.

Methods of dealing with children charged with offences.

[2]**27.** (*1*) Where a child [1]* * * charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Act enabling the court to deal with the case, the case should be dealt with, namely, whether

(*a*) by discharging the offender after due admonition; or

(*b*) by committing the offender to the care of his parent, guardian, other adult relative, or other fit person on such parent, guardian, relative or person executing a bond to be responsible for his good behaviour; or

(*c*) by so discharging [3]* * the offender and placing him under the supervision of a person named by the court; or

[4](*cc*) by releasing the offender on probation of good conduct, or

(*d*) by sending the offender to a certified school; or

[5](*e*) * * *

[6](*ee*) by sentencing the offender to caning in cases where the conduct of the offender has been such as to lead the court to believe that no other punishment would be effective; or

(*f*) by ordering the offender to pay a fine; or

(*g*) by ordering the parent or guardian of the offender to pay a fine; or

(*h*) where the offender is a [7][child of fourteen years of age or upwards], by sentencing him to imprisonment; or

(*i*) by dealing with the case in any other manner in which it may legally be dealt with:

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[1] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[2] This section was renumbered as section 27 (*1*) by Bom. 8 of 1931, s. 8 (*1*).

[3] The words "or committing" were omitted by Bom. 7 of 1936, s. 15 (*a*).

[4] Clause (*cc*) was inserted by *ibid*, s. 15 (*b*).

[5] Clause (*e*) was omitted by *ibid*, s. 15 (*c*).

[6] This clause was inserted by Bom. 8 of 1931, s. 8 (*1*).

[7] These words were inserted by Bom. 7 of 1936, s. 15 (*d*).

Provided that nothing in this section shall be construed as authorizing the court to deal with any case in any manner in which it could not deal with the case apart from this section.

[1](2) where a child [2]* * * is charged with an offence punishable with fine only, and is dealt with under clause (*f*) of sub-section (*1*), the court may, if it thinks fit, add a sentence of caning in default of payment of fine, if it is satisfied that the offender is able to pay the fine.

[1](3) If in any such case as is described in sub-section (*2*), the offender has previously undergone a sentence of caning passed under that sub-section he may, in default of payment of fine, be sent to a certified school for a period not exceeding three years.

Investigation of character and circumstances.

[3]**27-A.** For the purpose of determining the sentence or order which a court ought to pass or make under this Part against any person tried by or brought before it, the court shall, after recording its finding on the facts of the case, have regard to the character of the person and the circumstances in which he is living as disclosed by the facts of the case or, on further inquiry, by any other evidence or information.

PART IV-A.[4]

PROHIBITION OF PUBLICATION OF NAMES, ADDRESSES OR OTHER DETAILS CONCERNING CHILDREN [5]* * INVOLVED IN OFFENCES.

Penalty for publishing names and addresses of children involved in offences.

27-B. (*1*) No report in any newspapers or news-sheet of any offence by or against a child [2]* * or of any proceedings in any Court relating to such offence shall disclose the name, address or school, or include any particulars calculated to lead to the identification, of any such child [2]* * * nor shall any picture be published as being or including a picture of any such child [2]* * * .

(*2*) Any person who publishes any report or picture in contravention of the provisions of this section shall be punishable with imprisonment of either description for a term not exceeding two months or with fine or with both.

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[1] Sub-sections (*2*) and (*3*) were inserted by Bom. 8 of 1931, s. 8 (*2*).

[2] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[3] This section was inserted by *ibid*, s. 9.

[4] Part IV-A was inserted by Bom. 11 of 1935, s. 2.

[5] The words "or young persons" were omitted by Bom. 7 of 1936, s. 2.

PART V.

MAINTENANCE AND TREATMENT OF PERSONS SENT TO CERTIFIED SCHOOLS OR COMMITTED TO THE CARE OF RELATIVES OR OTHER FIT PERSONS.

Contribution of parent.

28. (*1*) The court which makes an order for the detention of a child [1]* * * or youthful offender in a certified school or for the committal of a child [1]* * * or youthful offender to the care of a relative or other fit person may make an order on the parent or other person liable to maintain the child, [2]* * or youthful offender, to contribute to his maintenance, if able to do so, in the prescribed manner.

(*2*) The court before making any order under sub-section (*1*) shall inquire into the circumstances of the parent or other person liable to maintain the youthful offender, child [1] * * * and shall record the evidence if any in the presence of the parent or such other person as the case may be or when his personal attendance is dispensed with in the presence of his pleader.

(*3*) Any order made under this section may from time to time be varied by the court.

(*4*) The persons liable to maintain a child, [2] * * * or youthful offender shall for the purposes of sub-section (*1*) include in the case of illegitimacy his putative father:

Provided that where the child, [2] * * or youthful offender is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1898, the court shall not ordinarily make an order for contribution against the putative father but may order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named, to be applied by him or them, as the case may be, towards the maintenance of the child [2] * * * or youthful offender. V of 1898.

(*5*) Any order under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1898. V of 1898.

Boarding out of children.

29. The managers of a certified school to which a child under the age of eight years is sent may, with the consent of the chief inspector, board the child out with any suitable person until the child reaches the age of ten years and thereafter for such longer period, with the consent of the chief inspector, as the managers consider to be advisable in the interest of the child, subject to the exercise by the managers of such powers as to supervision, recall, and otherwise as may be prescribed; and where a child is so boarded out he shall nevertheless be deemed for the purposes of this Act to be a child detained in the school, and the provisions of this Act shall apply accordingly, subject to such necessary adaptations as may be made by the [3][Provincial Government].

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[1] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[2] The words "young person" were omitted by *ibid.*

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

Placing out on licence.

30. (*1*) Where a child [1]* * or youthful offender is detained in a certified school, the managers of the school may at any time with the consent of the chief inspector, by licence permit the child [1]* * or youthful offender on the conditions prescribed in this behalf to live with any trustworthy and respectable person named in the licence willing to receive and take charge of him with a view to educate him or train him for some useful trade or calling.

[2](*1A*) Subject to the prescribed conditions, the chief inspector may, on the recommendation of the visitors or managers of a certified school, at any time after the expiration of six months from the commencement of the detention of a youthful offender in a certified school, and if satisfied that there is a reasonable probability that the youthful offender will abstain from crime and lead a useful and industrious life, release such offender from the school and grant him a written licence in the prescribed form and on the prescribed conditions, permitting him to live under the supervision and authority of such responsible person or society approved by the chief inspector as may be willing to take charge of the offender.

(*2*) Any licence [3][granted under sub-section (*1*) or (*1A*)] shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

(*3*) The managers of the school [4][or the chief inspector, as the case may be,] may at any time by order in writing revoke any such licence, and order the child [1]* * or youthful offender to return to the school and shall do so at the desire of the person [5][or society with whom or under whose supervision] the child [1]* * or youthful offender is licensed to live. If the child [1]* * or youthful offender refuses or fails to return to the school, the managers of the school [4][or the chief inspector, as the case may be,] may, if necessary, arrest or cause to be arrested, the child [1]* * or youthful offender and take him or cause him to be taken back to the school.

(*4*) When a licence has been revoked or forfeited and the child [1]* * or youthful offender refuses or fails to return to the school, the court may, if satisfied by information on oath or solemn affirmation that there is reasonable ground for believing that his parent or guardian could produce the child [1]* * or youthful offender, issue a summons requiring

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[1] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[2] Sub-section (*1A*) was inserted by *ibid*, s. 16 (*i*).

[3] The words, brackets, figures and letter "granted under sub-section (*1*) or (*1A*)" were substituted for the words "so granted" by *ibid*, s. 16 (*ii*).

[4] The words "or the chief inspector, as the case may be," were inserted by *ibid*, s. 16 (*iii*) (*a*).

[5] These words were substituted for the words "with whom" by *ibid*, s. 16 (*iii*) (*b*).

the parent or guardian to attend at the court on such a day as may be specified in the summons and to produce the child [1]* * or youthful offender, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, be punished with a fine which may extend to fifty rupees.

(*5*) Where a parent or guardian is directed to pay a fine under this section the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

(*6*) The time during which a child, [1]* * or youthful offender is absent from a certified school in pursuance of a licence under this section shall be deemed to be part of the time of his detention in the school: provided that, where a child [1]* * or youthful offender has failed to return to the school on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school.

Penalty for abetting escape of youthful offender or child.

31. Whoever—

(*a*) knowingly assists or induces, directly or indirectly, a child [1]* * or youthful offender detained in or placed out on licence from a certified school to escape from the school or from any person with whom he is placed out on licence, or any child [1]* * to escape from the person to whose care he is committed under the provisions of this Act;

(*b*) knowingly harbours, conceals, or prevents from returning to school or to any person with whom he is placed out on licence or to whose care he is committed under this Act, a child, [2]* * or youthful offender, who has so escaped, or knowingly assists in so doing shall be punishable with imprisonment of either description for a term which may extend to two months or with a fine which may extend to two hundred rupees, or with both.

Period of detention.

32. The period for which a child [1] or youthful offender is to be detained in a certified school shall be specified in the order in pursuance of which he is sent there and shall be such period [3][not being less than two years in the case of a youthful offender who at the date of the order is over the age of fifteen years and three years in the case of other youthful offenders] as to the court may seem proper for his teaching and training but not in any case extending beyond the time when he will, in the opinion of the court, attain the age of [4][eighteen] years.

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[1] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[2] The words "young person" were omitted by *ibid*, s. 2.

[3] These words were inserted by Bom. 8 of 1931, s. 10 (*i*).

[4] The word "eighteen" was substituted for the word "sixteen" by *ibid*, s. 10 (*ii*).

Discharge and transfer.

33. (*1*) The [1][Provincial Government] may at any time order a child [2]* * or youthful offender to be discharged from a certified school, either absolutely or on such conditions as the [1][Provincial Government] approves.

(*2*) The [1][Provincial Government] may order—

[3] (*a*) * *

[3] (*b*) * *

[3] (*c*) * *

Bom. XVIII of 1929.

[4](*d*) a youthful offender over the age of sixteen years detained in a certified school to be transferred to a Borstal School established under the [5]Bombay Borstal Schools Act, 1929, in the interest of discipline or for other special reasons:

Provided that the whole period of the detention of the child [2]* or youthful offender shall not be increased by the transfer.

Bom. XVIII of 1929.

[6](*3*) Upon the transfer of a youthful offender to a Borstal School under clause (*d*) of sub-section (*2*), the provisions of the [5]Bombay Borstal Schools Act, 1929, shall apply to such offender as if he had been originally ordered to be detained in a Borstal School under that Act.

[7](*4*) The [1][Provincial Government] may at any time in [8][its] discretion discharge a child [2]* * from the care of any person to whose care he is committed under this Act, either absolutely or on such conditions as the [1][Provincial Government] approves, and may, if [9][it] thinks fit, make rules in relation to children [2]* * so committed to the care of any person and to the duties of such persons with respect to such children [2]*

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[3] Clauses (*a*), (*b*) and (*c*) were deleted by *ibid*, s. 17.

[4] This clause was inserted by Bom. 8 of 1931, s. 11 (*i*).

[5] In this Vol.

[6] This sub-section was inserted by Bom. 8 of 1931, s. 11 (*ii*).

[7] This sub-section was renumbered as sub-section (*4*) by *ibid*, s. 11 (*iii*).

[8] The word "its" was substituted for the word "his" by the Adaptation of Indian Laws Order in Council.

[9] The word "it" was substituted for the word "he" by *ibid*.

Transfers between certified schools and schools of like nature in different parts of British India

[1]**33A.** (*1*) The [2][Provincial Government] in consultation with the managers of any certified school may consent to the transfer to that school of any person under the age of [3][eighteen] years in respect of whom an order has been made by competent authority in any other part of British India of the nature of an order under this Part directing him to be sent to a certified school or any school of a like nature.

(*2*) The [2][Provincial Government] may direct any child [4]* * or youthful offender to be transferred from any certified school to any school of a like nature in any other part of British India in respect of which provision similar to that in the Presidency of Bombay is made by the [5][Provincial Government] of that part under any law in force therein:

[6][Provided that no child or youthful offender shall be transferred under this section to any other Province without the consent of the Government of that other Province.]

[7](*3*) The [2][Provincial Government] may direct any youthful offender detained in a certified school to be transferred from that school to a Reformatory school in any other part of British India:

[6][Provided that no child or youthful offender shall be transferred under this section to any other Province without the consent of the Government of that other Province.]

[7](*4*) The [2][Provincial Government] may consent to the transfer to a certified school under this Act of a youthful offender detained in a Reformatory school in any other part of British India, and upon such transfer the provisions of this Act shall apply to such youthful offender.

Transfer from one certified school to another.

[8]**33B.** The chief inspector may direct any child or youthful offender to be transferred from one certified school to another:

Provided that the total period of detention of the child or youthful offender shall not be increased by such transfer.

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[1] This section was inserted by Bom. 8 of 1931, s. 12.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The word "eighteen" was substituted for the word "sixteen" by Bom. 11 of 1933, s. 13 (*i*).

[4] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[5] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[6] This proviso was inserted by *ibid.*

[7] Sub-sections (*3*) and (*4*) were added by Bom. 7 of 1936, s. 18.

[8] Section 33B was added by *ibid*, s. 19.

PART VI.

CERTIFIED SCHOOLS AND OTHER INSTITUTIONS.

Establishment and certification of schools.

34. (*1*) The [1][Provincial Government] may establish and maintain industrial schools for the reception of children [2] * * * and youthful offenders.

*(*2*) The [1][Provincial Government] may certify that any industrial school or other educational institution not established under sub-section (*1*) is fit for the reception of children [2]* * * or youthful offenders.

Management of schools.

35. (*1*) For the control and management of every school established under sub-section (*1*) of section 34 a superintendent and a committee of visitors shall be appointed by the [1][Provincial Government] and such superintendent and committee shall be deemed to be the managers of the school for the purposes of this Act.

(*2*) Every school certified under sub-section (*2*) of section 34 shall be under the management of a governing body who shall be deemed to be the managers of the school for the purposes of this Act.

Inspection of schools.

36. (*1*) The [1][Provincial Government] may appoint a chief inspector of certified schools and such number of inspectors and assistant inspectors as [3][it] thinks advisable to assist the chief inspector; and every person so appointed to assist the chief inspector shall have such of the powers and duties of the chief inspector as the [1][Provincial Government] directs but shall act under the direction of the chief inspector.

(*2*) Every certified school shall, at least once in every six months, be inspected by the chief inspector of certified schools, or by an inspector or assistant inspector: provided that where any such school is for the reception of girls only and such inspection is not made by the chief inspector, the inspection shall where practicable be conducted by a woman.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "young persons" were omitted by Bom. 7 of 1936, s. 2.

[3] The word "it" was substituted for the word "he" by the Adaptation of Indian Laws Order in Council.

*Under the provisions of this sub-section "The Children Home attached to the Criminal Tribe Settlement, Hubli, has been declared as a certified Institution under the Bombay Children Act. (*Vide* H. D. Notification No. 3925/3/IV, dated the 1st October 1934, published in the *Bombay Government Gazette*, 1934, Part I, p. 2196.)

Power of inspectors.

37. A certified school shall be liable to inspection at all times and in all its departments by the chief inspector or inspector or assistant inspector or by any member of the [1][Provincial Legislature] or by any member of the [2][Central Legislature] representing the Province or any part of the Province.

Medical inspection.

38. Any registered medical practitioner empowered in this behalf by the [3][Provincial Government] may visit any certified school at any time with or without notice to its managers in order to report to the chief inspector on the health of the inmates and the sanitary condition of the school.

Power of Provincial Government to withdraw certificate.

39. The [3][Provincial Government] if dissatisfied with the condition, rules, management or superintendence of a certified school, may at any time by notice served on the managers of the school declare that the certificate of the school is withdrawn as from a time specified in the notice and at that time the withdrawal of the certificate shall take effect and the school shall cease to be certified school:

Provided that the [3][Provincial Government] may, if [4][it] thinks fit, instead of so withdrawing the certificate, by notice served on the managers of the school, prohibit the admission of children [5]* * * or youthful offenders to the school for such time as may be specified in the notice or until the notice is revoked:

Provided also that before the issue of notice under this section or under the first proviso thereto a reasonable opportunity shall be given to the managers of the school to show cause why the certificates shall not be withdrawn or admission to the school shall not be prohibited as the case may be.

Resignation of certificate by managers.

40. The managers of a certified school may, on giving six months' notice in writing to the [3][Provincial Government] through the chief inspector of their intention so to do, resign the certificates of the school and accordingly at the expiration of six months from the date of the notice, unless before that time the notice is withdrawn, the resignation of the certificate shall take effect, and the school shall cease to be a certified school.

Effect of withdrawal or resignation of certificate.

41. A child [6]* * * or youthful offender shall not be received into a certified school in pursuance of this Act after the date of the receipt by the

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[1] The words "Provincial Legislature" were substituted for the words "Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the words "Legislative Assembly or the Council of State representing any constituency in the Bombay Presidency" by *ibid.*

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

[4] The word "it" was substituted for the word "he" by *ibid.*

[5] The words "or young persons" were omitted by Bom. 7 of 1936, s. 2.

[6] The words "or young person" were omitted by *ibid.*

managers of the school of a notice of withdrawal of the certificate or after the date of a notice of resignation of the certificate; but the obligation hereinafter mentioned of the managers to teach, train, lodge, clothe and feed any children [1]* * or youthful offenders detained in the school at the respective dates aforesaid shall, except so far as the [2][Provincial Government] otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

Disposal of inmates on withdrawal or resignation of certificate.

42. When a school ceases to be a certified school, the children [1]* * * or youthful offenders detained therein shall be either discharged absolutely or on such conditions as the [2][Provincial Government] may impose or transferred by order of the [2][Provincial Government] to some other certified school in accordance with the provisions of this Act relating to discharge and transfer.

Auxiliary homes.

43. The [2][Provincial Government] may establish auxiliary homes for the reception of any inmates or any classes of inmates of certified schools or may certify any other such home heretofore established or which hereafter may be established by any other agency, and the certificates may be withdrawn or resigned in like manner as a certificate of a school and every such home shall, for such purposes as are specified by the [2][Provincial Government], be treated as part of the certified school or schools to which it is attached.

Liabilities of managers.

44. The managers of a certified school not established by the [2][Provincial Government] may decline to receive any child [3]* * * or youthful offender proposed to be sent to them in pursuance of this Act, but when they have once accepted any such child [3]* * * or youthful offender, they shall be deemed to have undertaken to teach, train, lodge, clothe and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school.

Inspection of institutions for reception of poor children.

45. (*1*) The [2][Provincial Government] may cause any institution for the reception of poor children [1]* * supported wholly or partly by voluntary contributions, and not liable to be inspected by or under the authority of [4][any department of the Central or the Provincial Government], to be visited and inspected from time to time at all reasonable hours, by persons appointed by [5][it] for the purpose of securing the health and welfare of the children [1]* * and the sanitation of the premises.

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[1] The words "or young persons" were omitted by Bom. 7 of 1936, s. 2.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[4] The words "any department of the Central or the Provincial Government" were substituted for the words "any Government department" by the Adaptation of Indian Laws Order in Council.

[5] The word "it" was substituted for the word "him" by *ibid.*

(*2*) Any person so appointed shall have power to enter the institution at all reasonable hours and to make a complete inspection thereof and of all registers, relating thereto for the aforesaid purposes. Any person who obstructs him in the execution of his duties shall be liable on conviction to a fine not exceeding fifty rupees.

(*3*) Where any such institution is carried on in accordance with the principles of any particular religious denomination, the [1][Provincial Government] shall, if so desired by the managers of the institutions, appoint, where practicable, a person of that denomination to visit and inspect the institutions.

(*4*) Where any such institution is for the reception of girls only, the inspection shall, where practicable, be conducted by a woman.

PART VII.

JUVENILE COURTS.

Juvenile Courts.

46. (*1*) The [1][Provincial Government] may provide for the establishment in any area of one or more separate courts for the conduct of proceedings under this Act at which the attendance of the child [2]* * is required :

[3][Provided that where a child [2]* * is accused of an offence triable jointly with any other person not being a child [2]* * *, nothing in this sub-section shall affect or be deemed to affect the powers of the court, to try such other person under any other law for the time being in force.]

(*2*) Where no such separate court has been established the court before which a child [2]* * is brought shall unless the child [2]* * is tried jointly with any other person not being a child [2]* * , whenever practicable sit either in a different building or room from that in which the ordinary sittings of the court are held or on different days or at different times from those at which the ordinary sittings are held.

PART VIII.

MISCELLANEOUS.

Provision as to religion.

47. (*1*) In determining the certified school to which a child [2]* * or youthful offender is to be sent under this Act, the court shall ascertain

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "or young person" were omitted by Bom. 7 of 1936, s. 2.

[3] This proviso was added by Bom. 8 of 1931, s. 13.

the religious denomination of the child [1]* * or youthful offender and shall, if possible, select a school in which facilities are afforded for instruction in his religion.

(2) In determining on the person to whose care a child [1]* * shall be committed under this Act, the court shall ascertain the religious denomination of the child [1]* * and shall, if possible, select a person of the same religious denomination or a person who gives such undertaking as seems to the court sufficient that the child [1]* * will be brought up in accordance with the religion of the child [1]* * and such religion shall be specified in the order.

(3) In any case where a child [1]* * has been committed pursuant to any such order to the care of a person who is not of the religious denomination of the child [1]* * or who has not given such undertaking as aforesaid, the court which made the order or any court of like jurisdiction shall, on the application of any person in that behalf and on its appearing that a fit person of the religious denomination of the child [1]* * or who will give such undertaking as aforesaid is willing to undertake the care of the child [1]* * , make an order committing him to the care of such fit person.

(4) When a child [1]* * is committed to the care of a certified school in which facilities for instruction in his religion are not afforded or to a person who does not give an undertaking that the child [1]* * entrusted to him will be brought up in his religion (for want of a certified school or person of the religion of the child), the court shall take an undertaking from such school or such person that the child shall not be brought up in any religion other than his own.

[2](5) Where a child is boarded out, or where a child [3]* * or youthful offender is permitted by licence to live with any other person, the manager of the school shall select for this purpose a person of the same religion as the child, [3]* * or youthful offender, as the case may be, if such person is available, and if no such person is available then a person who gives a satisfactory undertaking that the child, [3]* * or youthful offender shall be brought up in accordance with the religion of such child, [3]* * or youthful offender, and if no such person is available then another person within the provisions of section 29 or 30, as the case may be.

(6) When a child [1]* * has been committed to the care of a person who gives an undertaking as aforesaid but the undertaking is not observed, the child [1]* * shall be liable to be removed from the care of such person and dealt with according to the provisions of sub-section (3) of this section.

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[1] The words " or young person " were omitted by Bom. 7 of 1936, s. 2.

[2] This sub-section was substituted for the original sub-section (5) by Bom. 11 of 1933, s. 19 (2).

[3] The words " young person " were omitted by Bom. 7 of 1936, s. 2.

(7) Whenever any person interested in the religion of the child [1]* * is informed of any attempt at conversion or tampering with his religion he may apply to the court for an enquiry and the court on being satisfied may issue an order removing the said child [1]* * from the custody of such institution or person and hand over the custody to another fit person or institution.

Committal to an approved place of a child suffering from venereal or tubercular disease.

[2]**47A.** When a child [1]* * who has been brought before a Magistrate under any of the provisions of this Act is found to be suffering from a venereal or tubercular disease the Magistrate, if satisfied that medical treatment is necessary and that the child [1]* * will not otherwise get such treatment, may commit the child [1]* * to an approved place for such period as he may think necessary and may from time to time extend the said period.

Removal of disqualification attaching to convictions for offences.

[3]**48.** When a child [1]* * is [4][found to have committed] any offence, the fact that he has been so [5][found] shall not have any effect under section 75 of the Indian Penal Code, or section 565 of the Code of Criminal Procedure, 1898, or operate as a disqualification for office or election under any law. XLV of 1860. V of 1898.

Control of custodian over child.

49. Any person to whose care a child [1]* * is committed under the provisions of this Act shall, while the order is in force, have the like control over the child [1]* * as if he were his parent, and shall be responsible for his maintenance, and the child [1]* * shall continue in his care notwithstanding that he is claimed by his parent or any other person.

Bonds taken under the Act.

50. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to bonds taken under this Act. V of 1898.

Appeals.

51. (*1*) An appeal from an order made by a court under sections 7, 8, 9, 10, [6][10A, 10B, 10D, 10E,] 11, 12, 15, 26, 28, 30 or 47 shall lie—

[7][(*a*) if passed by a juvenile court,—

(*i*) in the city of Bombay, to the Chief Presidency Magistrate ; and

(*ii*) in any other place to which the Act applies, to a District Magistrate ;]

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[1] The words " or young person " were omitted by Bom. 7 of 1936, s. 2.

[2] This section was inserted by Bom. 8 of 1931, s. 14.

[3] This section was substituted for the original section 48, by *ibid*, s. 15.

[4] The words " found to have committed " were substituted for the words " convicted of " by Bom. 7 of 1936, s. 20.

[5] The word " found " was substituted for the word " convicted " by *ibid*.

[6] These figures and letters were inserted by Bom. 10 of 1925, s. 3.

[7] This clause was substituted for the original clause by Bom. 13 of 1927, s. 3.

(*b*) if passed by any Magistrate not being a Presidency Magistrate to the Court of Session ; and

(*c*) if passed by a Court of Session or a Presidency Magistrate, to the High Court.

(*2*) No appeal shall lie from any order passed in any such appeal.

(*3*) Any order passed under the provisions of this Act and not subject to appeal under sub-section (*1*) may be revised by the High Court.

Power to amend orders.

[1]**51A.** Without prejudice to the powers of courts of appeal and revision, any custody order [2][supervision order or probation order] may be amended by the court which made the order, in respect of the person named as custodian [3][supervisor or probation officer], the period of duration and such matters of detail as may be prescribed.

Rules.

52. (*1*) The [4][Provincial Government] may make rules [5]for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing, such rules may be made with regard to—

(*a*) the establishment and maintenance of certified schools and auxiliary homes and the certification of schools as certified schools and of auxiliary homes ;

(*b*) the management of certified schools and auxiliary homes ;

(*c*) the appointment of visitors and their tenure of office ;

(*d*) the inspection of certified schools ;

(*e*) the maintenance, education and industrial training of the inmates of certified schools ;

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[1] This section was inserted by Bom. 8 of 1931, s. 116.

[2] The words "supervision order or probation order" were substituted for the words "or supervision order" by Bom. 7 of 1936, s. 21.

[3] The words "supervisor or probation officer" were substituted for the words "or supervisor" by *ibid.*

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[5] For "the Bombay Children Rules, 1926", *see* Government Notifications in the Home Department, No. 221-XIV, dated 21st December 1926, published in the *Bombay Government Gazette*, 1926, Part I, pp. 2898-2900 and No. 2928-2, dated the 2nd June 1928, published in the *Bombay Government Gazette*, 1928, Part I, p. 1179.

For amendments in the above Rules, *see* H. D. Notifications No. 8171/2, dated the 9th January 1934, published in the *Bombay Government Gazette*, 1934, pp. 102-105 and also H. D. Notification No. 3925/3-I, dated the 20th September 1934, published in the *Bombay Government Gazette*, 1934, Part I, p. 2098.

For "the Bombay City Juvenile Court Rules, 1927", *see Bombay Government Gazette*, 1927, Part I, pp. 1506-1507.

For "Dharwar District Juvenile Court Rules", *see* H. D. Notification No. 3925/3-II, dated the 20th September 1934, published in *Bombay Government Gazette*, 1934, Part I, p. 2099.

(*f*) the conveyance of youthful offenders [1]* and children to certified schools;

(*g*) the grant of permission to the inmates of certified schools to absent themselves for short periods;

(*h*) visits to and communication with the inmates of certified schools;

(*i*) the punishment of offences committed by the inmates of certified schools;

(*j*) the inspection of the institutions referred to in section 45;

(*k*) the manner of detention of children [2]* * * under arrest or remanded or committed for trial;

(*l*) the procedure to be adopted in any case or inquiry under this Act before any court other than a juvenile court;

(*m*) the persons who may be authorised to act under section 7 or 14;

(*n*) the manner in which a child [3]* * * may be committed to the care of a relative or other fit person, and the duties of such persons and the supervision of such children [2]* * *;

[4](*n*-1) the conditions subject to which a youthful offender may be released on licence under sub-section (*1-A*) of section 30 and the form and conditions of such licence;

[4](*n*-2) the manner in which a youthful offender may be released on probation;

[4](*n*-3) matters incidental to the appointment, resignation and removal of probation officers and the remuneration and expenses payable to them;

[4](*n*-4) the duties of probation officers;

[4](*n*-5) the conditions on which societies may be recognised by the [5][Provincial Government] for providing probation officers;

(*o*) the contribution by parents and other persons liable to maintain youthful offenders, [6][and] children [2]* * *;

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[1] The words "young persons" were omitted by Bom. 7 of 1936, s. 2.

[2] The words "and young persons" were omitted by *ibid.*

[3] The words "or young person" were omitted by *ibid.*

[4] Clauses (*n*-1) to (*n*-5) were inserted by *ibid*, s. 22.

[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[6] The word "and" was inserted by Bom. 7 of 1936, s. 22 (*ii*).

[1](*p*) the boarding out of children and the licensing and supervision of children [2]* * and youthful offenders and the submission of reports regarding them;

(*q*) the procedure to be adopted in juvenile courts; and

(*r*) the time within which appeals under section 51 shall be filed;

[3]* * * * *

[4](*4*) The power to make rules under this Act shall be subject to the condition of previous publication and to the further condition that the rules so made—

(*a*) shall be laid before each of the Chambers of the Provincial Legislature for one month previous to its next session;

(*b*) shall be liable to be modified or annulled by a resolution in which each of the Chambers concurs at the said next session.

[5]**53.** The Apprentices Act, 1850, is hereby repealed.

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[1] This clause was substituted for the original clause (*p*) by Bom. 11 of 1933, s. 21 (*2*).

[2] The words "young persons" were omitted by Bom. 7 of 1936, s. 2.

[3] Sub-section (*3*) was omitted by the Adaptation of Indian Laws Order in Council.

[4] Sub-section (*4*) was substituted for the original sub-section by *ibid.*

[5] Section 53 was added by Bom. 7 of 1936, s. 23.

THE BOMBAY PREVENTION OF ADULTERATION ACT, 1925.

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BOMBAY ACT No. V OF 1925.[1]

[THE BOMBAY PREVENTION OF ADULTERATION ACT, 1925]

[*2nd November, 1925*]

Amended by Bom. Act 23 of 1935.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to make better provision in the City of Bombay and elsewhere in the Bombay Presidency to prevent the adulteration of articles of food and the sale of such adulterated articles.

WHEREAS it is expedient to make better provision in the City of Bombay and elsewhere in the Bombay Presidency to prevent the adulteration of articles of food and the sale of such adulterated articles; AND WHEREAS the previous sanction of the Governor General required by section 80A (*3*) (*e*) and (*h*) of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6, Geo. V, c. 61.

Short title, extent and operation.

1. (*1*) This Act may be called the Bombay Prevention of Adulteration Act, 1925.

(*2*) It extends to the whole of the Bombay Presidency.

*(*3*) It shall come into operation in the first instance only in the City of Bombay and thereafter either in respect of any specified article of food or generally in respect of all articles of food in such other local area and from such date as the Government of Bombay may, [2][after consultation with] the local authority concerned by notification in the [3][*Official Gazette*] direct.

Definitions.

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

(*a*) "*Food*" includes every article used for food or drink by man, other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food and also includes flavouring matters and condiments;

(*b*) "Local Area" means the City of Bombay or the area comprised within the limits of a municipality, cantonment, notified area or village

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[1]For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1924, Part V, page 80; for Report of the Select Committee, *see Bombay Government Gazette*, 1925, Part V, pages 14–17; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1924 and 1925, Vols. XIII and XV.

* This Act came into operation in the Municipal Borough of Surat from 1st March 1934, *vide* G. N. No. 8095 (*b*), dated the 13th December 1933, published in the *Bombay Government Gazette*, 1933, Part I, p. 3043.

[2]The words "after consultation with" were substituted for the words "at the request of" by Bom. 23 of 1935, s. 2.

[3]The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

or any place wherein a market or fair is held or any area which the Government of Bombay by notification declares to be a local area for the purposes of this Act;

(*c*) " Local Authority " means in the case of the City of Bombay the Municipal Commissioner [1][and in the case of the City of Karachi, the Chief Officer,] acting under the general or special orders of the Corporation [2][concerned], in the case of any other [3][municipal area] the municipality, in the case of a cantonment the cantonment authority, in the case of a notified area the person or committee appointed under section 188 of the [4]Bombay District Municipal Act, 1901,[5]* in the case of a district local board area, the district local board [6][and in the case of an area declared to be a village under the Bombay Village Panchayats Act, 1933, the panchayat];

Bom. III of 1901.

[7][(*d*) " Prescribed " means prescribed by rules made by the Government of Bombay under section 19;]

[7][(*e*) " Rule " means a rule made by the Government of Bombay under section 19.]

Prohibition of mixing of food with injurious ingredients or selling the same.

3. Any person who mixes, colours, stains or powders or orders or permits any other person to mix, colour, stain or powder any article of food with any matter or ingredient [8][in contravention of the rules or] so as to render the article injurious to health with intent that the same may be sold in that state or sells or offers, [9][keeps] or exposes for sale any such article so mixed, coloured, stained or powdered shall be [10][punishable for the first offence with fine which may extend to five hundred rupees and for every subsequent offence with simple imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both] :

Exemption in case of proof of absence of knowledge.

Provided that no person shall be liable to be convicted in respect of the sale [11][offer, keeping or exposing for sale] of any article of food if he proves to the satisfaction of the court before whom he is charged that he did not know of the article of food being so mixed, coloured, stained or

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[1]These words were inserted by Bom. 23 of 1935, s. 3 (*1*) (*i*).

[2]The word " concerned " was inserted by *ibid*, s. 3 (*1*) (*ii*).

[3]The words " Municipal area " were substituted for the word " municipality " by *ibid*, s. 3 (*1*) (*iii*).

[4]Vol. IV of Bom. Code.

[5]The word " and " was deleted by Bom. 23 of 1935, s. 3 (*1*) (*iv*).

[6]These words and figures were added by *ibid*, s. 3 (*1*) (*v*).

[7]Clauses (*d*) and (*e*) were added by *ibid*, s. 3 (*2*).

[8]The words " in contravention of the rules or " were inserted by *ibid*, s. 4 (*i*).

[9]The word " keeps " was inserted by *ibid*, s. 4 (*ii*).

[10]These words were substituted for the words " punished for the first offence with a fine which may extend to five hundred rupees and for every subsequent offence with a fine which may extend to one thousand rupees " by *ibid*, s. 4 (*iii*).

[11]The words " offer, keeping or exposing for sale " were inserted by *ibid*, s. 4 (*iv*).

powdered as aforesaid and that he could not with reasonable diligence have obtained such knowledge:

[1][Provided further that nothing in the preceding proviso shall exempt any person from liability under this section in respect of the sale, offer, keeping or exposing for sale of any article of food, if such article was imported from any place in which the provisions of this Act were not in operation in respect of the said article at the date of its importation.]

Prohibition of sale or manufacture for sale of food not of the proper nature, substance or quality.

4. [2][(*1*) Any person who—

(*a*) sells or causes to be sold or offers for sale to the prejudice of the purchaser any article of food which is not of the nature, substance or quality demanded by or on behalf of the purchaser, or

(*b*) manufactures or offers, keeps or exposes for sale any article of food which is not of the nature, substance or quality which it purports to be, or

(*c*) commits a breach of any of the prescribed conditions subject to which any article of food is to be sold or manufactured, offered, kept or exposed for sale,

shall be punishable for every first offence with fine which may extend to two hundred rupees and for every subsequent offence with simple imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.

Protection to persons acting in good faith.

(*2*) Provided that no offence shall be deemed to have been committed under this section in the following cases, that is to say—

(*a*) where any matter or ingredient not injurious to health has been added to the article of food because such matter or ingredient is required for the production or preparation thereof as an article of commerce in a state fit for carriage or consumption and not fraudulently to increase the bulk, weight or measure of the food or conceal the inferior quality thereof;

[3](*b*) where any matter or ingredient not injurious to health has been added to or mixed with or abstracted from any article of food, before the sale thereof, the seller has brought to the notice of the purchaser, by means of a label conforming to such conditions as may be prescribed by rules in this behalf, the fact that such matter or ingredient has been so added, mixed or abstracted or the article is composed of such matter or ingredients.

Explanation.—Ghee or butter which contains any substance not exclusively derived from milk shall be deemed to be an article of food not of the nature, substance or quality it purports to be.

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[1]This proviso was added by Bom. 23 of 1935, s. 4 (*v*).

[2]Sub-section (*1*) was substituted for the original sub-section by *ibid*, s. 5 (*1*).

[3]Clause (*b*) and the Explanation were substituted for the original clause and Explanations 1 and 2 by *ibid*, s. 5 (*2*).

What is or is not a good defence in prosecutions under this section.

(*3*) In any prosecution under this section it shall be no defence to allege that the seller was ignorant of the nature, substance or quality of the article of food sold by him, or that the article was not defective in all three respects, namely, nature, substance and quality:

Provided that the seller shall not be deemed to have committed an offence under this section if he proves to the satisfaction of the court—

(*a*) that the article sold was purchased or obtained as agent by him as the same in nature, substance and quality, as that demanded by the purchaser and with a written warranty to the effect that it was of such nature, substance and quality;

(*b*) that he had no reason to believe at the time when he sold it that the article was not of such nature, substance and quality as aforesaid; and

(*c*) that he sold it in the same state in which he purchased it.

[1][(*4*) No evidence of a warranty under proviso (*a*) to sub-section (*3*) shall be admissible on behalf of the seller—

(*a*) unless the seller has within three days of the service of the summons under section 13 sent to the complainant a copy of the warranty with a written notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it and has also sent a like notice of his intention to that person; and

(*b*) except in a case where the Court itself is otherwise satisfied of the genuineness of the warranty, unless such warranty is proved by the personal attendance in the Court of the person by whom or on whose behalf it was given.]

Explanation.—In calculating the period of three days under clause (*a*) public holidays within the meaning of section 25 of the Negotiable Instruments Act, 1881, shall be excluded. XXVI of 1881.

Penalty for false warranty.

5. Any person who in respect of an article of food sold by him as principal or agent gives to the purchaser a false warranty in writing shall be [2][punishable for every first offence with fine which may extend to five hundred rupees and for every subsequent offence with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both].

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[1]Sub-section (*4*) was inserted by Bom. 23 of 1935, s. 5 (*3*).

[2]These words were substituted for the words "punished for every first offence with a fine which may extend to five hundred rupees and for every subsequent offence with a fine which may extend to one thousand rupees" by *ibid*, s. 6.

Appointment of public analyst.

*6. (1) Save as provided in sub-section (2) the Government of Bombay may by notification in the [1][*Official Gazette*] appoint any qualified person possessing skill and experience to be a public analyst for the purpose of the Act for any local area.

(2) The Corporation of the City of Bombay may appoint any such person to be a public analyst for the purpose of the Act for the City of Bombay.

Power to purchaser of an article of food to have food analysed.

7. [2]Any purchaser of an article of food shall, within the seven days after the day of the purchase, be entitled, on payment to the public analyst of the local area in which the article is purchased, of such sum as the Government of Bombay may in the [1][*Official Gazette*] from time to time notify, to have such article, analysed by such analyst and to receive from him in the form specified in Schedule A a certificate of the result of his analysis. The analyst shall forthwith send a copy of every such certificate to the local authority of the local area for which he was appointed.

Appointment of Inspector.

8. [2]A local authority may, subject to rules made by the Government of Bombay in this behalf, appoint any person to be an inspector under this Act either specially for any article of food or generally for all articles of food.

Inspector may obtain article or sample of food and submit to analyst.

9. An inspector may, himself or by an agent, procure any article or sample of food, [3][manufactured, or offered, kept or exposed for sale] and if he suspects that such food [3][is offered, kept or exposed for sale or] has been sold contrary to the provisions of this Act, shall send such article or sample to be analysed to the public analyst of the local area within which the food was procured; and such analyst shall, upon receiving payment of the sum specified in section 7, with all convenient speed analyse the same and deliver to such inspector in the form specified in Schedule A a certificate of the result of his analysis. The analyst shall forthwith send a copy of every such certificate to the local authority of the local area for which he was appointed.

Dealing with the article of food or sample when purchased.

10. (1) Any person purchasing any article or sample of food with the intention of sending such article or sample for analysis shall, after the purchase shall have been completed, forthwith notify to the seller or his agent selling the article or sample his intention to have such article or sample analysed by the public analyst; and shall offer to divide the

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[1]The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2]For Rules under this section see *Bombay Government Gazette*, 1929, Part I, pp. 1650–1653, *see also* G. D. Notifications No. 8100, dated 24th March 1931, published in the *Sind Official Gazete*, 1931, Part I, pp. 1881-85; No. 8184, dated 25th November 1932, published in the *Bombay Government Gazette*, Part I-A of 1932, pp. 184-187; and No. 8095, dated 6th February 1934, published in the *Bombay Government Gazette*, 1934, Part I, pp. 382–385.

[3]These words were inserted by Bom. 23 of 1935, s. 7.

*The Officer in charge of the Public Health Laboratory at Poona was appointed to be a Public Analyst by Govt. Notifn. No. 8095(*a*), dated the 13th December 1933, published in the *Bombay Government Gazette*, 1933, Part. I, p. 3043.

article or sample into three parts to be then and there divided and each part to be marked and sealed and fastened in such manner as its nature permits, and shall, if required to do so, proceed accordingly and shall deliver one of the parts to the seller or his agent.

Provision when article or sample is not divided.

(2) If the seller or his agent do not accept the offer of the purchaser to divide the article or sample purchased in his presence, the public analyst receiving the article or sample shall divide such article or sample into two parts and shall seal or fasten up one of those parts and shall cause it to be delivered, either upon receipt of the article or sample or when he supplies his certificate, to the purchaser, who shall retain such part for production in case proceedings under this Act in respect of such article or sample should afterwards be taken.

Person refusing to sell food to inspector liable to penalty.

11. If any inspector duly authorised under section 8 shall apply to purchase any article or sample of food manufactured, exposed or offered for sale, whether wholesale or retail, and shall tender the price for the quantity which he shall require for the purpose of analysis not being more than shall be reasonably requisite and the person manufacturing, exposing or offering such food for sale refuses to sell such article or sample the person so refusing shall be, [1][punishable for every first offence with fine which may extend to two hundred rupees and for every subsequent offence with simple imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both].

Offence by which magistrate triable.

12. (1) No offence under this Act shall be triable by a magistrate exercising powers less than those of a magistrate of the second class.

(2)[2]* * * *

Summons when to be applied for and what it is to contain.

13. (1) No summons shall be issued for the attendance of a person accused of an offence under this Act unless the summons is applied for within thirty days of the date of the grant of the certificate by the public analyst of the result of his analysis.

(2) Every such summons shall specify the particulars of the offence charged, the name of the complainant and the date and place fixed for the hearing of the case. The case shall not be proceeded with until at least seven clear days have elapsed from the date of the service of the summons.

Certificate of public analyst to be evidence of facts therein stated.

14. (1) The production in any proceedings under this Act of certificate of a public analyst in the form specified in Schedule A shall, until the contrary is proved, be sufficient evidence of the facts therein stated.

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[1] These words were substituted for the words "punished with a fine which may extend to two hundred rupees" by Bom. 23 of 1935 s. 8.

[2] Sub-section (2) was omitted by the Adaptation of Indian Laws Order in Council.

(2) The court may, of its own accord or on the request of the complainant, or the accused, cause any article or sample of food to be sent for analysis to the Chemical Analyser to Government who shall thereupon with all convenient speed analyse the same and report the result of the analysis to the court. The cost of such analysis shall be paid by the complainant or accused as the court shall direct. Reference to Chemical Analyser to Government.

15. When any person accused of an offence under this Act proposes to produce as evidence a certificate of analysis of an analyst other than a public analyst he shall, at least three days before the date fixed for the hearing of the defence, send a copy of such certificate to the person conducting the prosecution. Certificate of analyst other than public analyst as evidence.

16. When any person is accused of an offence under this Act he may require the court to summon as a witness the public analyst who analysed the article or sample of food in respect of which he is accused of an offence and the court [1][may, and shall in every case in which the accused deposits in the Court such sum of money in accordance with the scale prescribed as would be sufficient to meet the expenses of the attendance of the analyst before the Court, summon the analyst. If such person is acquitted, any sum of money so deposited shall be refunded to him]. Public analyst to attend court in person.

17. It shall be lawful for an inspector appointed under this Act to enter for the purposes of this Act at [2][any time when business of manufacture or sale is being carried on or at any other reasonable time] into or upon any place which he has reason to believe is used for the manufacture or sale of any food : Entry for purposes of the Act.

Provided that in making such entry due regard shall be paid to the social and religious customs of the occupiers.

[3][**17A.** No place shall be used for the manufacture or preparation for the purpose of trade or carrying on the wholesale business of sale or purchase or supply, of butter, ghee, margarine, or any other fatty or oily substance intended for use as food or as an ingredient of food, without a licence granted by the local authority concerned subject to such conditions as may be prescribed. Licence for places used for the manufacture, etc., of certain articles.

Explanation.—For the purposes of this section the preparation of butter or ghee shall include the process of blending , reworking and subjecting to any other treatment such ghee or butter but not so as to make it cease to be butter or ghee, as the case may be.]

[3][**17B.** No licence shall be granted in respect of any place which is used for the purpose of blending, reworking or otherwise treating butter or ghee if such place forms part of or communicates otherwise than by No licence to be granted for certain premises.

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[1]These words were substituted for the words " shall thereupon summon the analyst as aforesaid " by Bom. 23 of 1935, s. 9.

[2]These words were substituted for the words " all reasonable times " by *ibid*, s. 10.

[3]Sections 17A, 17B, 17C, 17D and 17E were inserted by *ibid*, s. 11.

a public street with any other place which is used for any other purpose referred to in section 17A.]

Penalty for use of place in contravention of section 17A.

[1][**17C.** If the owner or occupier of any place uses such place for any of the purposes mentioned in section 17A in contravention of the said section or any of the conditions prescribed, such owner or occupier shall, on conviction, be punishable for every first offence with fine which may extend to one hundred rupees and for every subsequent offence with simple imprisonment which may extend to three months, or with fine which may extend to five hundred rupees or with both. On a conviction for such offence the licence granted in respect of the said place shall be liable to be cancelled.]

Registration of consignment.

[1][**17D.** (*1*) Every occupier of a place used for the manufacture of butter, ghee, margarine or any other fatty or oily substance intended for use as food or as an ingredient of food, and every wholesale dealer in any such substance, shall keep and maintain a statement in the form prescribed showing the quantity and destination of each consignment of butter, ghee, margarine, or any other such substance, as the case may be, sent out from his place or premises of manufacture or business, and the statement shall be open to the inspection of an officer of the local authority duly authorised in the manner prescribed.

(*2*) Any such occupier who

(*a*) fails to keep such statement; or

(*b*) refuses to produce the statement for inspection when required to do so by an officer of the local authority duly authorised; or

(*c*) fails to keep the statement posted up to date; or

(*d*) wilfully makes any entry in the statement which is false in any particular; or

(*e*) fradulently omits to enter any particulars which ought to be entered in the statement, shall be punishable for every first offence with fine which may extend to one hundred rupees and for every subsequent offence with fine which may extend to five hundred rupees.]

Prohibition of adulterants.

[1][**17E.** (*1*) No substance intended to be used for adulteration with butter or ghee shall be kept in any place used for the manufacture of butter or ghee and if any substance capable of being so used is found in such place either as such or mixed with butter or ghee, it shall be deemed to be intended to be so used, unless the contrary is proved.

(*2*) No fat or oil of any animal or fish shall be kept in any place used for the manufacture of any fatty or oily vegetable substance intended for use as food or as an ingredient of food, and if any such fat or oil capable of being so used is found either as such or mixed with the fatty or oily substance, it shall be deemed to be intended to be so used, unless the contrary is proved.

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[1]Sections 17A, 17B, 17C, 17D and 17E were inserted by Bom. 23 of 1935, s. 11.

(*3*) If the owner or occupier of any place used for the manufacture of butter, ghee or any fatty or oily vegetable substance referred to in sub-section (*2*) uses such place in contravention of the provisions of sub-section (*1*) or (*2*), such owner or occupier shall, on conviction, be punishable for every first offence with fine which may extend to one hundred rupees and for every subsequent offence with fine which may extend to five hundred rupees.]

Liability for acts done in good faith in discharge of duty or exercise of power.

18. No person shall be liable to any penalty or to payment of damages on account of any act done in good faith in pursuance of any duty imposed or authority conferred on him by any provision of this Act or of any rule, order or direction lawfully made or given thereunder.

Rules.

[1]19. [2](*1*) The Government of Bombay may, after previous publication, and in the case of the City of Bombay [3][after consultation] with the Corporation of the City of Bombay and in the case of other local areas [3][after consultation] with the local authorities concerned, make rules, not inconsistent with the provisions of this Act, for—

(*a*) regulating the appointment of inspectors under section 8;

(*b*) prescribing the qualifications of inspectors;

(*c*) determining what deficiency in any of the normal constituents of any article of food or what addition of extraneous matter shall raise a presumption, until the contrary is proved, that such food is injurious to health within the meaning of section 3 or is not of the nature, substance or quality it purports to be within the meaning of section 4 [4]* * * *.

[5][(*d*) prohibiting the use of any particular matter or ingredients in the manufacture or preparation of any article of food;

[5](*e*) specifying the conditions subject to which any article of food shall be sold or manufactured, offered, kept or exposed for sale;

[5](*f*) prescribing the manner in which, the conditions subject to which and the fees on payment of which, licences shall be granted under section 17A;

[5](*g*) prescribing the form of a statement to be kept and maintained under section 17D and the manner in which an officer of a local authority shall be authorised to inspect such statements;

[5](*h*) prohibiting the use or addition as a preservative of any article, material or substance in the manufacture or preparation for sale of any article of food;

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[1] For Rules under this section *see* Bombay Local Rules and Orders, Vol. IV.

[2] Section 19 was renumbered as sub-section (*1*) by Bom. 23 of 1935, s. 12 (*v*).

[3] The words "after consultation" were substituted for the words "in consultation" by *ibid*, s. 12(*i*).

[4] The words "and a public analyst shall have regard to such rules in certifying the result of an analysis under this Act; and" were omitted by *ibid* s. 12 (*ii*).

[5] Clauses (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), (*j*) and (*k*) were inserted by *ibid*, s. 12 (*iii*).

[1](*i*) prohibiting the storage of articles of food other than those approved under the rules ;

[1](*j*) prescribing the method in which labels shall be affixed, languages in which the labels shall be printed and the symbols which shall be used for different articles of food ;

[1](*k*) authorising a person taking a sample of milk or other article of food for purpose of analysis to add a preservative to such sample for maintaining it in a suitable condition for analysis and regulating the nature and method of addition of such preservative ; and]

[2](*l*) generally for carrying out the provisions of this Act.

[3][(*2*) The rules to be made under sub-section (*1*) shall be subject to the condition of previous publication.

(*3*) Rules made under sub-section (*1*) shall be laid upon the table of [4][each of the Chambers of the Legislature] at the session [5][of the said Chamber] next following and shall be liable to be modified or rescinded by a resolution [6][in which both Chambers concur] and such rule shall, after notification in the [7][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of [8][the Provincial Government] such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, [8][the Provincial Government] may, by notification in the [7][*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.]

Penalty for breach of rules.

[9][**19A.** Save as otherwise expressly provided for in this Act, any rule made under section 19 may provide that a contravention thereof shall be punishable with—

(*a*) in the case of every first contravention with fine which may extend to one hundred rupees ;

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[1] Clauses (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), (*j*) and (*k*) were inserted by Bom. 23 of 1935, s. 12 (*iii*).

[2] Clause (*d*) was relettered as clause (*l*) by *ibid*, s. 12 (*iv*).

[3] Sub-sections (*2*) and (*3*) were added by *ibid*, s. 12 (*v*).

[4] The words "each of the Chambers of the Legislature" were substituted for the words "the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[5] The words "of the said Chamber" were substituted for the words "of the said Council" by *ibid.*

[6] The words "in which both Chambers concur" were substituted for the words "of the said Council" by *ibid.*

[7] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

[8] The words "the Provincial Government" were substituted for the word "Government" by *ibid.*

[9] Section 19A was inserted by Bom. 23 of 1935, s. 13.

(*b*) in the case of every subsequent contravention with simple imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.]

Repeal.

20. On the coming into operation of the provisions of this Act in any local area in respect of any article of food, the enactments specified in Schedule B shall be deemed to have been repealed to the extent specified in the third column of the said Schedule in respect of such article in such local area.

SCHEDULE A.

(*See* SECTION 14.)

Form of Certificate.

To[1]

I, the undersigned, public analyst for the
do
hereby certify that I received on the
day of 19 ,
from[2]
a sample of for
analysis (which then weighed[3]), and
have analysed the same, and declare the result of my analysis to be as follows :—

I am of opinion that the same is a sample of genuine

or,

I am of opinion that the said sample contained the parts as under, or the percentages of foreign ingredients as under.

Observations.[4]

Dated Signature.

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[1] Here insert the name of the person submitting the article or sample for analysis.

[2] Here insert the name of the person delivering the article or sample.

[3] When the article or sample cannot be conveniently weighed, this passage may be erased or the blank may be left unfilled.

[4] Here the analyst may insert, at his discretion, his opinion as to whether the mixture (if any) was for the purpose of rendering the article portable or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary, or otherwise, and whether the ingredients or materials mixed are or are not injurious to health.

In the case of a certificate regarding milk, butter, or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

SCHEDULE B.

(*See* SECTION 20.)

Enactments Repealed.

No. and year of Act.	Title.	Extent of Repeal.
III of 1888 ..	The City of Bombay Municipal Act, 1888.	In section 417C the number, letter and word "417A or".
II of 1899 ..	The Bombay Prevention of Adulteration Act, 1899.	So much as remains unrepealed except section 6.
III of 1901 ..	The Bombay District Municipal Act, 1901.	Sub-section (2) of section 142.
III of 1902 ..	The Bombay District Municipal Act (1901) Amendment Act, 1902.	So much of the Schedule as relates to— (*a*) sub-section (2) of section 142 of the Bombay District Municipal Act, 1901; (*b*) sections 2, 4 and 5 of the Bombay Prevention of Adulteration Act, 1899.

THE BOMBAY BETTING TAX ACT, 1925.

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BOMBAY ACT No. VI OF 1925.[1]

[THE BOMBAY BETTING TAX ACT, 1925]

[*26th November, 1925*]

Amended by Bom. Act 4 of 1931.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to impose a tax on [2][certain forms of] betting.

WHEREAS it is necessary to make an addition to the public revenue of the Bombay Presidency and for that purpose to impose a tax on [2][certain forms of] betting :

AND WHEREAS the previous sanction of the Governor General required by section 80-A of the Government of India Act has been obtained for the passing of this Act ; It is hereby enacted as follows :— 5 & 6, Geo. V, c. 61.

1. This Act may be called the Bombay [3]* Betting Tax Act, 1925. Short title.

2. It extends to the whole of the Bombay Presidency. Extent.

3. (*1*) It shall come into operation [4]* * * in the first instance in— Operation.

(*a*) the City of Bombay, and

(*b*) the Cantonment of Poona.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1925, Part V, p. 62 ; for Report of Select Committee, see *ibid*, 1925, Part V, pp. 259-62 ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1925, Vols. XV and XVI.

[2] The words "certain forms of" were substituted for the word "totalisator" by Bom. 4 of 1931, s. 2.

[3] The word "Totalisator" was deleted by *ibid*, s. 3.

[4] The words "on the first day of December 1925" were repealed by *ibid*, s. 4.

(2) The [1][Provincial Government] may, by notification in the [2][*Official Gazette*], direct that this Act or any portion thereof shall come into operation in any other area in the Bombay Presidency on such date as may be specified in such notification:

[3]* * *

Definitions.

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

[4](*i*) "backer" includes any person who bets at a totalisator or with a licensed bookmaker;

(*ii*) "bet" includes "wager", and "betting" includes "wagering";

(*iii*) "prescribed" means prescribed by rules under this Act;

(*iv*) "licensee" means a person to whom a license has been granted for horse-racing on a race-course under section 4 of the [5]Bombay Race-courses Licensing Act, 1912; Bom. III of 1912.

[6][(*v*) "licensed bookmaker" means any person who carries on the business or vocation of or acts as a bookmaker or turf commission agent under a licence or permit issued by a licensee to enable him to carry on his business or vocation under the [5]Bombay Race-courses Licensing Act, 1912, as specified in the licence or permit;] Bom. III of 1912.

(*vi*) [7]"totalisator" means a totalisator in an enclosure which the licensees have set apart in accordance with the [5]Bombay Race-courses Licensing Act, 1912, and includes any instrument, machine or contrivance known as the totalisator or any other instrument, machine or contrivance of a like nature or any scheme for enabling any number of persons to make bets with one another on the like principles. Bom. III of 1912.

Tax on totalisator and payment thereof.

5. There shall be charged, levied and paid to the Government of Bombay out of all monies paid into any totalisator by way of stakes or bets a tax on backers hereinafter referred to as the totalisator tax at such rate not exceeding 4 per cent. of every sum so paid as the [1][Provincial Government] may from time to time notify [8]in this behalf; and such

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

[3] The proviso to sub-section (2) was omitted by *ibid.*

[4] This clause was substituted for the original clause by Bom. 4 of 1931, s. 5 (*a*).

[5] Vol. IV of Bom. Code.

[6] This clause was inserted by Bom. 4 of 1931, s. 5 (*b*).

[7] This was re-numbered as clause (*vi*) by *ibid* s. 5 (*c*).

[8] For Notification under this section, *see* Government Notification in the Revenue Department No. 4397A, dated the 17th June 1926, published in the *Bombay Government Gazette*, 1926, Part I, p. 1439.

portion of the monies so paid into a totalisator as is equal to the amount of the totalisator tax at the rate notified as aforesaid by the [1][Provincial Government] in this behalf shall be deemed to have been paid by the backer on account of the totalisator tax and shall be received by the licensees on behalf of the Government of Bombay.

Totalisator tax to be paid to Government.

6. The licensees shall forward at the time and in the manner and to the officer prescribed in this behalf a return stating the total amount of the monies paid into the totalisator at any meeting and shall whenever required make over to the prescribed officer the amount of the tax collected at each meeting.

Inspection of totalisator accounts.

7. Every person having the custody or control of totalisator accounts shall, when required in writing by an officer empowered in this behalf by the [1][Provincial Government], permit such officer or an officer authorized in writing by him in this behalf to inspect and to take copies of them.

Betting Tax.

[2][8. (*1*) There shall, as from such date as may be notified by the [1][Provincial Government] in this behalf, be charged, levied and paid to the Government of Bombay out of all monies paid or agreed to be paid to a licensed bookmaker by a backer in respect of a bet made in an enclosure set apart by the licensees in accordance with the provisions of the [3]Bombay Race-courses Licensing Act, 1912, on any race, a tax, hereinafter referred to as the betting tax, at such rate not exceeding 5 per cent. of all such monies as the [1][Provincial Government] may notifiy in this behalf.

Bom. III of 1912.

(*2*) The betting tax shall be collected and paid to Government in such manner as may be prescribed.]

List of licensed bookmakers.

[2][9. (*1*) The licensees shall, at such times and in such manner as may be prescribed, forward to the prescribed officer returns setting out the names of the bookmakers licensed or permitted by them, from time to time, to carry on the business or vocation of a bookmaker.

(*2*) All licensed bookmakers shall keep accounts of all sums paid or agreed to be paid by backers in respect of bets, in such manner as may be prescribed, and shall, when required in writing by an officer empowered in this behalf by [4][the Provincial Government], permit such officer, or any officer authorised in writing by him in this behalf, to inspect and take copies of such accounts.]

Method of recovery of totalisator tax.

[5]10. The totalisator tax payable under section 5 shall be recoverable from the licensees as an arrear of land revenue.

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[1]The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2]Sections 8 and 9 were inserted by Bom. 4 of 1931, s. 6.

[3]Vol. IV. of Bom. Code.

[4]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[5]These sections were re-numbered by Bom. 4 of 1931, s. 7.

Rules.

[1]11. The [2][Provincial Government] may make rules [3]for securing the payment of the totalisator tax [4][and the betting tax] the production and inspection of accounts kept under this Act, and generally for carrying into effect the provisions of this Act and for dealing with such matters as are herein directed to be prescribed.

Amendment of section 3 of Bom. I of 1923.

[1]12. [*The amendment made by this section has been incorporated in the Bombay Entertainments Duty Act, 1923*]. Bom. I of 1923.

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[1]These sections were re-numbered by Bom. 4 of 1931, s. 7.

[2]The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3]For Rules under this section, *see* Government Notifications, Revenue Department, No. 5457/E-24, dated the 22nd December 1925, published in the *Bombay Government Gazette*, 1925, Part I, pp. 3281-82; and No. 5457/24, dated 24th June 1931, published in the *Bombay Government Gazette*, 1931, Part I, pp. 1493-95.

[4]These words were inserted by Bom. 4 of 1931, s. 8.

THE BOMBAY CO-OPERATIVE SOCIETIES ACT, 1925.

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SCHEDULE.

BOMBAY ACT No. VII OF 1925.[1]

[THE BOMBAY CO-OPERATIVE SOCIETIES ACT, 1925]

[*4th December, 1925*]

Amended by Bom. Act 8 of 1933.
" " " " 22 of 1935.
" " " " 8 of 1936.
" " " " 17 of 1936.
" " " " 24 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to consolidate and amend the law relating to co-operative societies in the Presidency of Bombay.

WHEREAS it is expedient further to facilitate the formation and working of co-operative societies for the promotion of thrift, self-help and mutual aid among agriculturists and other persons with common economic needs so as to bring about better living, better business and better methods of production and for that purpose to consolidate and amend the law relating to co-operative societies in the Presidency of Bombay; and whereas the previous sanction of the Governor-General required by sub-section (*3*) of section 80-A of the Government of India Act has been obtained for the passing of this Act: It is hereby enacted as follows:—

5 & 6. Geo. V c. 61.

[2][CHAPTER I.

PRELIMINARY.]

1. This Act may be called the Bombay Co-operative Societies Act, 1925. Short title.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1924, Part V, pp. 46-48; for Report of Select Committee, *see ibid*, 1924, Part V, pp. 108–13 and *ibid*, 1925, Part V, pp. 68-70; and for proceedings in Council, *see* Bombay Legislative Council Debates, 1924 and 1925, Vols. XII, XIII and XV.

[2] The words and figure "Chapter I—*Preliminary*" were substituted for the word "*Preliminary*" by Bom. 8 of 1936, s. 2.

Extent. 2. This Act extends to the whole of the Presidency of Bombay.

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

(*a*) " by-laws " means by-laws registered under this Act and for the time being in force and includes a registered amendment of such by-laws ;

(*b*) " Committee " means the Committee of Management or other directing body to whom the management of the affairs of a society is entrusted ;

(*c*) " Member " includes a person joining in the application for the registration of a society or a person admitted to membership after registration in accordance with the rules and by-laws applicable to such society ;

(*d*) " Officer " includes a chairman, secretary, treasurer, member of committee or other person empowered under the rules or under the by-laws of a society to give directions in regard to the business of such society ;

(*e*) " Society " means a society registered or deemed to be registered under this Act ;

(*f*) " Registrar " means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act ;

(*g*) " Rules " means rules made under this Act ;

(*h*) (*1*) a " Resource society " means a society formed with the object of obtaining for its members the credit, goods or services required by them ;

(*2*) a " Producers' society " means a society formed with the object of producing and disposing of goods as the collective property of its members and includes a society formed with the object of the collective disposal of the labour of the members of such society ;

(*3*) a " Consumers' society " means a society formed with the object of obtaining and distributing goods to or of performing services for its members, as well as to other consumers and of dividing among its members and customers in a proportion prescribed by the rules or by the by-laws of such society, the profits accruing from such supply and distribution ;

(*4*) a " Housing society " means a society formed with the object of providing its members with dwelling houses on conditions to be determined by its by-laws ;

(*5*) a " General society " means a society not falling under any of the four classes abovementioned.

The Registrar shall classify all societies under one or other of the above heads and his decision shall be final.

A society formed with the object of facilitating the operations of any one of the above classes of societies shall be classified as a society of that class.

A list of all such societies, so classified shall be published annually in the [1][*Official Gazette*].

[2][CHAPTER II.

REGISTRATION.]

The Registrar.

4. [3][The Provincial Government] may appoint a person to be Registrar of Co-operative Societies for the presidency or any portion of it, and may appoint a person or persons to assist such Registrar, and may, by general or special order, confer on any such person or persons all or any of the powers of a Registrar under this Act.

Societies which may be registered.

5. Subject to the provisions hereinafter contained, a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act with or without limited liability :

Provided that, unless [3][the Provincial Government] by general or special order otherwise directs—

(*1*) the liability of a society of which a member is a society shall be limited ;

(*2*) the liability of a society of which the primary object is the creation of funds to be lent to its members, and of which the majority of the members are agriculturists and of which no member is a registered society shall be unlimited and the members of such a society shall, on its liquidation, be jointly and severally liable for and in respect of all obligations of such a society :

Provided further that when the question whether the liability of a society is limited or unlimited has once been decided by the Registrar at the time of registration his decision shall be final.

Restrictions on interest of member of society with limited liability and a share capital.

6. Where the liability of the members of a society is limited by shares, no member other than a society shall

(*a*) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules ; or

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] The words and figures "Chapter II—*Registration*" were substituted for the word "*Registration*" by Bom. 8 of 1936, s. 2.

[3] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*b*) have or claim any interest in the shares of the society exceeding three-thousand rupees : provided that if the society is a housing society a member may have or claim an interest in the shares of the society not exceeding Rs. 10,000.

Conditions of registration.

7. (*1*) No society, other than a society of which a member is a society, shall be registered under this Act, which does not consist of at least ten persons above the age of eighteen years and, where the object of the society is the creation of funds to be lent to its members, unless such persons—

(*a*) reside in the same town or village or in the same group of villages ; or

(*b*) save where the Registrar otherwise directs, are members of the same tribe, class, caste or occupation.

(*2*) The word " limited " shall be the last word in the name of every society with limited liability registered under this Act.

Power of Registrar to decide certain questions.

8. When any question arises whether for the purpose of the formation, or registration or continuance of a society under this Act a person is an agriculturist or a non-agriculturist, or whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular tribe, class, caste or occupation, the question shall be decided by the Registrar, whose decision shall be final.

Application for registration.

9. (*1*) For purposes of registration an application to register shall be made to the Registrar.

(*2*) The application shall be signed

(*a*) in the case of a society of which no member is a society, by at least ten persons qualified in accordance with the requirements of section 7, sub-section (*1*) ; and

(*b*) in the case of a society of which a member is a society, by a duly authorised person on behalf of every such society and where all the members of the society are not societies, by ten other members or, when there are less than ten other members, by all of them.

(*3*) The application shall be accompanied by a copy of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

Registration.

10. If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by-laws are not contrary to this Act or to the rules, he may register the society and its by-laws.

Evidence of registration.

11. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered

unless it is proved that the registration of the society has been cancelled.

Annual general meeting.

12. Every society shall within a period of three months after the date fixed for making up its accounts for the year under the rules for the time being in force call a general meeting of its members.

Special general meetings.

13. A special general meeting may be called at any time by a majority of the committee and shall be called within one month—

(*1*) on the requisition in writing of one-fifth of the members of the society, or

(*2*) at the instance of the Registrar.

Change of name: its effect.

14. A society may, by a resolution of a general meeting and with the approval of the Registrar, change its name: but such change shall not affect any right or obligation of the society, or of any of its members, or past members and any legal proceedings pending may be continued by or against the society under its new name.

Amalgamation or transfer of societies.

15. (*1*) Any two or more societies may, with the approval of the Registrar by a resolution passed by a three-fourths majority of the members present at a special general meeting of each such society held for the purpose, amalgamate as a single society; provided that each member has had clear fifteen days' written notice of the resolution and the date of the meeting. Such an amalgamation may be effected without a dissolution, or a division of the funds, of the amalgamating societies. The resolution of the societies concerned shall on such amalgamation be a sufficient conveyance to vest the assets and liabilities of the amalgamating societies in the amalgamated society.

(*2*) Any society may by a resolution passed in accordance with the procedure laid down in sub-section (*1*) transfer its assets and liabilities to any other society which is prepared to accept them:

Provided that when any such amalgamation or transfer of assets and liabilities involves the transfer of its liabilities by any society to any other society, it will not be made without giving three months' notice to the creditors of both or all such societies:

Provided further that if a creditor or creditors of any of the societies concerned objects or object to such amalgamation or transfer of assets and liabilities and gives or give written notice to that effect to the society or societies concerned one month before the date fixed for such amalgamation or transfer, the amalgamation or transfer shall not be made until the dues of such creditor or creditors have been satisfied.

Amendment of the by-laws of a society.

16. (*1*) No amendment of the by-laws of a society shall be valid until approved by the resolution of a general meeting and registered under this Act, for which purpose a copy of the amendment shall be forwarded to the Registrar.

(*2*) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may register the amendment.

(*3*) When the Registrar registers an amendment of the by-laws of a society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

[1][CHAPTER III.

RIGHTS AND LIABILITIES OF MEMBERS.]

No rights of membership to be exercised till due payments are made.

17. No person shall exercise the rights of a member of a society unless or until he has made such payment to the society in respect of membership, or acquired such interest in the society as may be prescribed by the rules or the by-laws of such society.

Votes of members.

18. (*1*) No member of any society shall have more than one vote in its affairs, provided that in the case of an equality of votes the chairman shall have a casting vote.

(*2*) A society which has invested any part of its funds in the shares of another society, may appoint one of its members to vote in the affairs of such other registered society.

Restrictions on transfer of share or interest.

19. (*1*) The transfer or charge of the share or interest of a member in the capital of a society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules.

(*2*) A member shall not transfer any share held by him or his interest in the capital or property of any society or any part thereof unless

(*a*) he has held such share or interest for not less than one year; and

(*b*) the transfer or charge is made to the society or to a member of the society or to a person whose application for membership has been accepted by the society.

[2][CHAPTER IV.

DUTIES OF SOCIETIES.]

Address of societies.

20. Every society shall have an address registered in accordance with the rules, to which all notices and communications may be sent, and shall send notice in writing to the Registrar of any change in the said address within 30 days of such change.

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[1] The words and figures "Chapter III—*Rights and liabilities of members*" were substituted for the words "*Rights and liabilities of members*" by Bom. 8 of 1936, s. 2.

[2] The words and figures "Chapter IV—*Duties of societies*" were substituted for the words "*Duties of societies*" by *ibid.*

21. Every society shall keep open to inspection at all reasonable times at the registered address of the society— Copy of Act, etc., to be open to inspection.

(*a*) a copy of this Act,

(*b*) a copy of the rules governing such society,

(*c*) a copy of the by-laws of such society, and

(*d*) a register of its members.

22. (*1*) The Registrar shall by himself or by some person authorized by him in writing by general or special order in this behalf audit the accounts of every society once at least in every year. Au

(*2*) The audit under sub-section (*1*) shall include an examination of overdue debts, if any, the verification of cash balance and securities, and a valuation of the assets and liabilities of the society.

(*3*) The Registrar or other person auditing the accounts of any society shall have free access to the books, accounts and vouchers of such society and shall be allowed to verify its cash balances and securities.

The Directors, Managers, and other officers of the society shall furnish to the Registrar or other person appointed to audit the accounts of a society all such information as to its transactions and working as the Registrar or such person may require.

(*4*) The Registrar and every other person appointed to audit the accounts of a society shall have power, when necessary

(*i*) to summon at the time of his audit any officer, agent, servant or member of the society who he has reason to believe can give valuable information in regard to any transaction of the society or the management of its affairs, or

(*ii*) to require the production of any book or document relating to the affairs of any cash or securities belonging to the society by the officer, agent, servant or member in possession of such book, document, cash or securities.

[1][CHAPTER V.

PRIVILEGES OF SOCIETIES.]

23. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution. Societies to be bodies corporate.

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[1] The words and figures "Chapter V—*Privileges of societies*" were substituted for the words "*Privileges of societies*" by Bom. 8 of 1936, s. 2.

Prior claim of society.

24. Subject to any prior claim of [1][the Crown] in respect of land revenue or any money recoverable as land revenue or of a landlord in respect of rent or any money recoverable as rent,

(*a*) any debt or outstanding demand owing to a society by any member or past member shall be a first charge (*i*) upon crops or other agricultural produce raised in whole or in part with a loan taken from the society by such member or past member, and (*ii*) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture or workshops, godown or place of business, supplied to or purchased by such member or past member in whole or in part from any loan whether in money or goods given him by the society :

Provided that nothing contained in this clause shall affect the claims of any *bona fide* purchaser or transferee for value without notice of any such crops or other agricultural produce, cattle, fodder for cattle or raw materials for manufacture or workshops, or agricultural or industrial implements ; and

(*b*) any outstanding demands or dues payable to a housing society by any member or past member in respect of rent, shares, loans, or purchase money or any other rights or amounts payable to such society shall be a first charge upon his interest in the immoveable property of the society.

Charge and set-off in respect of shares or interest of member.

25. A society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set off any sum credited or payable to a member or past member in or towards payment of any such debt.

Shares or interest not liable to attachment.

26. Subject to the provisions of section 25, the share or interest of a member in the capital of a society or in any provident fund established under section 41 of this Act shall not be liable to attachment or sale under any decree or order of a court of justice in respect of any debt or liability incurred by such member, and neither the Official Assignee, under the [2]Presidency towns-insolvency Act, 1909, nor a Receiver under the [2]Provincial Insolvency Act, 1920, shall be entitled to or have any claim on such share or interest.

III of 1909.

V of 1920.

Transfer of interest on death of member.

27. (*1*) On the death of a member of a society such society may within a period of one year from the death of such member transfer the share or interest of the deceased member to a person or persons nominated in accordance with the by-laws of the society, if duly admitted a member of the society, in accordance with the rules or the by-laws of the

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[1] The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] Central Acts.

society, or, if there is no person so nominated, to such person as may appear to the Committee to be the heir or legal representative of the deceased member if duly elected a member of the society, or may pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest as ascertained in accordance with the rules or by-laws:

Provided that such nominee, heir or legal representative, as the case may be, may require that payment shall be made by the society within one year from the death of the member of the value of the share or interest of such member ascertained as aforesaid.

(*2*) A society shall subject to the provisions of section 25 and unless prevented by an order of a competent court pay to such nominee, heir or legal representative, as the case may be, all other moneys due to the deceased member from the society.

(*3*) All transfers and payments made by a society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Liability of past member.

28. The liability of a past member for the debts of a society as they existed at the time when he ceased to be a member, shall continue for a period of two years from the date of his ceasing to be a member.

Liability of the estates of deceased members.

29. The estate of a deceased member shall be liable for a period of one year from the date of his decease for the debts of a society as they existed at the time of his death.

Register of members.

30. Any register or list of members or shares kept by any society shall be *prima facie* evidence of any of the following particulars entered therein:—

(*a*) the date at which the name of any person was entered in such register or list as a member;

(*b*) the date at which any such person ceased to be a member.

Admissibility of copy of entry as evidence.

31. (*1*) A copy of any entry in any book, register or list regularly kept in the course of business in the possession of a society shall, if duly certified in such manner as may be prescribed by the rules, be admissible in evidence of the existence of the entry and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original entry would, if produced, have been admissible to prove such matters.

(*2*) In the case of such societies as [1] [the Provincial Government] by general or special order may direct no officer of a society shall in any legal proceedings to which the society is not a party be compelled to produce any of the society's books, the contents of which can be proved

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

under sub-section (*1*), or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

Exemption from compulsory registration of instruments relating to shares and debentures of society.

32. Nothing in section 17, sub-section (*1*), clauses (*b*) and (*c*), of the [1]Indian Registration Act, 1908, shall apply to— XVI of 1908

(*1*) any instrument relating to shares in a society, notwithstanding that the assets of the society consist in whole or in part of immoveable property ; or

(*2*) any debenture issued by any society and not creating, declaring, assigning, limiting or extinguishing any rights, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or

(*3*) any endorsement upon or transfer of any debenture issued by any society.

Power to exempt from income-tax, stamp-duty, registration and court fees.

33. (*1*) The [2][Central Government], by notification in the [3][*Official Gazette*], may, in the case of any society or class of societies, remit the income-tax or super-tax payable in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits or in respect of interest on securities held by the society.

(*2*) The [4][Government] by notification in the [5][*Official Gazette*] may, in the case of any society or class of societies, remit—

(*a*) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a society or by an officer or member and relating to the business of the society, or any class of such instruments or awards of the Registrar or arbitrators under this Act are respectively chargeable ; and

(*b*) any fee payable under the law of registration and of court fees for the time being in force.

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[1] Central Acts.

[2] The words "Central Government" were substituted for the words "Governor General in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Gazette of India*" by *ibid.*

[4] The word "Government" was substituted for the words "Local Government" by *ibid.*

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

[1][In this sub-section " Government " in relation to stamp-duty, means the Government which is the collecting Government for the purposes of the Indian Stamp Act, 1899, in relation to court fees means the Government which is the appropriate Government for the purposes of the Court Fees Act, 1870, and save as aforesaid means the Provincial Government.]

Provincial Government may give loans or guarantee interest.

33A. With such safeguards as may be prescribed by rules in this behalf [2][the Provincial Government] may give loans to societies or guarantee the payment of [3][the principal of debentures issued by them or of interest thereon or both].

[4][CHAPTER VI.

PROPERTY AND FUNDS OF SOCIETIES.]

Restrictions on loans.

34. (*1*) Except with the general or special sanction of the Registrar a society shall not make a loan to any person other than a member.

(*2*) Save with the sanction of the Registrar, a society with unlimited liability shall not lend money on the security of moveable property.

(*3*) [2][The Provincial Government] may, by general or special order, prohibit or restrict the lending of money on mortgage of immoveable property by any society or class of societies.

Restrictions in borrowing.

35. A society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by the by-laws of the society.

Restrictions on other transactions with non-members.

36. Consumers', Producers' and Housing Societies may to the extent permitted by their by-laws trade with persons who are not members, but the transactions of a Resource society with persons other than members except as provided under section 34 or 35 shall be subject to such prohibitions and restrictions, if any, as [2][the Provincial Government] may by rules prescribe.

Investment of funds.

37. A society may invest or deposit its funds—

(*a*) in the Government Savings Bank ; or

I of 1882. (*b*) in any of the securities specified in section 20 of the [5]Indian Trusts Act, 1882 ; or

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[1] These words were inserted by the Adaptation of Indian Laws Order in Council.

[2] The words " the Provincial Government " were substituted for the word " Government " by *ibid.*

[3] These words were substituted for the words "interest on debentures issued by them " by Bom. 22 of 1935, s. 2.

[4] These words and figures " Chapter VI—*Property and funds of societies* " were substituted for the words " *Property and funds of societies* " by Bom. 8 of 1936, s. 2.

[5] Central Acts.

(*c*) in the shares or on the security of any other society, provided that no such investment shall be made in the shares of any society other than one with limited liability ; or

(*d*) with any bank or person carrying on the business of banking approved for this purpose by the Registrar ; or

(*e*) in any other mode permitted by the rules.

Restrictions on dividend.

38. No society shall pay a dividend to its members at a rate exceeding 10 per cent.

Reserve Fund.

39. (*1*) Every society which does or can derive a profit from its transactions shall maintain a reserve fund.

(*2*) In the case of a Resource or Producers' society at least $\frac{1}{4}$th of the net profits of the society each year shall be carried to the reserve fund and in the case of any other society at least 1/10th of the net profits of the society each year shall be carried to the reserve fund, and such reserve fund may be used in the business of the society or may be invested, subject to the provisions of section 37, as [1][the Provincial Government] may by general or special order direct, or may, with the previous sanction of [1][the Provincial Government] be used in part for some public purpose likely to promote the objects of this Act or for some purposes of provincial or local interest.

Restrictions on distribution of profits.

40. Subject to the provisions of section 38 the balance of the profits of a society after making the prescribed provision for the reserve fund may, together with any available profits of past years be distributed among its members, and in the case of Consumers' and Producers' societies, also among persons who are not members, to the extent and under the conditions prescribed by the rules or by the by-laws of such societies, provided that :—

(*a*) in the case of a Resource society on a basis of unlimited liability in which the members do not hold shares, no distribution of profits shall be made without the general or special order of [1][the Provincial Government] in this behalf ; and

(*b*) in the case of a Resource society on a basis of unlimited liability in which the members hold shares, no such distribution of profits shall be made until 10 years from the date of registration of the society have elapsed.

Provident Fund.

41. Any society may establish a provident fund for its members out of contributions from such members in accordance with by-laws made by the society in this behalf and may contribute to such provident fund from its net profits, after the prescribed payments have been made

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[1] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

to the reserve fund, provided that such provident fund shall not be used in the business of the society but shall be invested under the provisions of section 37; and provided further, that no part of such provident fund shall be considered as an asset of the society.

Contribution to charitable purpose.

42. With the approval of the Bombay Central Co-operative Institute and after the payments prescribed by sub-section (*2*) of section 39 have been made to the reserve fund, any society may—

(*a*) set aside a sum not exceeding 20 per cent. of its net profits, and

(*b*) utilize from time to time the whole of such sum in contributing to any public or co-operative purpose, or to a charitable purpose as defined in section 2 of the [1] Charitable Endowments Act, 1890.

VI of 1890.

[2][CHAPTER VII.

INSPECTION OF AFFAIRS.]

Inquiry by Registrar.

43. (*1*) The Registrar may of his own motion by himself or by a person duly authorised by him in writing in this behalf hold an inquiry into the constitution, working and financial condition of a society.

(*2*) The Registrar shall hold such an inquiry as is contemplated in sub-section (*1*) of this section—

(*a*) on the requisition of a society, duly authorised by rules made in this behalf to make such requisition, in respect of one of its members, such member being itself a society,

(*b*) on the application of a majority of the Committee of the society,

(*c*) on the application of ⅓rd of the members of the society.

(*3*) All officers and members of the society whose affairs are investigated shall furnish such information in their possession in regard to the affairs of the society as the Registrar or the person authorized by the Registrar may require.

(*4*) The result of any inquiry under this section shall be communicated to the society whose affairs have been investigated.

Inspection of books of indebted society.

44. (*1*) The Registrar may, on the application of a creditor of a society inspect or direct some person authorized by him by order in writing in this behalf to inspect the books of the society:

Provided that—

(*a*) the applicant satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

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[1] Central Acts.

[2] These words and figures "Chapter VII—*Inspection of affairs*" were substituted for the words "*Inspection of affairs*" by Bom. 8 of 1936, s. 2.

(*b*) the applicant deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(*2*) The Registrar shall communicate the result of any such inspection to the creditor.

Costs of inquiry.

45. Where an inquiry is held under section 43 or an inspection is made under section 44 the Registrar may apportion the costs, or such part of the costs, as he may think right, between the society, the members or creditor demanding the inquiry or inspection, the officers or former officers, and the members or past members of the society :

Provided that—

(*a*) no order of apportionment of the costs shall be made under this section unless the society or persons liable to pay the costs thereunder has or have been heard or has or have had a reasonable opportunity of being heard ;

(*b*) the Registrar shall state in writing under his own hand the grounds on which the costs are apportioned.

Recovery of costs.

46. Any sum awarded by way of costs under section 45 may be recovered, on application by the Registrar to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides, or carries on business, by the distress and sale of any moveable property within the limits of the jurisdiction of such Magistrate belonging to such person, and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

[1][CHAPTER VIII.

LIQUIDATION AND ARBITRATION.]

Winding up.

47. If the Registrar, after an inquiry has been held under section 43 or after an inspection has been made under section 44 or on receipt of an application made by three-fourths of the members of a society present at a special general meeting, called for the purpose or of his own motion. in the case of a society that has not commenced working, or has ceased working, or possesses shares or members' deposits not exceeding Rs. 500, is of opinion that the society ought to be wound up, he may issue an order directing it to be wound up, and when necessary, may appoint a liquidator for the purpose and fix his remuneration.

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[1] The words and figures "Chapter VIII—*Liquidation and Arbitration*" were substituted for the words "*Liquidation and Arbitration*" by Bom. 8 of 1936, s. 2.

Society may be wound up if membership is reduced.

48. Where it is a condition of the registration of a society that it shall consist of at least ten members who are majors, the Registrar may by order in writing direct the society to be wound up, if at any time it is proved to his satisfaction that the membership has been reduced to less than ten such members.

Effect of cancellation of registration.

49. When the affairs of a society for which a liquidator has been appointed under section 47 have been wound up, or, where no liquidator has been appointed, after two months from the date of an order under section 47, or after confirmation of such order in appeal, the Registrar shall make an order cancelling the registration of the society, and the society shall be deemed to be dissolved from the date of such order.

Powers of a liquidator.

50. A liquidator appointed under section 47 shall have power with the sanction of the Registrar to do all or any of the following things :—

(*a*) pay any class or classes of creditors in full;

(*b*) make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim, present or future, whereby the society may be rendered liable;

(*c*) to compromise all calls or liabilities to calls and debts, and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt, or claim and give a complete discharge in respect thereof;

(*d*) from time to time to determine the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officer to the assets of the society, such contribution including debts due from such members or persons;

(*e*) to institute and defend suits and other legal proceedings on behalf of the society in the name of his office;

(*f*) to issue requisitions under section 59 upon the Collector for the recovery as arrears of land revenue of any sum ordered by him to be recovered as dues from members, or as a contribution to the assets of the society or to the cost of liquidation;

(*g*) to get disputes referred to arbitration;

(*h*) to investigate all claims against the society and subject to the provisions of this Act to decide questions of priority arising out of such claims, and to pay rateably according to the amount of such debts, the surplus if any being applied in payment of interest from the date

of liquidation at a rate to be fixed by the Registrar and not exceeding the contract rate;

(*i*) to determine by what persons and in what proportion the cost of the liquidation shall be borne;

(*j*) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;

(*k*) to fix the time or times within which creditors shall prove their debts and claims or be included for the benefit of any distribution made before those debts or claims are proved;

(*l*) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same:

Provided that no liquidator shall determine the contribution, debt or dues to be recovered from a past member or the representative of a deceased member unless opportunity has been given to such past member or to such representative to answer the claim.

Power of Registrar to assess damage against delinquent promoters, etc.

50A. (*1*) Where, in the course of the winding up of a society it appears that any person who has taken part in the organization or management of the society or any past or present chairman, secretary, member of the managing committee or officer of the society has misapplied or retained or become liable or accountable for any money or property of the society or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar may, on the application of the liquidator or of any creditor or contributory, examine into the conduct of such person and make an order requiring him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retainer, misfeasance or breach of trust as the Registrar thinks just.

(*2*) This section shall apply notwithstanding that the act is one for which the offender may be criminally responsible.

Bar of suit in winding up and dissolution matters.

51. Save in so far as is expressly provided in this Act no civil court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act and when a winding up order has been made no suit or other legal proceeding shall lie or be proceeded with against the society except by leave of the Registrar and subject to such terms as he may impose.

Disposal of surplus assets.

52. After all the liabilities including the paid-up share capital of a cancelled society have been met, the surplus assets shall not be divided amongst its members but they shall be devoted to any object or objects described in the by-laws of the society and when no object is so described to any object of public utility determined by the general meeting of the society and approved by the Registrar or they may in

consultation with them either be assigned by the Registrar in whole or in part to any or all of the following :—

(*a*) an object of public utility of local or communal interest,

VI of 1890. (*b*) a charitable purpose as defined in section 2 of the [1]Charitable Endowments Act, 1890,

(*c*) the Bombay Central Co-operative Institute, or may be placed on deposit with a Central Co-operative Bank until such time as a new society with similar conditions is registered when with the consent of the Registrar such surplus may be credited to the reserve fund of such new society.

Surplus assets of housing society.

53. Where the society directed to be wound up is a housing society, its assets, both moveable and immoveable, shall for the purposes of winding up or dissolution of the society jointly vest, subject to all rights and equities, in three persons of whom one shall be nominated by the Registrar, one shall be nominated by the said Society in a general meeting specifically called for the purpose and one shall be nominated by the Bombay Central Co-operative Institute. Such persons shall, for the purpose of winding up or dissolution of the Society be Joint Liquidators and shall have all the powers of a liquidator under this Act. They may, with the sanction of the Registrar, continue the working of the society, or may, subject to his sanction and in consultation with the members of the society in a general meeting, reconstruct the society or may sell off the premises of the society to the best advantage of all interests concerned, and when all the liabilities of the society are met, may dispose of the surplus assets of the society if any, as provided in section 52.

Arbitration.

54. If any dispute touching the business of a society arises between members or past members of the society or persons claiming through a member or past member or between members or past members or persons so claiming and any officer, agent, or servant of the society or between the society or its committee, and any officer, agent, member or servant of the society, it shall be referred to the Registrar for decision by himself or his nominee, or if either of the parties so desires, to arbitration of three arbitrators who shall be the Registrar or his nominee and two persons of whom one shall be nominated by each of the parties concerned.

A dispute shall include claims by a society for debts or demands due to it from a member or past member or the heirs or assets of a past member whether such debts or demands be admitted or not.

Provided that if the question at issue between a society and a claimant, or between different claimants, is one involving complicated questions of law and fact, the Registrar may, if he thinks fit, suspend proceedings in the matter until the question has been tried by a regular suit instituted

[1] Central Acts.

by one of the parties or by the society. If no such suit is instituted within six months of the Registrar's order suspending proceedings the Registrar shall take action as laid down in paragraph 1 of this section.

Registrar's power to set aside the award and order the dispute to be referred back to arbitration.

[1][**54A.** (*1*) In the case of any award made by the arbitrators under section 54, the Registrar, if he is not one of such arbitrators may of his own motion or on the application of any of the parties to the award, for reasons to be recorded in writing, set aside the award and order that the dispute shall be referred back to arbitration in the manner provided under the said section:

Provided that no such order shall be made—

(*a*) after the issue of a certificate under section 59 for the execution of the award, and

(*b*) unless the Registrar is of opinion that—

(*i*) an objection to the legality of the award is apparent on the face of it, or

(*ii*) the award has been vitiated in consequence of corruption or misconduct on the part of any of the arbitrators, or

(*iii*) the award is in any way perverse.

(*2*) In making an order under sub-section (*1*), the Registrar may direct that all or any of the arbitrators who made the award shall not act again as arbitrators for deciding the dispute.

(*3*) Where a dispute is referred back to arbitration under sub-section (*1*), the arbitrators shall make a fresh award within such time as may be fixed by the Registrar. If the arbitrators fail to make a fresh award within the time so fixed, the Registrar or his nominee shall decide the dispute.]

Attachment before award.

55. Where a dispute has been referred to the Registrar under section 54 or to arbitration under clause (*g*) of section 50, the Registrar or his nominee or the arbitrators, as the case may be, if satisfied on inquiry or otherwise, that a party to such arbitration with intent to delay or obstruct the execution of any award that may be made,—

(*a*) is about to dispose of the whole or any part of his property, or

(*b*) is about to remove the whole or any part of his property from the jurisdiction of the Registrar,

may unless adequate security is furnished direct the conditional attachment of the said property; and such attachment shall have the same effect as if made by a competent Civil Court.

Appeal against award of arbitrator.

56. Any party aggrieved by any decision of the Registrar's nominee made under section 54 [2][or sub-section (*3*) of section 54A] or an order passed under section 55 by the Registrar's nominee or arbitrators may within one month of the date of the award or order appeal to the Registrar and the Registrar shall decide the appeal himself.

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[1] Section 54A was inserted by Bom. 17 of 1936, s. 2.

[2] The words, figures, brackets and letter "or sub-section (*3*) of section 54A", were inserted by *ibid*, s. 3.

Finality of order.

57. An order passed in appeal under section 56 shall be final and conclusive. The award of the arbitrators or a decision by the Registrar or his nominee under section 54 [1][or 54A] shall not be liable to be called in question in any civil or revenue court.

Powers to enforce attendance.

58. Wherever in this Act it is provided that the Registrar or person duly authorized by general or special order in writing by the Registrar in this behalf shall hold an inquiry under section 43 or shall make an inspection under section 44 or shall wind up a society or shall arbitrate, such Registrar, or person authorized, as the case may be, shall have the power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel them to give evidence, and to compel the production of documents by the same means and as far as possible in the same manner as is provided in the case of a civil court by the Code of Civil Procedure, 1908.

V of 1908.

Money how recovered.

59. (*1*) Every order passed by a liquidator under section 50, or by the Registrar or his nominee or arbitrators on disputes referred to him or them under clause (*g*) of section 50 or under section 54 [2][or under sub-section (*3*) of section 54A] every order passed in appeal under section 56 and every order passed by [3][the Provincial Government] in appeal against orders passed under sections 50, [4][54 or sub-section (*3*) of section 54A] shall, if not carried out, be executed—

(*a*) on a certificate signed by the Registrar or a liquidator by any civil court in the same manner as a decree of such court; or

(*b*) according to the law and under the rules for the time being in force for the recovery of arrears of land revenue, provided that any application for the recovery in such manner of any such sum shall be made to the Collector and shall be accompanied by a certificate signed by the Registrar or by an Assistant Registrar to whom the said power has been delegated by the Registrar.

(*2*) [5]* * * * *

Transfer of property which cannot be sold.

[6][**59A.** (*1*) When in execution of an order sought to be executed under section 59, any property cannot be sold for want of buyers, if such property is in the occupancy of the defaulter or of some person on his behalf or of some person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar, Liquidator or Assistant Registrar under clause (*a*) or (*b*) of sub-section (*1*), the Court or the Collector, as the case may be, may, with the previous consent of

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[1]The word, figures and letter " or 54A " were inserted by Bom. 17 of 1936, s. 4.

[2]The words, figures and letter " or under sub-section (*3*) of section 54A " were inserted by *ibid*, s. 5 (*i*).

[3]The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[4]The words, figures, letter and brackets " 54 or sub-section (*3*) of section 54A " were substituted for the word and figures " and 54 " by Bom 17 of 1936, s. 5 (*ii*).

[5]Sub-section (*2*) was repealed by Bom. 22 of 1935, s. 3.

[6]Section 59A was inserted by *ibid*, s. 4.

the Registrar, direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order and that the said property or the portion shall be delivered to the society in the prescribed manner.

(*2*) Subject to such rules as may be made in this behalf and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any other person, such property or portion thereof shall be held by the said society on such terms and conditions as may be agreed upon between the Court or the Collector, as the case may be, and the said society :

Provided that any private transfer or delivery of or encumbrance or charge on the property made or created after the issue of the certificate of the Registrar, Liquidator or Assistant Registrar, as the case may be, under section 59 shall be null and void as against the said society.]

[1][CHAPTER IX.

OFFENCES.]

Offences.

60. It shall be an offence under this Act if—

Default by a society officer or member.

(*a*) a society with a working capital of Rs. 50,000 or more or an officer or member thereof fails without any reasonable excuse to give any notice, send any return or document, do or allow to be done anything which the society, officer or member is by this Act required to give, send, do or allow to be done ; or

Wilful neglect or default by a society, etc.

(*b*) a society or an officer or a member thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the Registrar or other person duly authorised by him in writing in this behalf ; or

Wilful furnishing of false information.

(*c*) a society or an officer or member thereof wilfully makes a false return or furnishes false information ; or

Disobedience of summons, requisition or order.

(*d*) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorized to do so under the provisions of this Act.

Penalty for Offences not otherwise provided for.

61. Every society, officer or member of a society or other person guilty of an offence under this Act for which no penalty is expressly provided herein shall be liable to a fine not exceeding Rs. 50.

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[1] The words and figures " Chapter IX—Offences " were substituted for the word " Offences " by Bom. 8 of 1936, s. 2.

62. (*1*) No person other than a registered society shall without the sanction of [1][the Provincial Government] trade or carry on business under any name or title of which the word "co-operative" or its vernacular equivalent forms part: Prohibition of the use of the word "co-operative."

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into operation.

(*2*) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

63. (*1*) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act. Cognizance of offences.

V of 1898. (*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence under this Act shall, for the purposes of the said Code, be deemed to be non-cognizable.

(*3*) No prosecution under this Act shall be lodged without the previous sanction of the Registrar, which shall not be given except after hearing the party concerned.

[2][CHAPTER X.

APPEALS AND REVISION.]

64. An appeal against an order or decision of or sanctioned by the Registrar under section 10, 16, 45, 47, 50, 50A, [3][54 or sub-section (*3*) of section 54A] may be made by any party aggrieved or affected by the order or decision to [1][the Provincial Government] within two months of the date of the communication of the order. Appeals.

64A. [4][The Provincial Government] and the Registrar may call for and examine the record of any inquiry or the proceedings of any officer subordinate to them for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If in any case, it shall appear to [4][the Provincial Government] or the Registrar that any decision or order or proceedings so called for should be modified, annulled or reversed, [4][the Provincial Government] or the Registrar, as the case may be, may pass such order thereon as to it or him may seem fit. Power of Provincial Government and the Registrar to call for proceedings of Subordinate Officers and to pass orders thereon.

[1]The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2]The words and figure "Chapter X—Appeals and Revision" were substituted for the words "Appeals and Revision" by Bom. 8 of 1936, s. 2.

[3]The words, figures, brackets and letter "54 or sub-section (*3*) of section 54A" were substituted for the word and figures "or 54" by Bom. 17 of 1936, s. 6.

[4]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[1][CHAPTER XI.

CROP PROTECTION SOCIETIES.

Application of this chapter.

64B. This chapter shall apply to Crop Protection Societies only.

Definitions.

64C. In this chapter, unless there is anything repugnant in the subject or context,—

(*a*) 'Board' means the Board constituted under section 64D;

(*b*) 'Crop Protection Society' means a society formed with the object of securing the protection and improvement of crops by the erection of fences, embankments, walls or other enclosures or by the employment of watchmen;

(*c*) 'Director of Agriculture' means the officer appointed for the time being to be the Director of Agriculture, and includes any officer appointed by [2][the Provincial Government] to perform the duties of the Director of Agriculture under this Act;

(*d*) 'Inquiry Officer' means an officer appointed to hold an inquiry under this chapter;

(*e*) 'Owner' includes an owner in severalty in common or joint and includes also an occupant as defined in the Bombay Land Revenue Code, 1879, a permanent tenant or tenant holding a lease for a period of not less than ten years and a mortgagee in possession. Bom. V of 1879.

Constitution of Board.

64D. (*1*) For the purposes of this chapter there shall be constituted a Board consisting of the Registrar and the Director of Agriculture.

(*2*) If there is a difference of opinion between the members of the Board regarding any question under the provisions of this chapter, such question shall be referred to [2][the Provincial Government] and shall be determined in accordance with the decision of [2][the Provincial Government].

Appointment of an Inquiry Officer and his powers.

64E. (*1*) The Board shall appoint an Inquiry Officer for the purpose of holding inquiries under this chapter.

(*2*) For the purpose of such inquiries, the Inquiry Officer shall have—

(*a*) all the powers of the Registrar under section 58,

(*b*) power to enter upon, survey and take levels of lands proposed to be included in the scheme, to dig or bore into subsoil and to do all acts necessary for the purpose of the inquiry.

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[1]Chapter XI was inserted by Bom. 8 of 1936, s 3.

[2]The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

64F. (*1*) Persons interested in a crop protection scheme may make an application to the Registrar for the registration of a crop protection society. Such application shall be made in accordance with the provisions of section 9 and shall specify the area affected by the scheme. It shall be accompanied by— Preliminary procedure.

(*a*) a detailed description and estimate of the cost of such scheme ;

(*b*) the names of such of the owners of the lands to be included in the scheme as may have given their consent to the making of the scheme ; and

(*c*) such other particulars as may be prescribed by rules.

(*2*) The application together with its accompaniments shall be published in the village or villages and at the headquarters of the taluka within the limits of which the lands proposed to be included in the scheme are situate.

64G. No crop protection society shall be registered under section 10, unless the Board is satisfied, after such inquiry as it thinks necessary, that the scheme proposed by the society is feasible and that not less than 66 per cent. of the owners owning in aggregate not less than 75 per cent. of the land proposed to be included in the scheme have given their consent to the making of the scheme. For this purpose the Board shall record or cause to be recorded— Registration.

(*a*) a plan showing the area affected by the proposed scheme and the surrounding lands as shown in the map or maps of the village or villages affected ;

(*b*) an examination of the proposed scheme, with any amendments therein proposed by the Board ;

(*c*) an extract from the record of rights showing the names of the owners of the lands, and the areas of the lands to be included in the scheme as approved by the Board ;

(*d*) statements of such of the owners of such lands as consent to the making of such scheme signed by such owners before the Board or such officer as may be prescribed by rules ;

(*e*) a detailed estimate of the costs of such scheme ;

(*f*) a detailed statement showing how the cost is proposed to be met.

64H. If the Society is registered, the scheme shall be published along with the plans, in the village or villages and at the headquarters of the taluka within the limits of which the lands proposed to be included in the scheme are situate, together with a general notice inviting claims, if any. Separate notices shall, as far as possible, also be served on all owners of lands affected by the scheme and on all persons believed to be Publication of the scheme and inviting claims and objections.

interested in the said lands. Such general and separate notices shall require all persons affected by the scheme who make any claims to appear personally or by agent before the Inquiry Officer at a time and place therein mentioned (such time not being earlier than fifteen days after the date of the publication of the scheme).

Inquiry by the Inquiry Officer.

64I. On the date fixed in the notices issued under section 64H or any other day to which the inquiry has been adjourned, the Inquiry Officer shall proceed to inquire into the claims (if any) which may have been made pursuant to the notices and shall hear and decide any other matter which may be required to be heard and decided by or under the provisions of this chapter.

Decision of disputed claim.

64J. (*1*) If there is a dispute as to the ownership or possession of any piece of land proposed to be included in the scheme, the Inquiry Officer shall decide the dispute in accordance with the entries relating to such land in the Revenue records kept under any law for the time being in force. If there is no such record, or if in the opinion of the Inquiry Officer the entries in the Revenue record are inaccurate or inconclusive, he shall refer the matter to the Collector for decision. When the Collector decides such dispute, he shall communicate his decision to the Inquiry Officer and such decision shall, subject to the provisions of sub-section (*2*), be final for the purpose of the inquiry under this chapter.

(*2*) In the event of a civil court passing a decree which is inconsistent with such decision, such decision shall be corrected, modified or rescinded in accordance with such decree, after such decree has been brought to the notice of the Inquiry Officer or the Board either by the civil court or by some person affected by such decree.

Report of Inquiry Officer.

64K. (*1*) After the inquiry under section 64I is completed, the Inquiry Officer shall make a report to the Board containing the following particulars :—

(*i*) the names of all the owners of lands affected by the scheme and the nature and extent of the right or interest of each in respect of such land,

(*ii*) the names of all persons whose rights or liabilities are affected and the manner in which they are affected by the scheme,

(*iii*) a detailed estimate of the net costs of the scheme to be borne by the society,

(*iv*) a detailed estimate of the amounts of compensation to be paid to, or of the amounts to be recovered from, persons affected by the scheme,

(*v*) the manner in which recurring costs of the maintenance of, and other expenses incidental to, the scheme shall be fixed and recovered,

(*vi*) any other particulars prescribed by or under the Act or the rules.

(*2*) Such report shall be published in the village or villages and at the headquarters of the taluka within the limits of which the lands included in the scheme are situate and separate notice of such report shall as far as practicable be given to all persons mentioned in clause (*ii*) of sub-section (*1*).

(*3*) Any person aggrieved by the report of the Inquiry Officer may appeal to the Board.

Board may sanction scheme with or without modification or may refuse to give sanction.

64L. (*1*) On receipt of the report of the Inquiry Officer the Board may, in consultation with the Collector, after deciding such appeals as may have been made under section 64K and making such further inquiry as it may think fit, either sanction with or without modifications or refuse to give sanction to the scheme.

Appeal.

(*2*) Any person aggrieved by the decision of the Board may, within a period of thirty days from the date of such decision, appeal to [1][the Provincial Government], who may pass such order as they deem fit.

Scheme to become final on publication.

(*3*) If an appeal is made within the period prescribed in sub-section (*2*) and [1][the Provincial Government] decide to sanction the scheme with or without modifications, the scheme as sanctioned by [1][the Provincial Government], or, if no appeal is made within the period aforesaid, the scheme as sanctioned by the Board, shall be published in the [2][*Official Gazette*] and in any other way which may be prescribed and shall, on such publication, be final.

Effect of scheme.

64M. On the day on which the scheme as sanctioned is published under section 64L, it shall come into force and all the owners of lands included therein, whether they are members of the society or not, shall have such rights and shall be subject to such liabilities as are conferred or imposed on them under the scheme.

Power to enforce scheme.

64N. On and after the day on which the scheme comes into force, the Crop Protection Society concerned may, after giving the prescribed notice and in accordance with the provisions of the scheme, execute any work which it is the duty of any person to execute under the scheme. Any expense incurred by the society under this section may be recovered from the persons in default in the manner prescribed in section 64Q.

Contribution towards the costs of the scheme.

64O. (*1*) The costs of the scheme shall be met wholly or in part by a contribution to be levied by the society from each owner of land affected by the scheme including those who may have refused to become members of the society in accordance with the decision of the Board.

(*2*) The owner of the land affected by the scheme shall be primarily liable for the payment of the contribution leviable in respect of such land.

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[1]The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2]The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

Dues of Crop Protection Societies to be first charge.

64P. Subject to the provisions of section 24, any outstanding demands or dues payable to a crop protection society by any member or past member in respect of any rent, shares, loans, contributions, or any other rights or amounts payable to such society shall be a first charge upon his interest in the crops or other agricultural produce on the land included in the scheme.

Recovery of arrears.

64Q. Any sum due to a society under the provisions of this chapter shall, on application for its recovery being made by such society, be recoverable by the Collector according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.]

[1][CHAPTER XII.

MISCELLANEOUS.]

Recovery of sums due to the Crown.

65. (*1*) All sums due from a society or from an officer or member or past member of a society as such to [2][the Crown], may be recovered according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

(*2*) Sums due from a society to [2][the Crown] and recoverable under sub-section (*1*) may be recovered, firstly, from the property of the society; secondly, in the case of a society of which the liability of the members is limited, from the members or past members subject to the limit of their liability; and, thirdly in the case of other societies, from the members or past members.

(*3*) The liability of past members shall in all cases be subject to the provisions of section 28.

Power to exempt societies from conditions as to registration.

66. Notwithstanding anything contained in this Act, the [3][Provincial Government] may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration.

Power to exempt societies from provisions of Act.

67. [3][The Provincial Government] may, by general or special order to be published in the [4][*Official Gazette*], exempt any society or class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the order; provided that no order to the prejudice of any society shall be passed without an opportunity being given to such society to represent its case.

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[1] The words and figures "Chapter XII—Miscellaneous" were substituted for the word "Miscellaneous" by Bom. 8 of 1936, s. 4.

[2] The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "the Provincial Government" were substituted for the word "Government" by *ibid.*

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

VII of 1913. **68.** The provisions of the [1]Indian Companies Act of 1913, shall not apply to societies, registered under this Act. Indian Companies Act not to apply.

69. Every Co-operative Society registered outside the Bombay Presidency, which has or establishes a branch or place of business in the Bombay Presidency shall within six months from the commencement of this Act or from the establishment of such branch or place of business, file with the Registrar a certified copy of the by-laws and amendments and, if these are not written in the English language, a certified translation in English thereof, and shall submit to the Registrar such returns and information as are submitted by similar societies in the Bombay Presidency in addition to those submitted to the Registrar of the province where it is registered. Branches, etc., of societies outside the Presidency.

70. No suit shall be instituted against a society or any of its officers in respect of any act touching the business of the society until the expiration of two months next after notice in writing has been delivered to the Registrar, or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left. Notice necessary in suits.

71. (*1*) [2][The Provincial Government] may, for the whole or any part of the presidency and for any society or class of societies, make rules to carry out the purposes of this Act. Rules.

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

(*a*) subject to the provisions of section 6, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(*b*) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;

(*c*) prescribe the matters in respect of which a society may or shall make by-laws and the procedure to be followed in making, altering and abrogating by-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

(*d*) prescribe the conditions to be complied with by persons applying for admission or admitted as members and provide for the election and admission of members and the payment to be made and the interests to be acquired before the exercise of the right of membership;

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[1] Central Acts.

[2] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*e*) provide for ascertaining the value of a deceased member's share or interest;

(*f*) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;

(*g*) provide for the appointment, suspension and removal of the members of the committee and other officers and for the procedure at meetings of the committee and for the powers to be exercised and the duties to be performed by the Committee and other officers;

(*h*) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts, and the charges, if any, to be made for such audit, and for the periodical publication of a balance sheet showing the assets and liabilities of a society;

(*i*) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted;

(*j*) provide for the persons by whom and the form in which copies of documents or entries in books of societies may be certified, and for the charges to be levied for the supply of such copies;

(*k*) provide for the formation and maintenance of a register of members, and where the liability of the members is limited by shares, of a register of shares;

(*l*) prescribe the payments to be made and the conditions to be complied with by members applying for loans, and the period for which loans may be made, and the amount which may be lent to an individual member;

(*m*) prescribe the prohibitions and restrictions subject to which societies may trade [1][or transact business] with persons who are not members;

(*n*) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of a society;

(*o*) prescribe the extent to which a society may limit the number of its members;

(*p*) prescribe the conditions under which profits may be distributed to the members of a society and the maximum rate of dividend which may be paid by societies;

(*q*) prescribe the procedure to be followed in presenting and disposing of appeals;

[1] The words "or transact business" were inserted by Bom. 8 of 1936, s. 5 (*a*).

(*r*) provide for securing that the share capital of any society shall be variable in such a way as may be necessary to secure that shares shall not appreciate in value and that necessary capital shall be available for the society as required ;

(*s*) provide that persons qualified under the by-laws of a society shall not be excluded from membership without due cause ;

(*t*) prescribe the procedure to be followed by a liquidator appointed under section 47 ;

(*u*) prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators and for fixing and levying the expenses of determining the dispute ;

(*v*) provide for the issue and service of processes and for proof of service thereof ;

(*w*) provide for the writing off of bad debts ;

(*x*) regulate the manner in which funds may be raised by means of shares or debentures or otherwise ;

(*y*) provide for the withdrawal and expulsion of members and for the payments to be made to them and for the liabilities of past members ;

(*z*) provide for the nomination of a person to whom the interest of a deceased member may be paid or transferred ;

(*aa*) prescribe the cases in which an appeal shall lie from the order of a liquidator appointed under section 47 ;

(*bb*) provide for the inspection of documents in the Registrar's office and the levy of fees for granting certified copies of the same ;

(*cc*) prescribe the procedure to be followed for the custody of property attached under section 55 ;

(*dd*) provide for the payment of contributions at such rates and subject to such conditions as may from time to time be prescribed by Co-operative Societies to any provident fund which may be established for the benefit of officers and servants employed by them ;[1]*

(*ee*) prescribe the period and terms under which Government aid may be given to Co-operative Societies and the terms under which [2][the Provincial Government] may guarantee the payment

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[1] The word " and " was omitted by Bom. 8 of 1936, s. 5 (*b*).

[2] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council,

of [1][the principal of and] interest on debentures issued by registered societies ;

[2][(*ff*) prescribe the particulars to be furnished by the persons applying for the registration of a Crop Protection Society under section 64-F ;

(*gg*) prescribe the officer before whom the statements of owners referred to in section 64-G may be signed ;

(*hh*) prescribe the manner in which the inquiry shall be held by the Board or the Inquiry Officer under Chapter XI ;

(*ii*) prescribe the particulars to be mentioned in an Inquiry Officer's report under clause (*vi*) of sub-section (*1*) of section 64-K ;

(*jj*) prescribe the manner in which the scheme shall be published otherwise than in the [3][*Official Gazette*] under sub-section (*3*) of section 64-L ;

(*kk*) provide for any other matter which is or may be prescribed or for which no provision exists and provision is, in the opinion of [4][the Provincial Government], necessary for the purpose of carrying out a crop protection scheme.]

[5][(*ll*) prescribing the manner in which any property shall be delivered to, and the terms and conditions subject to which such property shall be held by, a society under section 59A.]

(*3*) [4][The Provincial Government] may, subject to such conditions, if any, as it thinks fit, delegate all or any of its powers to make rules under this section to any authority specified in the order of delegation.

(*4*) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(*5*) The rules so made shall be laid on the table of [6][each of the Chambers of the Provincial Legislature] for one month previous to the

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[1] The words " the principal of and " were inserted by Bom. 22 of 1935, s. 5 (*1*).

[2] Clauses (*ff*), (*gg*), (*hh*), (*ii*), (*jj*) and (*kk*) were inserted by Bom. 8 of 1936, s. 5 (*c*).

[3] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

[4] The words " the Provincial Government " were substituted for the word " Government " by *ibid.*

[5] This clause, which was inserted by Bom. 22 of 1935, s. 5 (*2*) as clause (*ff*), was relettered as clause (*ll*) by Bom. 24 of 1936, s. 2, Sch.

[6] The words " each of the Chambers of the Provincial Legislature " were substituted for the words " the Bombay Legislative Council " by the Adaptation of Indian Laws Order in Council.

next session thereof and shall be liable to be rescinded or modified [1][by a resolution in which each of the Chambers concurs at the said next session].

Saving of existing societies.

X of 1904. II of 1912.

72. (*1*) Every society now existing which has been registered under the Co-operative Credit Societies Act, 1904, or under the Co-operative Societies Act, 1912, shall be deemed to be registered under this Act, and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

(*2*) All appointments, rules and orders made, notifications and notices issued and suits and other proceedings instituted, under the said Acts shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act.

Construction of references to Co-operative Societies Act, 1912, in enactments.

II of 1912.

II of 1912.

[2][**72A.** All references to the Co-operative Societies Act, 1912, occurring in any enactment made by any authority in British India and for the time being in force in the Presidency of Bombay shall, in the application, to the said Presidency, of any such enactment, be read and construed as references to this Act and anything done or any proceeding commenced in pursuance of any such enactment on or after the date on which this Act shall have come into operation shall be deemed to have been done or to have been commenced and to have had effect as if the reference in such enactment to the Co-operative Societies Act, 1912, had been the reference to this Act, and no such thing or proceeding shall be deemed to have been invalid on the ground that such enactment did not refer to this Act.]

Validity of transfer made under section 59 (*2*) of Bom. VII of 1925.

[3][**72B.** Where any property is handed over to any society in pursuance of the provisions of sub-section (*2*) of section 59 prior to its repeal, such transfer to the society shall not be deemed to be or to have been invalid and the validity of any term or condition of such transfer agreed between the Collector and the society under the said sub-section or of any rights or liabilities lawfully arising out of such transfer, term or condition shall not be deemed to be or to have been affected by the repeal of the said sub-section or by reason only of the fact that such property was not attached in execution of an order referred to in sub-section (*1*) of the said section.]

Repeal.

73. The enactments specified in the Schedule are hereby repealed in so far as they apply to the Bombay Presidency to the extent specified in the fourth column of the said Schedule.

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[1] The words " by a resolution in which each of the Chambers concurs at the said next session " were substituted for the words " by a resolution of the said Council tabled at its next session " by the Adaptation of Indian Laws Order in Council.

[2] This section was inserted by Bom. 8 of 1933, s. 2.

[3] This section was inserted by Bom. 22 of 1935, s. 6.

SCHEDULE.

Enactments repealed.

(See section 73.)

Year.	No.	Short title.	Extent of repeal.
		Acts of the Governor General in Council.	
1912 ..	II	The Co-operative Societies Act, 1912.[1]	The whole.
1920 ..	XXXVIII	The Devolution Act, 1920[1] ..	So much as relates to Act II of 1912.
		Act of the Governor of Bombay in Council.	
1920 ..	I	The Bombay Land Revenue Code (Amendment) Act, 1920.	The whole.

[1] Central Acts.

THE BOMBAY SECURITIES CONTRACTS CONTROL ACT, 1925.

CONTENTS.

PREAMBLE.

Sections.

1. Short title.
2. Extent and operation.
3. Definitions.
4. Recognition.
5. Rules.
6. Contracts not made subject to rules to be void.

BOMBAY ACT No. VIII of 1925.[1]

[THE BOMBAY SECURITIES CONTRACTS CONTROL ACT, 1925.]

[*29th December, 1925.*]

Amended by Bom. Act 9 of 1927.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to regulate and control certain contracts for the purchase and sale of securities in the City of Bombay and elsewhere in the Bombay Presidency.

WHEREAS it is expedient to regulate and control certain contracts for the purchase and sale of securities in the City of Bombay and elsewhere in the Bombay Presidency in manner hereinafter appearing;

5 & 6 Geo. V, c. 61. And whereas the previous sanction of the Governor General required by section 80A (*3*) of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Bombay Securities Contracts Control Act, 1925.

Extent and operation. **2.** (*1*) This Act shall apply to the whole of the Presidency of Bombay.

(*2*) It shall come into [2]operation in the city of Bombay on such date as the [3][Provincial Government] may, by notification in the [4][*Official Gazette*], appoint: the [3][Provincial Government] may further, by notification in the [4][*Official Gazette*], direct that the Act shall come into operation

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1925, Part V, p. 447; for Report of Select Committee, *see* p. 1037 of Appendix to Vol. XVI of the Bombay Legislative Council Debates, 1925; and for Proceedings in Council, *see ibid*, Vol. XVI.

[2] This Act came into operation in the City of Bombay on the 1st January 1926, (*vide* Government Notification in the Finance Department No. 2902-A, dated the 30th December 1925, published in the *Bombay Government Gazette*, 1925, Part I, p. 3361).

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid*.

in any place in the Bombay Presidency other than the city of Bombay on such date as may be specified in such notification.

Definitions.

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

(*1*) "securities" include stocks, shares, bonds, debentures, debenture stock and any other instruments of a like nature.

(*2*) "stock-exchange" means any association, organisation or body of individuals, whether incorporated or not, established for the purpose of assisting, regulating and controlling business in buying, selling and dealing in stocks, shares, bonds, debentures, debenture stock and any other like securities.

(*3*) "recognised stock-exchange" means a stock-exchange which is, for the time being, recognised by the [1][Provincial Government] as provided in section 4.

(*4*) "ready delivery contract" means a contract for the purchase or sale of securities for performance of which no time is specified and which is to be performed immediately or within a reasonable time.

Explanation.—The question what is a reasonable time is in each particular case a question of fact.

Recognition.

4. (*1*) A stock-exchange desirous of being recognized for the purpose of this Act shall make an application in writing to the [1][Provincial Government] for such recognition, and shall submit rules for the regulation and control of transactions in securities other than ready delivery contracts and furnish such information in regard to such recognition as the [1][Provincial Government] may require.

(*2*) The [1][Provincial Government] may give or refuse such recognition provided that the rules submitted by the stock-exchange under sub-section (*1*) shall be published in the [2][*Official Gazette*] one month before such recognition is given.

(*3*) The [1][Provincial Government] may at any time withdraw the recognition given to a stock-exchange under sub-section (*2*), and such stock-exchange shall thereupon cease to be a recognized stock-exchange.

Rules.

5. (*1*) A stock-exchange subject to the sanction of the [1][Provincial Government] may make and may from time to time add to, vary or rescind rules for the regulation and control of transactions in securities (other than ready delivery contracts).

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaption of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

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

(*a*) the government of the stock-exchange by a governing body and the constitution of such governing body ;

(*b*) the powers and duties of the governing body and the manner in which its business shall be transacted ;

(*c*) the fixing of a scale of charges ;

(*d*) the making, settling and closing of bargains ;

(*e*) the exercise of emergency powers in the case of corners ;

(*f*) the regulation of dealings by members for their own account ; and

(*g*) the settlement of disputes arising between members and the punishment of defaulting members.

(*3*) Rules made by a stock-exchange under sub-section (*1*) shall be published in the [1][*Official Gazette*] one month before they are sanctioned by the [2][Provincial Government] and shall again be published after sanction.

Contracts not made subject to rules to be void.

6. Every contract for the purchase or sale of securities, other than a ready delivery contract, entered into after a date to be notified in this behalf by the [2][Provincial Government] shall be void, unless the same is made subject to and in accordance with the rules duly sanctioned under section [3][5] and every such contract shall be void unless the same is made between members or through a member of a recognised stock-exchange ; and no claim shall be allowed in any Civil Court for the recovery of any commission, brokerage, fee or reward in respect of any such contract.

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

[3] This figure was substituted for the figure "4" by Bom. 9 of 1927, s. 2, first Schedule.

THE BOMBAY MUNICIPAL BOROUGHS ACT, 1925.

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180. Duties of municipality on threatened or actual outbreak of dangerous disease.

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183. Proceedings to abate the overcrowding of the interiors of buildings.

184. Special powers which may be conferred by the Provincial Government in respect of overcrowded area.

185. Closing of places for disposal of the dead.

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186. Regulation of certain trades.
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190. Pilgrims' lodging houses.

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196. Proceedings if any occupier opposes the execution of the Act.

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203. Alternative procedure by suit.

204. Power to sue, compromise and pay compensation.

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Schedules I—VII.

BOMBAY ACT No. XVIII OF 1925.[1]

[THE BOMBAY MUNICIPAL BOROUGHS ACT, 1925]

[*8th June, 1926*]

Amended by Bom. Act 10 of 1926.

" " " " 1 of 1927.

" " " " 12 of 1927.

" " " " 3 of 1930.

" " " " 4 of 1930.

" " " " 9 of 1930.

" " " " 25 of 1930.

" " " " 12 of 1931.

" " " " 23 of 1931.

" " " " 7 of 1932.

" " " " 15 of 1932.

" " " " 17 of 1933.

" " " " 14 of 1934.

" " " " 19 of 1935.

" " " " 14 of 1936.

" " " " 15 of 1936.

" " " " 24 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to give wider powers in the management of municipal affairs in certain cities.

WHEREAS it is expedient to amend the law relating to the management of municipal affairs in certain cities of the Bombay Presidency ;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1925, Part V, pages 187–195 ; for Report of the Select Committee, *see ibid*, pages 335–342 ; and for Proceedings in Council, *see* Council Debates, 1925, Volumes XV and XVI.

And Whereas the previous sanction of the Governor General required by section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :— 5 & 6 Geo. V c. 61.

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay [1][Municipal Boroughs] Act, 1925.

(*2*) It extends to the whole of the Bombay Presidency.

2. [*Act V of 1868 not to apply to powers under this Act.*] Omitted by the Adaptation of Indian Laws Order in Council.

Definitions.

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

(*1*) "Annual letting value" shall mean the annual rent for which any building or land, exclusive of furniture or machinery contained or situate therein or thereon, might reasonably be expected to let from year to year, and shall include all payments made or agreed to be made by a tenant to the owner of the building or land on account of occupation, taxes, insurance or other charges incidental to his tenancy.

(*2*) "Building" shall include any hut, shed or other enclosure, whether used as a human dwelling or for any other purpose, and shall also include walls, verandahs, fixed platforms, plinths, door-steps and the like.

(*3*) "Commissioner" shall mean the Commissioner of a division appointed under the Bombay Land Revenue Code, 1879, and in Sind, the [2][Provincial Government]. Bom. V of 1879.

(*4*) "Councillor" shall mean any person legally a member of the municipality in a municipal borough.

(*5*) "Dangerous disease" shall mean cholera, plague, small-pox, and any endemic, epidemic or infectious disease by which the life of man is endangered.

(*6*) "House-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cess-pool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom.

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[1] These words were substituted for the words "City Municipalities" by Bom. 4 of 1930, s. 4.

[2] The words "Provincial Government" were substituted for the words "Commissioner in Sind" by the Adaptation of Indian Laws Order in Council.

(*7*) "Judge" shall mean District Judge, Joint Judge, Assistant Judge, Judge of a Court of Small Causes, Subordinate Judge, or Joint Subordinate Judge.

(*8*) "Land" shall include land which is built upon or covered with water.

Bom. III of 1901. (*9*) "Municipal borough" shall mean a Municipal district as defined in the Bombay District Municipal Act, 1901, included or hereafter included in Schedule I, during the period of such inclusion.

Bom. III of 1901. (*10*) "Municipal district" shall mean a municipal district as defined in the Bombay District Municipal Act, 1901.

(*11*) "Nuisance" shall include any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing, or which is or may be dangerous to life or injurious to health or property.

(*12*) "Octroi" shall include a terminal tax.

(*13*) "Official year" shall mean the year commencing on the first day of April.

(*14*) "Owner" shall include the person for the time being receiving the rent of any land or building, whether on his own account or as agent or trustee for any other person or for any society or for any religious or charitable purposes, or who would so receive the rent if such land or building were let to a tenant,

(*15*) "Public securities" shall mean—

(*a*) securities of the [1][Central Government] and of the [2][Provincial Government];

(*b*) stocks, debentures or shares in railway or other companies the interest whereon has been guaranteed by the Secretary of State for India in Council [3][or the Central or the Provincial Government];

(*c*) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India; or

(*d*) a security expressly authorized by any order which [4][the Provincial Government] makes in this behalf.

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[1] The words "Central Government" were substituted for the words "Government of India" by the Adaptation of Indian Laws Order in Council.

[2] The words "Provincial Government" were substituted for the words "Local Government" by *ibid.*

[3] The words "or the Central or the Provincial Government" were inserted by *ibid.*

[4] The words "the Provincial Government" were substituted for the words "the Government" by *ibid.*

(*16*) "Public street" shall mean any street—

(*a*) over which the public have a right of way; or

(*b*) heretofore levelled, paved, metalled, channelled, sewered or repaired out of municipal or other public funds; or

(*c*) which under the provisions of section 115 or 116 is declared by the municipality to be, or under any other provisions of this Act becomes a public street.

(*17*) "Private street" means a street which is not a public street.

(*18*) "Salaried [1][servant of the Crown]" shall not include a retired [1][servant of the Crown] in receipt of a pension or a person in receipt of a salary [2][from the Crown] who is not a full time [1][servant of the Crown].

(*19*) "Street" shall mean any road, footway, square, court, alley, or passage, accessible whether permanently or temporarily to the public, whether a thoroughfare or not; and shall include every vacant space, notwithstanding that it may be private property and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon and if it is used by any persons as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not; but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid.

(*20*) "Tax" shall mean any toll, rate, cess, fee or other impost leviable under this Act and shall include a water rate.

(*21*) "Vehicle" shall include bicycles, tricycles, motor cars, and every wheeled conveyance which is used or capable of being used on a public street.

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

(1) *Municipal boroughs.*

Extension of Act to and withdrawal of Act from municipal districts and boroughs.

4. (*1*) [3][The Provincial Government] may, by notification in the [4][*Official Gazette*] and with effect from a date to be specified in the said notification, include in Schedule I any municipal district [5]* * or exclude any municipal boroughs from the said schedule.

[1] The words "servant of the Crown" were substituted for the words "servant of the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "from the Crown" were substituted for the words "from the Government" by *ibid.*

[3] The words "the Provincial Government" were substituted for the words "the Government" by *ibid.*

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

[5] The words "other than the municipal district of Karachi," were repealed by Bom. 17 of 1933, s. 4.

(*2*) [1][The Provincial Government] may, after consulting the municipality, by notification in the [2][*Official Gazette*] and with effect from a date to be specified in the said notification, extend, contract or otherwise alter the limits of any municipal borough.

(*3*) A notification altering the limits of a municipal borough shall clearly set forth the local limits of the area to be included in or excluded from such municipal borough. Limits to be specified in notification altering area.

[3][(*4*) Save where it is otherwise provided in this Act, when a municipality ceases to exist on account of its members ceasing to hold office, or for any other reason whatsoever, the property and rights vested in the municipality shall, subject to all charges and liabilities affecting the same, vest in His Majesty, and the proceeds thereof, if any, shall be expended under the orders of [1][the Provincial Government] for the benefit of the local area in which such municipality had jurisdiction.] Property and rights of municipalities which have ceased to exist to vest in the Provincial Government.

Bom. III of 1901. **5.** (*1*) The provisions of the Bombay District Municipal Act, 1901, shall not apply to any municipal district included or hereafter included in Schedule I from the date of such inclusion: Bom. III of 1901 not to apply to municipal boroughs.

Provided that—

Bom. III of 1901. (*a*) references in any other enactment or in any instrument to the Bombay District Municipal Act, 1901, shall, unless a different intention appears, be construed in respect of any municipal borough as references to this Act,

Bom. III of 1901. (*b*) any appointment, notification, notice, tax, order, scheme, license, permission, rule, by-law or form made, issued or imposed under the Bombay District Municipal Act, 1901, in respect of a municipal district included or hereafter included in Schedule I, so far as is not inconsistent with the provisions of this Act, and any appointment, notification, order, scheme, rule, by-law or form made or issued under any other law in respect of such district shall continue in force and be deemed to have been made, issued or imposed under the provisions of this Act or of such other law in respect of the municipal borough constituted by such inclusion unless and until it is superseded by any appointment, notification, notice, tax, order, scheme, license, permission, rule, by-law or form made or issued under this Act or such other law. Continuance of acts, notifications, etc., in respect of boroughs.

(*2*) From the date specified in a notification under sub-section (*1*) of section 4, excluding a municipal borough from Schedule I, it shall cease to be a municipal borough and the provisions of the Bombay District Municipal Act, 1901, shall apply to it. Bom. III of 1901. Municipal boroughs excluded from Schedule I.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

[3] This sub-section was inserted by Bom. 1 of 1927, s. 2.

Transfer of rights, etc., on inclusion in Schedule I.

6. The property, rights and liabilities of the municipality in a municipal district included or hereafter included in Schedule I shall vest in the municipality of the municipal borough constituted by such inclusion, from the date of such inclusion.

Preliminaries before notification.

7. (*1*) Not less than three months before the publication of a notification under section 4 [1][the Provincial Government] shall cause to be published in the [2][*Official Gazette*] in English, and in at least one of the local newspapers (if any) in the vernacular language of the district in which the municipal borough or municipal district is situate, and to be posted up in conspicuous places in such municipal borough or municipal district in such vernacular language, a proclamation announcing that it is proposed to include in or exclude from Schedule I the municipal district or municipal borough, as the case may be, or to alter the limits of the municipal borough in a certain manner, and requiring all persons who entertain any objection to the said proposal to submit the same, with the reasons therefor in writing, to the Collector within two months from the date of the said proclamation; and whenever it is proposed to add to or exclude from a municipal borough any inhabited area, it shall be the duty of the municipality also to cause a copy of such proclamation to be posted up in conspicuous places in such area.

(*2*) The Collector shall, with all reasonable despatch, forward every objection so submitted to [1][the Provincial Government].

(*3*) No such notification as aforesaid shall be issued by [1][the Provincial Government] unless the objections, if any, so submitted are in its opinion insufficient or invalid.

(2) *Municipalities.*

Incorporation of municipalities.

8. In every municipal borough there shall be a municipality, and every such municipality shall be a body corporate by the name of [3]["the .....Borough Municipality"], and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name through its Chief Officer.

(3) *Election of Councillors.*

Municipalities to consist of elected and nominated councillors.

9. (*1*) Every such municipality shall consist of—

(*a*) elected councillors; and

(*b*) nominated councillors, that is to say, such persons as from time to time are by name appointed in this behalf, or are executing the

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

[3] The words "the.....Borough Municipality" were substituted for the words "the municipality of....." by Bom. 24 of 1936, s. 2, Sch.

functions of any office from time to time notified in this behalf, by [1][the Provincial Government] :-

Provided that the number of elected councillors shall not be less than four-fifths of the whole number, and that not more than one-half of the nominated councillors shall be salaried [2][servants of the Crown] : In specified proportions.

Provided also that [3][the Provincial Government] may direct that all the councillors shall be elected. But all councillors may be elected.

(*2*) Any vacancy due to failure to elect the full number of councillors which under this section might be elected and any vacancy due to failure to elect a councillor under section 29 may, notwithstanding anything in this Act, be filled up by nomination by [3][the Provincial Government]. Failure to elect.

(*3*) Councillors elected or nominated under the Bombay District Municipal Act, 1901, and holding office in a municipal district included or hereafter included in Schedule I, immediately prior to such inclusion, shall be deemed to have been elected or nominated, as the case may be, under this Act : provided that where [3][the Provincial Government] has directed that all the councillors shall be elected, councillors nominated under the Bombay District Municipal Act, 1901, shall not be deemed to have been nominated under this Act, and councillors shall be elected under the provisions of this Act in place of such nominated councillors. Bom. III of 1901. Bom. III of 1901. Continuance of councillors holding office at commencement of Act. Election in case of non-continuance.

10. (*1*) [3][The Provincial Government] shall, from time to time, generally or specially for each municipality,— The Provincial Government shall determine number of councillors; fix proportion of elected and nominated councillors, and make rules for regulating elections.

(*a*) determine the number of councillors ;

(*b*) fix, subject to the provisions of section 9, the proportion of the councillors, if any, who shall be nominated ;

(*c*) make rules consistent with this Act prescribing the number of councillors to be elected, the number of wards to be constituted for Mahomedans, Non-Mahomedans and depressed classes in each municipal borough, the extent of such wards and the number of councillors to be elected by each ward, providing for the preparation and revision of the lists of voters from time to time, fixing the date after which no application for enrolment in any such list under preparation or revision shall be received, declaring the manner in which the right to vote of

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[1] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] The words " servants of the Crown " were substituted for the words " servants of the Government " by *ibid.*

[3] The words " the Provincial Government " were substituted for the words " the Government " by *ibid.*

any undivided family, or any company or firm, or any other association or body of individuals or any trustees of any building or land being two or more in number entered in such list, may be recorded and exercised, and prescribing the restrictions, if any, on the number of votes which a voter may give;

determining the manner in which and the authority by whom any objection to such lists in regard to the names entered therein or omitted therefrom may be heard and decided, and to what judicial authority the appeals as to such entries and omissions shall lie;

prescribing the date for the publication of the Municipal Election Roll;

regulating generally such elections.

Explanation.—A depressed class for the purpose of this section shall be one which in the opinion of [1][the Provincial Government] is a depressed class and the number of which is sufficient to require representation. There shall not be more than one ward for all such classes combined.

(*2*) [1][The Provincial Government] may from time to time delegate to the Commissioner any of the powers granted to [1][the Provincial Government] by clause (*c*) of sub-section (*1*), subject to such restrictions or conditions, if any, as [1][the Provincial Government] may attach to the delegation and such powers shall not be exercised without first receiving the opinion of the municipality concerned.

Persons qualified to vote or be candidates at a municipal election. Electoral roll of tax payers.

11. (*1*) Save as provided in section 16, every person whose name is entered in the current electoral roll or part thereof, prepared for a municipal borough which constitutes or forms part of a [2][territorial constituency and published under rule 23 (*3*) of the Bombay Legislative Assembly Electoral (Preparation, Revision and Publication of Electoral Rolls) Rules, 1936], shall be qualified to vote at a municipal election in such Municipal borough.

(*2*) (*a*) Save as provided in section 16, every person—

(*i*) who in any municipal borough, on the first day of April next preceding the date of publication of the electoral roll, occupied as owner or tenant a house or building, or part of a house or building separately occupied, as a dwelling or for the purpose of any trade, business or profession of which the annual rental was not less than Rs. 12 or of which the capital value was not less than Rs. 200, or

[3](*ii*) who for a period of not less than three months next preceding the last day before the preparation or revision of the list of voters upon

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words, figures and brackets were substituted for the words, figures and brackets "general constituency, and published under regulation 6 (*3*) of Part II of the Bombay Electoral Regulations, 1923", by Bom. 24 of 1936, s. 2, Sch., with effect from the 31st day of March 1937.

[3] This clause was substituted for the original clause by Bom. 4 of 1930, s. 4.

which under the rules applications for enrolment may be received has been assessed to the qualifying tax,
and who within the three months next preceding the date referred to in sub-clause (*ii*) has paid all arrears of taxes, if any, due from him to the municipality, shall be qualified to be entered in the list of voters for such municipal borough and to vote at a municipal election in such municipal borough.

Explanation.—A person shall be deemed to be in arrears of taxes if he has not paid within one month of the date of presentation any bill which has been presented under section 104.

Provided that a person who—

(*i*) is not a British subject or a subject of an Indian State, or

(*ii*) has been adjudged by a competent court to be of unsound mind, or

(*iii*) is under 21 years of age,

shall not be entitled to have his name entered in such electoral roll.

Explanation.—For the purposes of this section, "the qualifying tax" means a tax, other than octroi, toll and the tax on vehicles and animals plying for hire or kept for the purpose of being let for hire, imposed in a municipal borough.

(*b*) The electoral roll of tax-payers for the time being in force shall be conclusive evidence for the purpose of determining whether any person is entitled to vote under the provisions of this sub-section at any election. If an electoral roll is not revised in accordance with the rules made under clause (*c*) of sub-section (*1*) of section 10, the roll shall continue in force until such revision has taken place.

(*3*) Every person so qualified to vote who for a period of not less than six months next preceding the last day before the preparation or revision of the electoral roll upon which under the rules applications for enrolment may be received has been resident in such borough or within seven miles of the limits thereof shall, subject to the provisions of this Act and of any other law for the time being in force, be qualified to be a candidate at a municipal election in such municipal borough.

Explanation.—For the purposes of this section a person shall be deemed to be resident in or within seven miles of the limits of a municipal borough if he ordinarily resides or has his principal place of residence in or within seven miles of the limits of such borough.

General disqualifications for becoming a councillor. Vacation of seat.

12. (*1*) No person may become a councillor—

(*a*) who—

(*i*) has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term

Decision of Provincial Government in case of dispute.

exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, if and so long as such a sentence has not expired, or

(*ii*) has been removed from office under section 27 and five years have not elapsed from the date of the expiry of such removal,

unless he has, by an order which [1][the Provincial Government] is hereby empowered to make, if it shall think fit, in this behalf, been relieved from the disqualification arising on account of such sentence or removal from office; or

(*b*) who is an uncertificated bankrupt or an undischarged insolvent, or,

(*c*) who is a Judge.

(*2*) No person—

(*a*) who is a subordinate officer or servant of a municipality, or

(*b*) who, save as hereinafter provided, has directly or indirectly, by himself or his partner, any share or interest in any work done by order of a municipality, or in any contract or employment with or under or by or on behalf of a municipality,

may be a councillor of such municipality.

(*3*) A person shall not be deemed to have incurred disqualification under clause (*b*) of sub-section (*2*) by reason of his—

(*i*) having any share or interest in any lease, sale or purchase of any immoveable property or in any agreement for the same, or

(*ii*) having a share or interest in any joint-stock company or in any society registered or deemed to be registered under the Co-operative Societies Act, which shall contract with or be employed by or on behalf of the municipality, or

(*iii*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the municipality may be inserted, or

(*iv*) holding a debenture or being otherwise interested in any loan raised by or on behalf of the municipality, or

(*v*) being professionally engaged on behalf of the municipality as a legal practitioner, or

(*vi*) having a share or interest in the occasional sale to the municipality of any article in which he regularly trades, or in the purchase from the municipality of any article, to a value in either case not

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

exceeding in any official year five hundred rupees or such higher amount not exceeding two thousand rupees as the municipality with the sanction of [1][the Provincial Government] may fix in this behalf, or

(*vii*) having a share or interest in the occasional letting out on hire to the municipality or in the hiring from the municipality of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the municipality with the sanction of [1][the Provincial Government] may fix in this behalf, or

(*viii*) being a party to any agreement made with the municipality under the provisions of section 91 or of proviso (*a*) to sub-section (*1*) of section 194.

(*4*) If any person is elected or nominated as a councillor in contravention of the provisions of this section his seat shall be deemed to be vacant.

(*5*) If any question or dispute arises whether a vacancy has occurred under this section, the orders of [1][the Provincial Government] shall be final for the purpose of deciding such question or dispute.

Operation of lists.

13. (*1*) When, in accordance with rules framed under [2][clause (*c*) of sub-section (*1*) of section 10], a list of voters has been prepared or, upon a general revision, completed, a copy thereof signed by such person as may be designated in this behalf in the rules aforesaid, shall be the Municipal Election Roll. A new Election Roll shall be published in each year on such date as may be prescribed by the rules, and shall continue in operation for a period of twelve months from that day:

Provided that if a new Election Roll is not published in any year before the date prescribed, the roll then in operation shall continue in operation until the new roll is published.

Right to vote to depend on entry in roll.

(*2*) At every election of councillors every person enrolled in the Municipal Election Roll as for the time being in operation under sub-section (*1*), shall be deemed to be entitled to vote, and every person not so enrolled shall be deemed to be not entitled to vote.

Enrolment in Municipal Election Roll necessary for elected councillor.

14. A person shall not be qualified to be elected a councillor unless he is enrolled in the Municipal Election Roll:

Representative of an Association.

Provided that if any company, body corporate, or other association of individuals is enrolled in the Municipal Election Roll, any one person duly authorized in this behalf by a resolution of such company, body or Association to represent such association shall be deemed to be qualified to be elected a councillor.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words, figures, letter and brackets were substituted for the original words by Bom. 10 of 1926, s. 2, which takes effect from the date when the original Act came into operation.

Determination of validity of elections.

15. (*1*) If the validity of any election of a councillor is brought in question by any person qualified to vote at the election to which such question refers, such person may, at any time within ten days after the date of the declaration of the result of the election, apply to the District Court of the district within which the election has been or should have been held, for the determination of such question.

Powers of Judge holding inquiry.

(*2*) An inquiry shall thereupon be held by a Judge, not below the grade of an Assistant Judge, appointed by [1][the Provincial Government] either specially for the case or for such cases generally; and such Judge may, after such inquiry as he deems necessary and subject to the provisions of sub-section (*3*), pass an order confirming or amending the declared result of the election, or setting the election aside. For the purposes of the said inquiry the said Judge may summon and enforce the attendance of witnesses and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such inquiry shall be paid; such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure. V of 1908. The decision or order shall be conclusive.

[2][(*2A*) All applications received under sub-section (*1*)—

(*a*) in which the validity of the election of councillors elected to represent the same constituency is in question shall be heard by the same Judge; and

(*b*) in which the validity of the election of the same councillor elected to represent the same constituency is in question shall be heard together.

Explanation.—For the purposes of this sub-section a constituency shall mean each ward or a public body or association constituted or entitled to elect councillors.

(*2B*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit (*a*) any application to be V of 1908. compromised or withdrawn or (*b*) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive.]

Declaration in case of corrupt practice by a candidate.

(*3*) (*a*) The Judge, if satisfied that a candidate has, within the meaning of sub-section (*4*), committed any corrupt practice for the purpose of the election, shall declare the candidate disqualified both for the purpose of that election and of such fresh election as may be held under sub-section (*2*), and shall set aside the election of such candidate if he has been elected.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] Sub-sections (2A) and (2B) were inserted by Bom. 14 of 1936, s. 2.

(*b*) If in any case to which clause (*a*) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected: Scrutiny of votes and declaration in other cases.

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

(*4*) A person shall be deemed to have committed a corrupt practice within the meaning of sub-section (*3*)— What is a corrupt practice.

(*i*) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any gratification or holds out any promise of individual profit, or holds out any threat of injury to any person, or

(*ii*) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote;

(*iii*) who pays or promises to pay any person whomsoever on account of the conveyance of any elector to or from any place for the purpose of recording his vote;

(*iv*) who hires, employs, borrows or uses for the purposes of the election any boat, vehicle, or animal, usually kept for letting on hire or for the conveyance of passengers by hire:

Provided that any elector may hire any boat, vehicle or animal or use any boat, vehicle or animal which is his own property to convey himself to or from the place where the vote is recorded;

and a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election. Candidates when deemed to have committed corrupt practice.

Explanation 1.—For the purposes of this section the term "gratification" is not restricted to pecuniary gratification or gratifications estimable in money, and includes all forms of entertainment and all forms of employment for reward.

Explanation 2.—The expression "a promise of individual profit"—

(*i*) does not include a promise to vote for or against any particular measure which may come before a municipality for consideration, but

(*ii*) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

(*5*) If the validity of the election is brought in question only on the ground of any error by the officer or officers charged with carrying out the rules made under clause (*c*) of sub-section (*1*) of section 10, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election. Mere irregularities and informalities not to invalidate election.

Explanation.—The expression " error " in this clause does not include any breach of or any omission to carry out or any non-compliance with the provisions of this Act or the rules made thereunder whereby the result of the election has been materially affected.

Disqualification of persons committing corrupt practice.

(*6*) If the Judge sets aside an election under clause (*a*) of sub-section (*3*), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section, to be disqualified from being a candidate in that or any other municipal borough or district for a term of years not exceeding seven, and the decision of the Judge shall be conclusive : provided, however, that such person, may by an order which [1][the Provincial Government] is hereby empowered to make, if it shall think fit, in that behalf, be at any time relieved from such disqualification : provided further that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration should not be made.

Voter disqualified for corrupt practice.

16. Any person who has been convicted of an offence under section 171-E or 171-F of the Indian Penal Code, or has been disqualified from exercising any electoral right for a period of not less than five years on account of malpractices in connection with an election, shall be disqualified for five years from the date of such conviction or disqualification from voting at any municipal election in any municipal borough or district or at any election to a local board constituted under the Bombay Local Boards Act, 1923. XLV of 1860. Bom. VI of 1923.

Publication of names of councillors in the *Official Gazette*.

17. The names of all councillors, finally elected to any municipality and the names of the nominated councillors, if any, appointed thereto shall be published, as soon as conveniently may be, in the [2][*Official Gazette*].

(4) *Appointment of presidents and vice-presidents.*

Election of president and vice-president. Continuance of president or vice-president holding office at the commencement of this Act.

18. (*1*) A municipality shall be presided over by a president who shall be elected by the councillors from among their number. There shall be a vice-president similarly elected for each municipality. No salaried [3][servant of the Crown] shall be eligible for election as president or vice-president of a municipality and the election of any such person shall be void.

(*2*) A president or vice-president holding office in a municipal district, included or hereafter included in Schedule I, at the time of such inclusion shall be deemed to have been elected under this section and shall continue to hold the office of president or vice-president as the case may be until a fresh election has been held under the provisions of this Act.

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

[3] The words " servant of the Crown " were substituted for the words " servant of the Government " by *ibid.*

Term of office of president and vice-president.

19. (*1*) Save as otherwise provided in this Act a president or vice-president shall hold his office for such term, not less than one year and not exceeding three years, as the municipality shall, previous to the election of the president or vice-president determine, or until the expiry within the said term of his term of office as councillor, but shall be eligible for re-election :

Provided that the term of office of such president or vice-president shall be deemed to extend to and expire with the date on which his successor is elected.

President and vice-president to continue to carry out certain duties until their successors take over charge.

(*2*) On the expiry of the term of office of a municipality the president and vice-president shall continue to carry [1][on] the current administrative duties of their offices until such time as a new president and vice-president shall have been elected and shall have taken over charge of their duties : Provided that [2][on the constitution of a new municipality after the general election], a meeting for the election of a new president [3][and a vice-president] shall be called by the president of the retiring municipality ; [4][within twenty-five days from the date on which the term of office of the retiring municipality prescribed or extended, as the case may be, under sub-section (*1*) of section 25, expires or from the date on which the names of the new councillors are published in the [5][*Official Gazette*] under section 17, whichever date is later.] The president of the retiring municipality shall preside at such meeting and the new municipality shall then elect its own chairman for that meeting. [6][In case of an equality of votes the result of the election of the chairman shall be decided by lot to be drawn in the presence of the president of the retiring municipality in such manner as he may determine. The meeting shall then] proceed to elect the new president. [7][The new president shall take the chair as soon as he is elected and the meeting shall then proceed to elect the new vice-president.]

[8][(*3*) On the dissolution of a municipality otherwise than on the expiry of its term of office and after a general election or on the re-establishment of a municipality under sub-section (*5*) of section 219 after its supersession or when a municipality is constituted under this Act for the first time, the Collector shall call a meeting for the purpose of an election of the president and vice-president, and shall appoint a person to preside at such meeting until the municipality elects its own chairman for that meeting. In case of an equality of votes, the result of the election of

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[1] The word " on " was substituted for the word " out " by Bom. 19 of 1935, s. 2 (*1*) (*a*).

[2] These words were substituted for the words " in the case of the new municipality constituted under this Act " by *ibid*, s. 2 (*1*) (*b*).

[3] The words " and a vice-president " were inserted by *ibid*, s. 2 (*1*) (*c*).

[4] These words, figures and brackets were inserted by *ibid*, s. 2 (*1*) (*d*).

[5] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

[6] These words were substituted for the words " and then the meeting shall " by Bom. 19 of 1935, s. 2 (*1*) (*e*).

[7] These words were added by *ibid*, s. 2 (*2*).

[8] Sub-section (*3*) was inserted by *ibid*, s. 2 (*3*).

the chairman shall be decided by lot to be drawn in the presence of the person presiding in such manner as he may determine. The meeting shall then proceed to elect the president, who shall take the chair as soon as he is elected. The meeting shall then proceed to elect the vice-president.]

Resignation of president and vice-president.

20. A president may resign his office by tendering his resignation in writing to the municipality, and such resignation shall take effect on its acceptance by the municipality. Such acceptance shall be published in the [1][*Official Gazette*]. A vice-president may resign his office by tendering his resignation in writing to the president.

Liability of president and vice-president to removal.

21. A president or vice-president shall be removable from his office as such president or vice-president by the municipality by a resolution passed to that effect, provided that three-fourths of the whole number of the councillors of the municipality vote in favour of such resolution and provided, further, that before such resolution is passed the president or vice-president is given a reasonable opportunity of showing cause why such resolution should not be passed.

Consequences of absence of president or vice-president without leave.

22. (*1*) Every president who for a period exceeding three months and every vice-president who for a period exceeding one month, shall absent himself from the municipal borough in such manner as to be unable to perform his duties as such president or vice-president, shall cease to be president or vice-president unless leave so to absent himself has been granted by the municipality.

Limit to grant of leave, and arrangements pending absence of vice-president.

(*2*) Leave under sub-section (*1*) shall not be granted for a period exceeding six months, and whenever leave is granted to a vice-president under that sub-section, a councillor shall be elected by the councillors from among their number to perform all the duties and exercise all the powers of the vice-president, during the period for which such leave is granted.

Vacancies in office of president and vice-president to be filled up.

23. (*1*) In the event of the non-acceptance of office, death, resignation or removal from office of a president or of a vice-president or of his election being void, or of his becoming incapable of acting in such office or having ceased to be a president or a vice-president under sub-section (*1*) of section 22 or a councillor under sub-section (*1*) of section 28, previous to the expiry of his term of office as president or vice-president, the vacancy shall be filled up [2][within twenty-five days from the occurrence of the vacancy] by the election of some other councillor thereto.

[3](*2*) When the president or the vice-president is unable or for any reason fails to call a meeting for the purpose of an election of the vice-president or the president, as the case may be, under sub-section (*1*) within the time specified therein, or when the president whose term of

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 19 of 1935, s. 3 (*1*).

[3] Sub-section (*2*) was substituted for the original sub-section by *ibid*, s. 3 (*2*).

office has been determined under sub-section (*1*) of section 19 is unable or for any reason fails to call a meeting for the purposes of an election of his successor and of the successor of the vice-president whose term of office has been similarly determined, within twenty-five days from the date of the expiry of the term of office of the president or the vice-president, as the case may be, the Collector shall call such meeting within thirty days from the occurrence of the vacancy or the expiry of the term of office as the case may be.

Collector to call meeting for election of president or vice-president in certain cases.

[1][**23A.** (*1*) When the president of the retiring municipality is unable or for any reason fails to call a meeting of the new municipality for the purpose of an election of the new president and vice-president under sub-section (*1*) of section 18 within the time specified in sub-section (*2*) of section 19 or when such meeting is called but the president or vice-president is not elected thereat, the Collector shall call such meeting within thirty days from the date on which the term of office of the retiring municipality prescribed or extended, as the case may be, under sub-section (*1*) of section 25, expires or from the date on which the names of the new councillors are published in the [2][*Official Gazette*] under section 17, whichever date is later.

(*2*) If the president of the retiring municipality is absent or does not preside at the meeting called by the Collector under sub-section (*1*), such person as may be appointed by the Collector shall preside thereat and shall have all the powers of the president of the retiring municipality in respect of such meeting.]

(5) *Term of office of councillors.*

Term of office of councillors holding office prior to commencement of Act: and of councillors then elected.

24. (*1*) Save as otherwise provided in this Act councillors deemed to have been elected or nominated under sub-section (*3*) of section 9 shall continue to hold office for the term for which they were elected or nominated under the Bombay District Municipal Act, 1901. Councillors elected under the said sub-section shall hold office for the same period as councillors deemed to have been elected as aforesaid.

Bom. III of 1901.

[3][Provided that—

(*a*) [4][the Provincial Government] may, by a notification in the [2][*Official Gazette*] and subject to the other provisions of this Act, extend the term of office of any municipality for a period up to a date not later than the thirty-first day of December 1928[5] ;

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[1] S. 23A was inserted by Bom. 19 of 1935, s. 4.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[3] This proviso was added by Bom. 1 of 1927, s. 3.

[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[5] These figures were substituted for the original figures "1927" by Bom. 12 of 1927, s. 2.

(*b*) any notification issued under proviso (*a*) after the expiry of the term of office of any municipality constituted under the Bombay District Municipal Act, 1901, and before the thirty-first day of May 1927 shall be deemed to have been issued and to have had effect as from the date of expiry of the term of office of such municipality ; and any appointment, notification, notice, tax, order, scheme, licence, permission, rule, bye-law or form made, issued or imposed under the Bombay District Municipal Act, 1901, by any such municipality so far as is not inconsistent with the provisions of this Act shall be deemed to be valid and to have been made, issued or imposed under this Act and shall continue in force unless and until it is superseded by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, bye-law or form made, issued or imposed under this Act.] Bom. III of 1901. Bom. III of 1901.

(*2*) The provisions of clause (*b*) of sub-section (*2*) of section 25 shall apply to such councillors.

Validation of acts of expired municipalities.

[1][**24A.** Any municipality of a municipal borough included in Schedule I which has not been constituted in accordance with the provisions of this Act and the rules made thereunder shall, save where it is otherwise provided in this Act, be deemed not to have been duly constituted and its members, both elected and nominated, shall be deemed not to have been duly elected and nominated.]

Term of office of councillors after general election.

25. (*1*) Councillors nominated or elected at a general election under this Act shall, save as otherwise provided in this Act, hold office for a term of three years, extensible by order of [2][the Provincial Government] to a term not exceeding in the aggregate four years, if on any occasion [2][the Provincial Government] shall think fit, for reasons which shall be notified together with the order in the [3][*Official Gazette*], so to extend the same.

Provided that before such order is made [2][the Provincial Government] shall invite and consider objections, if any, from the voters entitled to vote at the municipal election in the municipal borough concerned.

(*2*) (*a*) The term of office of such councillors shall be deemed to commence on the date of the first general meeting which shall be held after such election and after the expiry of the term of the outgoing councillors hereinbefore provided and at which a quorum shall be present ; and

(*b*) the term of office of the outgoing councillors shall be deemed to extend to and expire with the day before the date of such meeting.

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[1] S. 24A was inserted by Bom. 1 of 1927, s. 4.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

Resignation of councillors.

26. Any councillor may resign his office by giving notice in writing to that effect to the president.

Liability of councillors to removal from office.

27. [1][The Provincial Government] if it thinks fit, on the recommendation of the municipality supported by at least two-thirds of the whole number of councillors, may remove any councillor elected or nominated under this Act, if such councillor has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct or has become incapable of performing his duties as a councillor :

Provided that no resolution recommending the removal of any councillor shall be passed by the municipality unless the councillor to whom it relates has been given a reasonable opportunity of showing cause why such recommendation should not be made.

Disabilities from continuing a councillor.

28. (*1*) If any councillor during the term for which he has been elected or nominated—

(*a*) becomes subject to any disqualifications specified in section 12, or

(*b*) acts as a councillor in any matter—

(*i*) in which he has directly or indirectly, by himself or his partner, any such share or interest as is described in clause (*i*), (*ii*), (*iii*), (*vi*) or (*viii*) or of sub-section (*3*) of section 12 whatever may be the value of such share or interest, or

(*ii*) in which he is professionally interested on behalf of a principal or other person, or

(*iii*) in which he is engaged at the time in any case against the municipality, or

(*c*) departs beyond the limits of the Presidency with the declared or known intention of absenting himself continuously for a period exceeding six months, or

(*d*) not being a president or vice-president or a salaried [2][servant of the Crown], absents himself during four successive months from the meetings of the municipality, except with the leave of the municipality,

(*e*) fails to pay any arrears of any kind due by him to the municipality within three months after a special notice in this behalf has been served upon him,

he shall be disabled from continuing to be a councillor and his office shall become vacant.

(*2*) If any question arises whether a vacancy has occurred under sub-section (*1*), the orders of [1][the Provincial Government] shall be final for the purpose of deciding such question after a reasonable opportunity has been given to the councillor.

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] The words " servant of the Crown " were substituted for the words " servant of the Government " by *ibid.*

Casual vacancies how to be filled up.

29. Where a vacancy occurs through the non-acceptance of office by a person elected or appointed to be a councillor, or through such person being disqualified for becoming a councillor, or through any election being set aside under the provisions of sub-section (*2*) of section 15, or through the death, resignation, removal or disability of a councillor previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or nomination as the case may be of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or nominated would have held it if the vacancy had not occurred. [1][Provided that no election shall be held to fill up a vacancy occurring within four months of the date on which the term of the municipality expires].

A councillor whose office has become vacant under section 28 shall, if his disability has ceased, be eligible for re-election.

(6) *Municipal government. Functions of President and Vice-President.*

Municipal government vests in the municipality.

30. (*1*) Except as in this Act otherwise expressly provided, the municipal government of a municipal borough vests in the municipality.

Executive power vests in the Chief Officer.

(*2*) The executive power for the purpose of carrying out the provisions of this Act vests in the Chief Officer appointed under section 33, subject, wherever it is in this Act expressly so directed, to the approval or sanction of the municipality or of the standing committee and subject also to all other restrictions, limitations and conditions imposed by this Act and the rules made thereunder.

Function of president.

31. It shall be the duty of the president of a municipality—

(*a*) to preside, unless prevented by reasonable cause, at all meetings of the municipality, and subject to the provisions of the rules for the time being in force under clause (*a*) of section 58 to regulate the conduct of business at such meetings;

(*b*) to watch over the financial and executive administration of the municipality and to perform such executive functions as may be allotted to him by or under this Act;

(*c*) to exercise supervision and control over the acts and proceedings of all officers and servants of the municipality in matters of executive administration and in matters concerning the accounts and records of the municipality; and, subject to the rules of the municipality at the time being in force, to dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances.

(*d*) The president of a municipality may in cases of emergency direct the execution or stoppage of any work or the doing of any act which requires the sanction of the municipality, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the municipal fund:

[1] This proviso was added by Bom. 19 of 1935, s. 5.

Provided that—

(*a*) he shall not act under this section in contravention of any order of the municipality prohibiting the execution of any particular work or the doing of any particular act, and

(*b*) he shall report forthwith the action taken under this section and the reason therefor to the Standing Committee at its next meeting.

Functions of vice-presidents.

32. It shall be the duty of the vice-president of a municipality—

(*a*) in the absence of the president and unless prevented by reasonable cause, to preside at the meetings of the municipality and he shall when so presiding exercise the same authority as is vested in the president under clause (*a*) of section 31;

(*b*) to exercise such of the powers and perform such of the duties of the president as the president may from time to time depute to him; and

(*c*) pending the election of a president, or during the absence of the president, to exercise the powers and perform the duties of the president.

(7) *Appointment and powers of chief and other municipal officers.*

Appointment of Chief Officer: Conditions of tenure.

[1]**33.** (*1*) There shall be a chief officer in every municipal borough who shall be a graduate of a recognized university or a qualified engineer appointed by the municipality:

Provided that a person permanently appointed as chief officer under the Bombay District Municipal Act, 1901, before the coming into operation of this Act [2][or a person temporarily appointed as chief officer under this Act for a period not exceeding two months in the aggregate in a year] need not be a graduate of a recognised university or a qualified engineer:

Bom. III of 1901.

[3][Provided further that, with the previous sanction of [4][the Provincial Government], a person who is not a graduate of a recognised university or a qualified engineer, may be appointed Chief Officer of a municipal borough with an annual income of less than two lacs of rupees.]

(*2*) No chief officer shall be removed from office, reduced or suspended unless by the votes of at least two-thirds of the whole number of councillors; and no such officers shall be punishable with fine.

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[1] This section was substituted for the original section by Bom. 1 of 1926, s. 3, which takes effect from the date when the original Act came into operation.

[2] These words were inserted by Bom. 4 of 1930, s. 4.

[3] This new proviso was added by Bom. 7 of 1932, s. 2.

[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Powers and duties of Chief Officer.

34. (*1*) The Chief Officer shall—

(*a*) subject to the general control of the president, watch over the financial and executive administration of the municipality and perform all the duties and exercise all the powers specifically imposed or conferred upon him by, or delegated to him under this Act;

(*b*) subject to the provisions of sub-section (*4*), exercise supervision and control over the acts and proceedings of all officers and servants of the municipality as regards appointments referred to in clause (*c*) in matters of executive administration and in matters concerning the accounts and records of the municipality; and subject further to the rules of the municipality for the time being in force, dispose of all questions relating to the service of the officer and servants and their pay, privileges, leave and allowances;

(*c*) subject to the provisions of sub-section (*4*) appoint to any post the monthly salary for which as fixed by rules made under clause (*c*) of section 58 does not exceed Rs. 50 and to any other post the appointment to which has not been otherwise provided for by such rules;

(*d*) with the permission of the President furnish to the Collector, or such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the municipality;

(*e*) subject to the provisions of this Act and of the by-laws for the time being in force thereunder, grant, give and issue under his signature all licenses and permissions which may be granted or given by the municipality or the standing committee under this Act, other than licenses for markets or slaughter-houses;

(*f*) receive and recover and credit to the municipal fund all fees payable for licenses and permissions granted or given by him under the powers aforesaid;

(*g*) subject to the orders of the president, or of the standing committee or of the municipality, as the case may be, take prompt steps to remove any irregularity pointed out by the auditor appointed under section 210;

(*h*) report to the President and the standing committee all cases of fraud, embezzlement, theft, or loss of municipal money and property.

(*2*) The Chief Officer may—

(*a*) subject to the provisions of sub-section (*4*) fine, reduce, suspend or dismiss any municipal servant whose salary does not exceed Rs. 30 and subject further to the provisions of the rules for the time being in force, any other municipal officer or servant, not being the health officer, engineer or auditor of the municipality;

Provided that in respect of any punishment other than a fine not exceeding one week's salary his order shall be subject to an appeal either

to the standing committee or, if the rules for the time being in force so provide, to the municipality:

(*b*) subject to the provisions of this Act and of the by-laws for the time being in force thereunder, at his discretion suspend, withhold or withdraw any license, in any case in which he is empowered to grant or give a license and in which the municipality or the standing committee may suspend, withhold or withdraw such license;

(*c*) with the sanction of the standing committee, delegate any of his powers or duties to any municipal officer or servant:

Provided that such delegation shall be subject to such limitations, if any, as may be prescribed by the standing committee, and also to control and revision by the Chief Officer.

(*3*) The Chief Officer shall at any time supply any return, statement, account or report or a copy of any document in his charge, called for by the municipality or the standing committee and shall comply with any orders passed by the municipality or the standing committee thereon.

(*4*) The powers conferred on the municipality by or under any of the provisions of this Act to appoint, grant leave of absence to, punish or dismiss any master, teacher or other person employed in a primary or other school vested in or maintained by the municipality, or employed in any educational institution aided by the municipality, shall not be exercised by the Chief Officer.

Appointment of health officer and engineer.

(*5*) (*a*) A municipality may appoint a health officer and an engineer or any one or more of such officers, whether temporarily or permanently.

(*b*) No such officer shall be removeable from office, reduced or suspended unless by the assent of at least two-thirds of the whole number of councillors, and no such officer shall be punishable with fine.

Power of Provincial Government to require the removal of a chief officer, health officer or an engineer.

[1][34A. (*1*) Notwithstanding anything contained in section 33 and sub-section (*5*) of section 34, it shall be lawful for [2][the Provincial Government] on the recommendation of any municipality supported by a resolution passed by a majority of the councillors present at a special general meeting called for the purpose to make in its discretion an order vetoing the continuance in office of any person holding the appointment of a chief officer, a health officer or an engineer:

Provided that—

(*a*) Notwithstanding anything contained in sub-section (*7*) of section 35, no resolution shall be passed by such meeting unless a quorum shall have been present throughout; and

(*b*) no order shall be made under this section unless an inquiry has been made into the matter by such person and in such manner as

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[1] This section was inserted by Bom. 3 of 1930, s. 2.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[1][the Provincial Government] may direct and unless the person affected by the order has been given a reasonable opportunity at the inquiry of explaining the allegations made against him.

(*2*) The tenure of office by any person whose continuance in office is vetoed under sub-section (*1*) shall cease and determine on and from such date as may be appointed by [1][the Provincial Government] in that behalf.]

CHAPTER III.

CONDUCT OF BUSINESS.

(1) *Municipal Meetings.*

Provisions in regard to meetings of a municipality.

35. The following provisions shall be observed with respect to the meetings of a municipality :—

Ordinary general meetings.

(*1*) There shall be held four ordinary general meetings in each year for the disposal of general business, on or about the tenth day of the months of January, April, July and October, respectively, and such other ordinary general meetings as the president may find necessary. It shall be the duty of the president to fix the dates for all ordinary general meetings.

Special general meetings.

(*2*) The president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the councillors and for a date not more than fifteen days after the presentation of such request, call a special general meeting. If the president fails to call a special general meeting as provided in this clause the Vice-President may call such meeting for a day not more than thirty days after the presentation of such request.

Notice of meetings.

(*3*) Seven clear days' notice of an ordinary general meeting, and three clear days' notice of a special general meeting, specifying the time and place at which such meeting is to be held and the business to be transacted thereat shall be served upon the councillors, and posted up at the municipal office or the local kacheri or some other public building in the municipal borough and also published in a local vernacular newspaper having a large circulation if such exists. The said notice shall include any motion or proposition which a councillor shall have given written notice, not less than ten clear days previous to the meeting, of his intention to bring forward thereat, and in the case of a special general meeting, any motion or proposition mentioned in any written request made for such meeting.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*4*) Every meeting of a municipality shall, except for special reasons to be mentioned in the notice convening the meeting, be held in the buildings used as a municipal office by such municipality. Meetings to be held at municipal office.

(*5*) Every meeting shall, in the absence of both the president and vice-president, be presided over by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion, and such chairman shall exercise thereat the powers vested in the president by clause (*a*) of section 31. Absence of the president and the vice-president.

(*6*) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the municipality such as should be held in private : Meeting must ordinarily be open to the public.

Provided that the said authority may at any time cause any person to be removed who interrupts the proceedings :

Provided further that the presiding authority may cause to be removed from the meeting any councillor who does not obey his ruling.

(*7*) If less than one-third of the whole number of councillors be present at a meeting at any time from the beginning to the end thereof the presiding authority shall after waiting for not more than 30 minutes adjourn the meeting to such hour on the following or some other future day as he may reasonably fix ; a notice of such adjournment shall be fixed up in the municipal office, and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not. Adjournment in absence of quorum.

(*8*) Except with the permission of the presiding authority, which permission shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof, no business shall be transacted and no proposition shall be discussed at any general meeting unless it has been entered in the notice convening such meeting or, in the case of a special general meeting, in the written request for such meeting. The order in which any business or proposition shall be brought forward at such meeting, shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal. Business to be transacted at meetings and order of business.

(*9*) In every municipality there shall be kept in the vernacular language and if any councillor so desire, in English also, minutes of the names of the councillors and of the Government officers, if any, present under the provisions of sub-section (*14*), and of the proceedings at each general meeting, in a book to be provided for this purpose ; such minutes shall be signed, as soon as practicable, by the presiding authority and shall at all reasonable times be open to inspection by any inhabitant of the municipal borough. Minutes of proceedings.

Questions decided by majority of votes.

(*10*) All questions shall be decided by a majority of votes of the councillors present and voting, the presiding authority having a second or casting vote in all cases of equality of votes. Votes shall be taken and results recorded in such manner as may be prescribed by rules in that behalf for the time being in force under clause (*a*) of section 58.

Adjournments.

(*11*) Any general meeting may, with the consent of a majority of the councillors present, be adjourned from time to time to a later hour on the same day or to any other day; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

A notice of such adjournment posted in the Municipal office shall be deemed sufficient notice of the adjournment meeting.

Modification and cancellation of resolutions.

(*12*) No resolution of a municipality shall be modified or cancelled within three months after the passing thereof, except by a resolution supported by not less than one-half of the whole number of councillors and passed at a general meeting, whereof notice shall have been given fulfilling the requirements of sub-section (*3*) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting and the motion or proposition for the modification or cancellation of such resolution.

Notice of certain business to be given to the Government Executive Engineer or Educational Inspector.

(*13*) Except for reasons which the presiding authority deems urgent, no business relating to any work which is being executed for the municipality by a Government Executive Engineer or to any educational matter, shall be transacted at any meeting of a municipality unless, at least fifteen days previous to such meeting a letter has been addressed to the said Executive Engineer or to the Deputy Educational Inspector of the district, informing him of the intention to transact such business thereat, and of the motions or propositions to be brought forward concerning such business.

Certain Government officers may attend and may be required to attend meetings.

(*14*) (*a*) The members of the Sanitary Board, and the Executive Engineer, Deputy Educational Inspector and the Assistant Director of Public Health, and the Civil Surgeon in a district when charged with any of the duties of a health officer therein, if not members of a municipality within the district, shall have the right of being present at any meeting of such municipality; with the consent of the municipality, each of them may take part at such meeting in the discussion or consideration of any question on which, in virtue of the duties of his office, he considers his opinion or the information which he can supply will be useful to such municipality:

Provided that the said officers shall not, unless they are members of the municipality be entitled to vote upon any such question.

(*b*) If it shall appear to a municipality that the presence of the Executive Engineer, Deputy Educational Inspector, Assistant Director of Public Health or Civil Surgeon of or in the district is desirable for the purpose aforesaid at any meeting of such municipality, it shal be competent to such municipality, by letter addressed to such office

not less than fifteen days previous to the intended meeting, to require his presence thereat; and the said officer unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting:

Provided that such officer on receipt of such letter may, if unable to be present himself, instruct a Deputy or Assistant or other competent subordinate as to his views, and may send him to the meeting as his representative instead of appearing thereat in person.

The Chief Officer to be present at every meeting of the municipality but not to vote upon or make any proposition.

36. The Chief Officer shall be present at every meeting of the municipality, and may with the permission of the president or of the municipality make an explanation or a statement of facts in regard to any subject under discussion at such meeting, but shall not vote upon or make any proposition at such meeting.

(2) *Committees.*

Standing committee.

37. (*1*) In every municipality there shall be a committee called the standing committee consisting of such number of councillors not being more than twelve nor less than six, as the municipality may determine and elected by the municipality in accordance with rules framed under section 58, clause (*a*). The members so elected shall hold office for a period of one year.

Powers of standing committees.

(*2*) The standing committee shall exercise the functions allotted to it under this Act and subject to any limitations prescribed by the municipality especially in this behalf or generally by rules made under clause (*a*) of section 58, and to the provisions of section 34, [1][37A] and 38, shall exercise all the powers of the municipality.

Pilgrim Committee.

[2][37A. (*1*) In every municipality notified by [3][the Provincial Government] in this behalf there shall be a committee called the Pilgrim Committee consisting of three councillors of whom one shall be the president of the municipality and the other two shall be elected in accordance with rules made under clause (*a*) of section 58 and of three persons nominated by the Commissioner of whom not more than two may be salaried [4][servants of the Crown].

(*2*) The members of the Pilgrim Committee shall hold office for the duration of the municipality and thereafter up to the date on which a new Pilgrim Committee is constituted in accordance with the provisions of this section.

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[1] These figures and letter were inserted by Bom. 4 of 1930, s. 4.

[2] This section was inserted by *ibid.*

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "servants of the Crown" were substituted for the words "servants of Government" by *ibid.*

In the case of supersession of the municipality or of the Pilgrim Committee, a new Pilgrim Committee shall be constituted by the Commissioner. Such Committee shall consist of six persons nominated by the Commissioner and shall continue until the municipality is re-established, and a new Pilgrim Committee is constituted in accordance with the provisions of this section, or, in case of supersession of the Pilgrim Committee, until the Pilgrim Committee is re-established.

(*3*) The Pilgrim Committee shall manage and administer the pilgrim fund established under proviso (*c*) to section 65 and shall exercise the powers and perform the duties of the municipality in respect of the said fund [1][and of works constructed or maintained out of the said fund and shall exercise such other powers and perform such other duties as may be allotted to it by the municipality] subject to such limitations and restrictions as may be prescribed by the municipality by rules made in this behalf under clause (*aa*) of section 58.

(*4*) All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be applicable, so far as may be, to the members nominated on the Pilgrim Committee.

(*5*) In the event of the death, resignation, disqualification, disability or removal of a nominated member previous to the expiry of his term of office, the vacancy shall be filled up by the appointment of a person thereto who shall hold office so long only as the person in whose place he is appointed would have held it if the vacancy had not occurred.

(*6*) Section 45 shall not apply to the Pilgrim Committee; provided that the municipality shall have power, at any time, to call for any extract from any proceedings of the Pilgrim Committee and for any return, statement of account or report concerning or connected with any matter with which the Pilgrim Committee deals and every such requisition shall, without unreasonable delay, be complied with by the Pilgrim Committee.

(*7*) The provisions of sections 210, 211 and 212 shall, so far as may be, apply to the Pilgrim Fund Account and the Pilgrim Committee shall, with respect to the preparation and submission to the municipality of its annual budget, follow the following procedure, namely :—

"The Pilgrim Committee shall in sufficient time submit its annual budget and all alterations therein to the municipality for consideration, and, if the municipality agree to it, for its incorporation in the general municipal budget. If the municipality do not agree to the budget as framed by the Pilgrim Committee, they shall return it to the Pilgrim Committee for reconsideration, either in whole or in part, together with any alterations, which they may recommend, and if the Pilgrim Committee agrees to those alterations, the budget so altered shall be

[1] These words were inserted by Bom. 19 of 1935, s. 6.

incorporated in the general municipal budget. If the municipality and the Pilgrim Committee fail to reach an agreement, the budget with a statement of the points in dispute shall be referred by the municipality to the Commissioner, whose decision on such points shall be final."

(*8*) The provisions of sections 213, 214, 215, 218 and 219 shall apply to a Pilgrim Committee and in their application to a Pilgrim Committee the said sections shall be construed so far as may be, as if for the word "municipality" occurring in the said sections the words "Pilgrim Committee" were substituted.]

Other executive committees.

38. (*1*) Notwithstanding anything contained in section 37 (*2*) other committees consisting of such number of councillors as the municipality may decide, may be appointed to exercise the powers and perform the duties of the municipality in respect of any purpose [1][not being, where a Pilgrim Committee is appointed, powers of duties referred to in section 37A]. The standing committee shall not exercise any powers or perform any duties which such committee has been appointed to exercise or perform.

(*2*) The members of such committees shall be elected by the municipality in accordance with the rules framed under clause (*a*) of section 58 and such members shall hold office for a period of one year.

Consultative committees.

39. A municipality may from time to time appoint such other committees consisting of such councillors as it thinks fit, and may refer to such committees for inquiry and report or for opinion such special subjects relating to the purposes of this Act as the municipality shall think fit, and may at any time discontinue or alter the constitution of any such committee. The municipality may direct that the report of any such committee shall be made to the standing committee, or to a committee appointed under section 38, instead of to the municipality.

When persons other than councillors may serve on committees.

40. Notwithstanding anything contained in this Act, it shall be lawful for a municipality from time to time by a resolution supported by not less than one-half of the whole number of councillors, to elect as members of any committee appointed under section 39 or 38 any person of either sex, who is not a councillor but who in the opinion of such municipality possesses special qualifications for serving on such committee; provided that the number of persons so elected on any committee shall not exceed one-third of the total number of the members of such committee.

Duties, etc., of such persons.

All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be applicable so far as may be to such persons.

[1] These words, figures and letters were inserted by Bom. 4 of 1930, s. 4.

Casual vacancies; re-eligibility.

41. A vacancy occurring in a standing committee or in a committee appointed under section 38 shall, as soon as possible, and a vacancy occurring in any other committee may, be filled up by the election of a member thereto subject to the same provisions as those under which the member whose place is to be filled up was elected. A person elected under this section shall hold office so long only as the person in whose place he is elected would have held it if the vacancy had not occurred. No person shall be ineligible at any time for election as a member of any such committee on the ground that he has previously been a member of that committee.

Ex-officio and appointed chairman. Non-attendance of chairman.

42. (*1*) The president or vice-president, if elected a member of any committee, shall be *ex-officio* chairman thereof:

[1][Provided that in the case of a Pilgrim Committee the President shall be *ex-officio* Chairman thereof.]

(*2*) A municipality may appoint a chairman for a committee of which there is no *ex-officio* chairman.

(*3*) A committee of which there is an *ex-officio* chairman or a chairman appointed by the municipality, shall, at each meeting which such chairman does not attend, appoint from its members a chairman for such meeting.

(*4*) A committee, of which there is no *ex-officio* chairman or chairman appointed by the municipality, shall appoint from time to time a chairman from the members of such committee.

Procedure at meetings.

43. (*1*) The provisions of sub-sections (*4*), (*9*), (*10*) and (*14*) of section 35 shall be complied with in all proceedings of committees as if meetings of committees were included in all references to meetings of a municipality contained in those provisions, and as if for the word "municipality" where it occurs in the proviso to clause (*a*) of sub-section (*14*) of section 35, there was substituted the word "committee".

If the chairman of any committee has been absent from the municipal borough for a period exceeding fifteen days, the president or vice-president may, in his absence, call a meeting thereof:

Provided that, notwithstanding anything to the contrary contained in sub-section (*9*) of section 35, a committee may record its proceedings either in English or in the vernacular language, as it may think fit.

Meeting and adjournment of committees.

(*2*) A committee may meet and adjourn as it thinks proper; but the chairman of a committee may whenever he thinks fit, and shall, upon the written request of the president of the municipality or of not less than two members of the committee and for a date not more than two days after the presentation of such request, call a special meeting of such committee.

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[1] This proviso was added by Bom. 4 of 1930, s. 4.

(*3*) No business shall be transacted at any meeting of a committee unless more than one-third of the members of the committee be present thereat. Quorum.

44. (*1*) Notwithstanding anything contained in section 43 the chairman of a committee may, instead of convening a meeting, circulate a written proposition of his own or of any other member of the committee or of any executive officer of the municipality for the observations and votes of the members of the committee. Procedure by circular.

(*2*) Previous to circulating any such proposition as aforesaid, the chairman may, if he thinks fit, and, if the business to which it relates is of the nature described in sub-section (*13*) of section 35, shall obtain thereupon the remarks, if any, which any Government officer whose presence the municipality would be entitled to require under the provisions of clause (*b*) of sub-section (*14*) of section 35, desires to record. Propositions when to be sent to Government officers for remarks.

(*3*) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members of the committee who vote upon it, unless a special meeting is convened to consider the said proposition. Decisions how to be taken on propositions circulated.

(*4*) Every decision arrived at by a committee under this section shall be recorded in the minute book. And how to be recorded.

45. (*1*) A committee shall conform to any instructions that may from time to time be given to it by the municipality; the municipality may at any time call for any extract from any proceedings of any committee and for any return, statement, account or report in connection with any matter with which any committee has been authorized or directed to deal; every such requisition shall, without unreasonable delay, be complied with by the committee so called upon. Subordination of committees to municipality.

(*2*) Every order passed by a standing committee or by a committee appointed under section 38, other than orders under sub-section (*3*) of section 81, shall be subject to such revision and open to such appeal as may be required or allowed in respect thereof by any rules of the municipality for the time being in force under section 58.

46. Any powers or duties or executive functions which may be exercised or performed by or on behalf of the municipality may be delegated in accordance with rules to be made by the municipality in this behalf, to the president or to the vice-president or to the chairman of the school or other committee, or to one or more stipendiary or honorary officers, but without prejudice to any powers that may have been conferred on the Chief Officer by this Act or on any committee by or under section 37, [1][37A] or 38, and each person, who exercises any power or performs any duty or function so delegated, may be paid all expenses necessarily incurred by him therein. Powers, duties and functions may be delegated to officers whose expenses may be paid.

[1] These figures and letter were inserted by Bom. 4 of 1930, s. 4.

(3) *Joint transactions with other bodies.*

Joint committees of local bodies. Joint levy of octroi.

47. (*1*) A municipality may from time to time—

(*a*) join with any other municipality or with any local board, cantonment authority, sanitary board, sanitary committee or committee appointed for a notified area or with any combination of such municipalities, boards, authorities or committees—

(*i*) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee ; and

(*ii*) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work, and any power which might be exercised by any of such bodies ; and

(*iii*) in framing and modifying rules for regulating the proceedings of any such committee in respect of the purpose for which the committee is appointed ; and

(*b*) enter, subject to the sanction of [1][the Provincial Government], into an agreement with a municipality, cantonment authority, board, committee or combination as aforesaid for the levy of octroi duty, and tolls whereby the octroi duties and tolls respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

[2][(*1A*) Where a municipality has requested the concurrence of any other local authority under the provisions of sub-section (*1*) in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit, requiring the concurrence of such other local authority, not being a cantonment authority, in the matter aforesaid ; and such other local authority shall comply with such orders.]

(*2*) If any difference of opinion arises between bodies having joined or entered into an agreement for any purpose under this section, the decision thereupon of [1][the Provincial Government] or of such officer as it appoints in this behalf, shall be final :

[3][Provided that if one of the bodies concerned is a cantonment authority, any such decision shall be subject to the concurrence of the Central Government.]

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This sub-section was inserted by Bom. 14 of 1934, s. 4.

[3] This proviso was inserted by the Adaptation of Indian Laws Order in Council.

(4) *Contracts.*

Power of municipality to sell, lease and contract.

48. (*1*) A municipality shall be competent, subject to the restriction contained in sub-section (*2*), to lease, sell or otherwise transfer any movable or immovable property which may, for the purposes of this Act have become vested in or been acquired by it; and so far as is not inconsistent with the provisions and purposes of this Act, to enter into and perform all such contracts as it may consider necessary or expedient in order to carry into effect the said provisions and purposes.

(*2*) In the case of every lease or sale of land under sub-section (*1*) of section 114 and of a lease of immovable property for a term exceeding seven years and of every sale or other transfer of such property, the previous sanction of the Commissioner is required.

Sanction by resolution at general meeting requisite to validity of certain contracts.

(*3*) In the case—

(*a*) of a lease for a period exceeding one year or of a sale or other transfer or contract for the purchase of any immovable property;

(*b*) of every contract which will involve expenditure not covered by a budget grant;

(*c*) of every contract the performance of which cannot be completed within the official year current at the date of the contract;

the sanction of the municipality by a resolution passed at a general meeting is required.

Execution of contracts on behalf of municipality.

(*4*) In a municipality—

(*a*) every contract under or for any purpose of this Act shall be made on behalf of the municipality by the Chief Officer;

(*b*) no such contract for any purpose which the Chief Officer is not empowered by this Act to carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given;

(*c*) no contract which will involve an expenditure exceeding three hundred rupees shall be made by the Chief Officer unless otherwise authorized in this behalf by the municipality except with the approval or sanction of the standing committee;

(*d*) every contract made by the Chief Officer involving an expenditure exceeding two hundred rupees and not exceeding three hundred rupees shall be reported by him, within fifteen days after the same has been made, to the standing committee;

(*e*) the foregoing provisions of this section shall apply to every variation or discharge of a contract to the same extent as to an original contract.

(*5*) No contract shall be binding on a municipality unless the requirements of this section have been complied with.

Mode of executing contracts.

49. (*1*) Every contract entered into by a Chief Officer on behalf of a municipality shall be entered into in such manner and form as would bind such Chief Officer if such contract were on his own behalf, and may in the like manner and form be varied or discharged :

Provided that—

(*a*) where any such contract, if entered into by a Chief Officer, would require to be under seal, the same shall be sealed with the common seal of the municipality ;

(*b*) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees, shall be in writing, and shall be sealed with the common seal of the municipality and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials or goods and in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(*2*) The common seal of the municipality shall not be affixed to any contract or other instrument except in the presence of two members of the standing committee, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

(*3*) A contract not executed in the manner provided in this section shall not be binding on the municipality.

Tenders to be invited for contracts involving expenditure exceeding Rs. 1,000.

50. (*1*) Except as is otherwise provided in sub-section (*3*), a Chief Officer shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees, give notice by advertisement in a local newspaper, inviting tenders for such contract.

(*2*) The Chief Officer shall not be bound to accept any tender which may be made in pursuance of such notice, but may, with the approval of the standing committee, accept any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous or may reject all the tenders submitted to him.

(*3*) A municipality may authorise the Chief Officer, for reasons which shall be recorded in its proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.

Security when to be taken for performance of contract.

51. A Chief Officer shall require security for the due performance of every contract into which he enters under section 50 and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.

(5) *Compulsory acquisition of land.*

Recourse to the Land Acquisition Act, 1894.

52. When there is any hindrance to the permanent or temporary acquisition by a municipality upon payment of any land or building required for the purposes of this Act, [1][the Provincial Government] may, after obtaining possession of the same for itself under the [2]Land Acquisition Act, 1894, or other existing law, vest such land or building in the municipality on its paying the compensation awarded, and on its repaying to [3][the Provincial Government] all costs incurred by [3][the Provincial Government]on account of the acquisition.

I of 1894.

(6) *Liabilities of councillors, officers and servants.*

Councillors to be held responsible for misapplied funds.

53. Every councillor shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through, or been facilitated by gross neglect of his duty as a councillor and may be sued for recovery of the moneys so misapplied as if such moneys had been the property of [4][the Crown for the purposes of the Province] :

Provided that no councillor shall be personally liable in respect of any contract or agreement made, or for any expense incurred, by, or on behalf of the municipality; the funds at the disposal of each municipality shall be liable for, and be charged with, all costs in respect of any such contract or agreement and all such expenses.

Officer or servant of municipality not to be interested in contract with such municipality.

54. (*1*) Any person who has directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of a municipality, or in any employment with, under, by or on behalf of a municipality, other than as a municipal officer or servant, shall be disqualified for being an officer or servant of such municipality.

(*2*) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant, and his office shall become vacant.

(*3*) Nothing in this section shall apply to any such share or interest in any contract or employment—with, under, by or on behalf of a municipality, as under clauses (*i*), (*ii*) and (*iv*) of sub-section (*3*) of section 12, it is permissible for a person to have without his being thereby disqualified from becoming a councillor.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] Central Acts.

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "the Crown for the purposes of the Province" were substituted for the word "Government" by *ibid.*

Penalty for councillor, officer or servant of a municipality being interested in contract, etc., with that municipality.

55. (*a*) Any councillor who knowingly acquires directly or indirectly any share or interest in any contract or employment with, under, by or on behalf of a municipality of which he is a member, not being a share or interest such as under section 12 it is permissible for a person to have without being thereby disqualified from becoming a councillor, and

(*b*) any municipal officer or servant who knowingly acquires directly or indirectly any share or interest in any contract, or, except in so far as concerns his own employment as municipal officer or servant, in any employment with, under, by or on behalf of a municipality of which he is an officer or servant, not being a share or interest such as under clauses (*i*) and (*iv*) of sub-section (*3*) of section 12—it is permissible for a person to have without being thereby disqualified from becoming a councillor,

shall be liable, on conviction before a criminal court, to a fine which may extend to five hundred rupees.

Councillors, etc., to be deemed public servants.

56. (*1*) Every municipal councillor, officer or servant and every lessee of the levy of any municipal tax, and every servant or other person employed by any such lessee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

(*2*) The word "Government" in the definition of "legal remuneration" in section 161 of that Code shall, for the purposes of sub-section (*1*) of this section, be deemed to include a municipality. XLV of 1860.

(7) *Validity of proceedings.*

Acts and proceedings of municipality and committee not vitiated by disqualifications, etc., of members thereof.

57. (*1*) No disqualification of or defect in the election or appointment of any person acting as councillor or as the president or presiding authority of a general meeting or as chairman or member of a committee appointed under this Act shall be deemed to vitiate any act or proceeding of the municipality or of any such committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to act.

No resolution of a municipality or of any committee appointed under this Act shall be deemed invalid on account of any irregularity in the service of notice, upon any councillor or member, provided that the proceedings of the municipality or committee, were not prejudicially affected by such irregularity.

Proceedings presumed to be good and valid.

(*2*) Until the contrary is proved every meeting of a municipality or of a committee appointed under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

(*3*) During any vacancy in a municipality or committee the continuing councillors or members may act as if no vacancy had occurred. Vacancy not to affect proceedings.

CHAPTER IV.

RULES AND BY-LAWS.

58. A municipality shall make rules not inconsistent with this Act and may from time to time alter or rescind them— Municipalities to make rules.

(*a*) regulating the conduct of its business and the delegation of any of its powers or duties to any committee or to the Chief Officer or [1][subject to the provisions of section 37A] the powers or duties of any committee to any other committee or to the Chief Officer and the appointment and constitution of committees;

[2][(*aa*) prescribing the limitations and restrictions subject to which the Pilgrim Committee shall exercise the powers and perform the duties of the municipality in respect of the Pilgrim Fund.]

(*b*) determining the executive functions to be performed by the president, vice-president and the chairman of any committee; Defining the functions of the president and others;

(*c*) determining the staff of officers and servants to be employed by the municipality and the respective designations, salaries, fees and absentee or other allowances of such officers and servants and their powers and duties; establishment;

(*d*) generally for the guidance of its officers and servants in all matters relating to the municipal administration; general guidance of municipal servants;

(*e*) fixing the amount and nature of the security to be furnished by any officer or servant from whom it may be deemed expedient to require security; amount of security;

(*f*) determining, subject to the limitations imposed by sections [3][33, 34 (*5*) and 34A,] the mode and conditions of appointing, punishing, or dismissing any officer or servant; and delegating to officers designated in the rules the power to appoint, fine, reduce, suspend or dismiss any officer or servant; mode of appointing, etc., municipal servants;

(*g*) regulating the grant of leave to its officers or servants, and fixing the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave; leave to municipal servants;

[1] These words, figures and letter were inserted by Bom. 4 of 1930, s. 4.

[2] This clause was inserted by *ibid.*

[3] These figures, word, letter and brackets were substituted for the figures, word and brackets "33 and 34 (*5*)" by Bom. 3 of 1930, s. 3.

pensions, etc. ;

(*h*) regulating the period of service of its officers and servants and determining the conditions under which such officers and servants or any of them shall receive pensions, gratuities or compassionate allowances on retirement or on their becoming disabled through the execution of their duty, and the amount of such pensions, gratuities or compassionate allowances ; and prescribing the conditions under which any gratuities or compassionate allowances may be paid to the surviving relatives of any such officers or servants whose death has been caused through the execution of their duty ;

provident funds ;

(*i*) authorizing the payment of contributions, at such rates and subject to such conditions as may be prescribed in such rules, to any pension or provident fund which may be established by the municipality or, with the approval of the municipality, by its officers and servants ;

prescribing taxes ;

(*j*) prescribing the taxes to be levied in the municipal borough for municipal purposes, the circumstances in which exemption will be allowed, the conditions on which and the extent to which remissions will be granted, and the system on which refunds will be allowed and paid, in respect of such taxes ; the limits of the charges or payments to be fixed in lieu of any tax under section 91, the fees to be charged for licenses or permissions granted under section 90 and for giving copies and stamping weights and measures ; the fees for notices demanding payments due on account of any tax and for the [1][issue and] execution of warrants of distress, and the rates to be charged for maintaining any live-stock distrained ; and the time at which and the mode in which such taxes, charges, payments, fees or rates shall be levied or recovered or be payable and the persons authorised to receive payment of the same and the manner in which auctions of movable and immovable property under section 106 shall be held ;

writing off amounts due.

(*k*) prescribing the conditions subject to which sums due on account of any tax or of costs in recovering any tax may be written off as irrecoverable, and the conditions subject to which the whole or any part of any fee chargeable for distress may be remitted by the standing committee :

Provided that—

Approval required to rules.

(*a*) no rule or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved by [2][the Provincial Government] ;

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[1]The words "issue and" were inserted by Bom. 12 of 1931, s. 3 (*i*).

[2]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[1][(*b*) if an officer serving or having served under a municipality has been, or is, transferred from or to the service of the Crown, or is partly employed by the Crown and partly by a municipality, the municipality shall make such contributions to his pension and leave allowances as may be required, by the conditions of his service under the Crown, to be made by him or on his behalf.] Officers transferred from or to the service of the Crown.

(*c*) a municipality shall not unless with the assent of [2][the government concerned] dispense with the services of any officer transferred from the service of [3][the Crown] to the service of the municipality or employed partly by [3][the Crown] and partly by the municipality, or finally dismiss from the service of the municipality any officer transferred from the service of the municipality to the service of [3][the Crown] without giving [2][the government concerned] six months' previous notice. Notice required in certain cases of dismissal.

[4][**58A.** A municipality may, at its discretion, make rules, not inconsistent with this Act, determining the conditions under which gratuities or compassionate allowances may be paid to the surviving relatives of its officers and servants or any of them who die during service and the amount of such gratuities or compassionate allowances : Discretionary power to make rules

Provided that no rule or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved by [5][the Provincial Government].]

59. (*1*) Notwithstanding anything contained in clause (*a*) of the proviso to section 58, the approval required to be given in respect of rules framed under clause (*c*) of section 58 may be given by the Commissioner instead of by [6][the Provincial Government], subject to the condition that any such rules relating to Chief Officers, health officers or engineers or to the salaries, fees or absentee or other allowances of such officers shall require the sanction of [5][the Provincial Government]. Rules made with approval of Commissioner or without approval.

(*2*) Notwithstanding anything contained in clause (*a*) of the proviso to section 58 or in sub-section (*1*) of this section, a municipality shall have power to make without sanction a rule under clause (*c*) of section 58, creating an appointment or increasing the salary of an appointment or granting or increasing an allowance in any case where the salary of such appointment or the amount of such allowance or the amount of such increase, as the case may be, does not involve a charge on the municipal fund exceeding rupees one hundred in the month :

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[1] The proviso (*b*) was substituted for the original proviso (*b*) by the Adaptation of Indian Laws Order in Council.

[2] The words "the government concerned" were substituted for the words "the Government" by *ibid.*

[3] The words "the Crown" were substituted for the words "the Government" by *ibid.*

[4] This section was inserted by Bom. 9 of 1930, s. 2.

[5] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[6] The words "the Provincial Government" were substituted for the word "Government" by *ibid.*

Provided that [1][the Provincial Government] may withdraw this power from any municipality either permanently or for such period as they think fit to prescribe when, in their opinion there are good reasons for doing so.

Power to suspend, reduce or abolish any existing tax.

60. (*1*) Subject to the requirements of clause (*a*) of the proviso to section 58 a municipality may, except as otherwise provided in clause (*b*) of the proviso to section 103 at any time for any sufficient reason, suspend, modify or abolish any existing tax by suspending, altering or rescinding any rule prescribing such tax.

(*2*) The provisions of chapter VII relating to the imposition of taxes shall apply so far as may be to the suspension, modification or abolition of any tax and to the suspension, alteration or rescission of any rule prescribing a tax.

Power to make by-laws;

61. (*1*) A municipality may from time to time, with the previous sanction of [1][the Provincial Government] make, alter or rescind by-laws not inconsistent with this Act—

markets and slaughter-houses, etc., etc.;

(*a*) for the regulation and inspection of markets and slaughter-houses and all places used by or for animals which are for sale or hire, or the produce of which is sold, and for the proper and cleanly conduct of business therein; and for fixing the rents and other charges to be levied for the use of any of them which belong to the municipality, for regulating the sale of fruit and vegetables in the municipal market or other specified places;

licensing, regulating and inspecting certain businesses;

(*b*) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which, licenses may be granted, refused, suspended or withdrawn for the use of any place not belonging to the municipality—

(*i*) as a slaughter-house;

(*ii*) for the manufacture, preparation, storing, sale or supply for the purpose of trade of any article or thing intended for human food or drink, whether such food or drink is to be consumed in such place or not;

(*iii*) for any of the purposes mentioned in sub-section (*1*) of section 186;

and providing for the inspection and regulation of the conduct of business in any place used as aforesaid, so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effect arising or likely to arise therefrom;

use of steam whistles, etc.;

(*c*) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licenses may be granted, refused, suspended or withdrawn for the

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

use of whistles and trumpets operated by steam or mechanical means in factories or other places for the purpose of summoning or dismissing workmen, or persons employed ;

(*d*) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licenses may be granted, refused, suspended or withdrawn for the use of any place or building for the purpose of lodging pilgrims, and providing for the inspection and regulation of such places or buildings ; Pilgrims' lodging houses ;

(*e*) prohibiting the stalling or herding of horses, camels, cattle, donkeys, sheep or goats, otherwise than in accordance with such regulations prescribed in such by-laws in regard to the number thereof, and the places to be used for the purpose, as may be necessary to prevent danger to the public health ; stalling of cattle, etc. ;

(*f*) prescribing the conditions on which sweet-meats may be sold and on which licenses may be granted, refused, suspended, or withdrawn for the use, for purposes of trade, of any place for stabling milch cattle, for storing or selling milk, or for making, storing or selling butter or other milk products ; milk shops ;

(*g*) (*i*) for the inspection of milch cattle ; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairy-men or milk-sellers ; for regulating dairies and cattle-sheds ;

(*ii*) for securing the cleanliness of milk-stores, milk-shops and vessels used by milk-sellers or buttermen for milk or butter ; milk stores, etc. ;

[1](*h*) * * * * * *

[1](*i*) * * * * * *

(*j*) for the registration of births, deaths, and marriages [2]* * * within the municipal borough and for enforcing the supply of such information as may be necessary to make such registration [3]* * * effective ; registration of births, etc. ;

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[1] On the coming into force of Part VI of the Bombay Weights and Measures Act, 1932 (Bom. 15 of 1932) in any area, clauses (*h*) and (*i*) shall be deemed to have been repealed. (*Vide* Bom. 15 of 1932, s. 47 and Second Schedule Part II). Clauses (*h*) and (*i*) run as follows :—

"(*h*) for the inspection of weights and measures under section 177 and for the stamping of weights and measures and for charging fees for the same ;

(*i*) for defining the standard weights and measures used within the municipal borough; ".

[2] The words "and the taking of a census" were omitted by the Adaptation of Indian Laws Order in Council.

[3] The words "or census" were omitted by *ibid.*

regulating the disposal of the dead;

(*k*) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the community or section of the community entitled to the use of such places for the disposal of the dead;

for enforcing supply of information as to epidemics;

(*l*) for enforcing the supply of information as to any cases of dangerous disease, and carrying out the provisions of sections 179 and 180;

for enforcing information as to liability to municipal taxation;

(*m*) for enforcing the supply of such information by inhabitants of the municipal borough as may be necessary to ascertain their respective liabilities to any tax imposed therein;

octroi;

(*n*) fixing octroi limits and stations; providing for the exhibition of tables of octroi; regulating, subject to any general or special orders which [1][the Provincial Government] may make in this behalf, the system, under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods, are again exported, and the custody or storage of animals or goods declared not to be intended for use or consumption within the municipal borough; and prescribing a period of limitation after which no claim for refund of octroi shall be entertained and the minimum amount for which any claim to refund may be made;

terminal tax;

(*o*) fixing terminal tax limits and stations, providing for the exhibition of tables of terminal tax, and regulating the mode of recovery of such tax;

for protecting water;

(*p*) for conserving and preventing injury to sources and means of water supply and appliances for the distribution of water, whether within or without the limits of the municipal borough, and regulating all matters and things connected with the supply and use of water and the turning on or turning off and preventing the waste of water, and the construction, maintenance and control of municipal water-works, and of pipes and fittings in connection therewith, whether the property of the municipality or not;

Explanation.—Sources and means of water-supply shall include private wells which are used by the public.

public baths, etc.;

(*q*) regulating the use of public bathing and washing places within the municipal borough;

conservancy;

(*r*) regulating sanitation and conservancy and the disposal of the carcasses of dead animals;

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(*s*) regulating the conditions on which permission may be given for the temporary occupation of, or the erection of temporary structures on, public streets or for projections over public streets; temporary structures and buildings;

(*t*) regulating the structure and dimensions of plinths, walls, foundations, roofs and chimneys of new buildings for the purpose of securing stability and the prevention of fires, and for purposes of health, and determining the purposes for which existing or newly erected buildings may be used in any area; buildings;

(*u*) for preventing the erection of buildings without adequate provision being made for the location and laying out of streets; and for the payment of compensation in such cases when necessary; streets;

(*v*) for ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means for securing a free circulation of air; ventilation;

(*w*) prescribing the qualifications of surveyors or persons by whom plans required under section 123 are to be prepared, or of plumbers; for licensing persons to be surveyors or plumbers and, fixing the fees chargeable for such licenses; and for modifying the provisions of or revoking such licenses; and prohibiting any alterations or repairs or fittings to water or drainage-pipes or house-connections being carried out or made except by such persons; qualified surveyors;

(*x*) regulating, in any other particular not specifically provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cesspools, water closets, privies, latrines, urinals and drainage or sewerage works of every description whether the property of the municipality or not; drains;

(*y*) determining the information and plans to be required by the municipality under sections 117 and 123; requiring information and plans in certain cases;

(*z*) prohibiting vehicular traffic in any particular street, so as to prevent danger, obstruction or inconvenience to the public, by fixing up posts at both ends of such street or portion of such street, prohibiting the transit of any vehicles of such form, construction, weight or size or laden with such heavy or unwieldy objects as may be deemed likely to cause injury to the roadways or to any construction thereon, or risk or obstruction to other vehicles or to pedestrians along or over any street, except under such conditions as to time, mode of traction or locomotion, use of appliances for protection of the roadway, number of lights and assistants, and other general precautions as may be prescribed either generally in such by-laws or in special licenses to be granted in each case upon such terms as to time of application and payment of fees therefor as may be prescribed in such by-laws: controlling unwieldy traffic;

Provided that no such by-law relating only to any particular street or portion of a street shall be deemed to be in force, unless and until notices of such prohibitions shall have been posted up by the municipality in conspicuous places at or near both ends of such street or portion of a street;

public parks; (*aa*) securing the protection of public parks, gardens and open spaces, vested in or under the control of the municipality, from injury or misuse, regulating their management and the manner in which they may be used by the public, and providing for the proper behaviour of persons in them;

[1](*bb*) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn, for the use of handcarts, and hand-barrows, other than those plying for hire in respect of which licences have been granted under the Bombay Public Conveyances Act, 1920, and providing for the seizure and detention of any hand-carts or hand-barrows which have not been duly licensed in pursuance of the bye-laws made under this section; Bom VIII of 1920

[1](*cc*) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn for hawking or exposing for sale in any public place or street any article whatsoever, whether it be for human consumption or not;

[1](*dd*) prescribing the conditions on or subject to which permission may be granted, renewed, refused, suspended or withdrawn for erecting, exhibiting, fixing or retaining any sky-sign or advertisement, over any land, building or structure.

[1]*Explanation.*—The expression "sky-sign" shall mean any word, letter, model, sign, device or representation in the nature of an advertisement, announcement or direction, supported on or attached to any post, pole, standard, framework or other support wholly or in part upon or over any land, building or structure which, or any part of which sky-sign, shall be visible against the sky from some point in any street and includes all and every part of any such post, pole, standard, framework, or other support. The expression "sky-sign" shall also include any balloon, parachute or other similar device employed wholly or in part for the purposes of any advertisement, announcement or direction upon or over any land, building or structure or upon or over any street, but shall not include—

(*a*) any flagstaff, pole, vane or weather-cock, unless adapted or used wholly or in part for the purpose of any advertisement, announcement or direction;

(*b*) any sign, or any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, or on

[1] Clauses (*bb*), (*cc*) and (*dd*) and the Explanation were inserted by Bom. 19 of 1935, s. 7 (*i*).

the cornice or blocking course of any wall, or to the ridge of a roof:

Provided that such board, frame or other contrivance be of one continuous face and not open work, and do not extend in height more than three feet above any part of the wall, parapet or ridge to, against, or on which it is fixed or supported;

(*c*) any word, letter, model, sign, device or representation as aforesaid, relating exclusively to the business of a railway company, and placed wholly upon or over any railway, railway station, yard, platform or station approach belonging to a railway company, and so placed that it cannot fall into any street or public place;

(*d*) any notice of land or building to be sold or let, placed upon such land or building.

[1](*ee*) generally for the regulation of all matters relating to municipal administration; general regulation.

and the municipality may, with the like sanction, prescribe a fine not exceeding five hundred rupees for every infringement of any such by-law. Fine may be imposed for infringement of by-laws.

[2][(*1a*) A municipality may, from time to time, with the previous sanction of the Central Government, make, alter or rescind by-laws, but not so as to render them inconsistent with this Act, for the taking of a census within the municipal borough and for enforcing the supply of such information as may be necessary to make such census effective.]

(*2*) A municipality shall, before making any by-law under this section, publish in such manner as shall in its opinion be sufficient, for the information of the persons likely to be affected thereby, a draft of the proposed by-law, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall, before making the by-law, receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified. Publication of drafts of proposed by-laws.

(*3*) When any by-law made by a municipality is submitted to [3][the Central or the Provincial Government] for sanction, a copy of the notice published and of every objection or suggestion received under the provisions of sub-section (*2*), shall be submitted for the information of [4][that Government] along with the said by-law. Objections and suggestions to be submitted to Central or Provincial Government.

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[1]The original clause (*bb*) was relettered (*ee*) by Bom. 19 of 1935, s. 7 (*ii*).

[2]Sub-section (*1a*) was inserted by the Adaptation of Indian Laws Order in Council.

[3]The words "the Central or the Provincial Government" were substituted for the words "the Government" by *ibid.*

[4]The words "that Government" were substituted for the words "the Government" by *ibid.*

Rules and by-laws to be printed and sold.

62. The rules and by-laws for the time being in force shall be kept open to public inspection at the municipal office at all reasonable times; printed copies thereof and of this Act in the vernacular language of the district and in English shall be kept on sale at cost price.

CHAPTER V.

MUNICIPAL PROPERTY AND FUND.

Power to acquire and hold property for the purposes of the Act.

63. (*1*) A municipality may acquire and hold property both movable and immovable, whether within or without the limits of the municipal borough.

(*2*) All property of the nature specified in the clauses to this section, not being specially reserved by [1][the Provincial Government], shall be vested in and belong to the municipality, and shall, together with all other property of what nature or kind soever, which may become vested in the municipality, be under its direction, management and control, and shall be held and applied by it as trustee, subject to the provisions and for the purposes of this Act:—

(*a*) All public town-walls, gates, markets, slaughter-houses, manure and night-soil depots, and public buildings of every description.

(*b*) All public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes, pumps and other water works; and all bridges, buildings, engines, works, materials and things connected with or appertaining to such water works; and also any adjacent land, not being private property, appertaining to any public tank or well.

(*c*) All public sewers and drains; all sewers, drains, tunnels, culverts, gutters and water-courses in, alongside or under any street, and all works, materials and things appertaining thereto; all dust, dirt, dung, ashes, refuse, animal matter, filth, or rubbish of any kind collected by the municipality from the streets, houses, privies, sewers, cesspools or elsewhere.

(*d*) All public lamps, lamp-posts, and apparatus connected therewith, or appertaining thereto.

(*e*) All lands transferred to it by the [2][Crown], or by gift or otherwise, for local public purposes.

(*f*) All public streets, and the pavements, stones and other materials thereof and also all trees, erections, materials, implements and things provided for such streets.

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2]The word "Crown" was substituted for the words "Secretary of State for India in Council" by *ibid.*

Decision of claims to property by or against the municipality.

64. (*1*) In any municipal borough to which a survey of lands, other than lands ordinarily used for the purposes of agriculture only, has been or shall be extended under any law for the time being in force, where any property or any right in or over any property is claimed by or on behalf of the municipality, or by any person as against the municipality, it shall be lawful for the Collector after formal enquiry, of which due notice has been given, to pass an order deciding the claim.

(*2*) Any suit instituted in any civil court after the expiration of one year from the date of any order passed by the Collector under sub-section (*1*), or, if one or more appeals have been made against such order within the period of limitation, then from the date of any order passed by the final appellate authority, as determined according to section 204 of the Bombay Land Revenue Code, 1879, shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order provided that the plaintiff has had due notice of such order.

Bom. V of 1879.

(*3*) (*a*) The powers conferred by this section on a Collector may also be exercised by an Assistant or Deputy Collector or by a Survey Officer as defined in the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

(*b*) The formal enquiry referred to in this section shall be conducted in accordance with the provisions of the aforesaid Code.

(*c*) Any person shall be deemed to have had due notice of an enquiry or order under this section if notice thereof has been given in accordance with rules made in this behalf by [1][the Provincial Government].

Municipal fund.

65. All moneys received by or on behalf of a municipality by virtue of this or any other Act; all taxes, fines and penalties paid to or levied by it under this Act [2][other than fines imposed by any Court]; all proceeds of land or other property sold by the municipality, and all rents accruing from its land or property; and all interest, profits and other moneys accruing by gift or transfer from the [3][Crown] or private individuals or otherwise, shall constitute the municipal fund, and shall be held and dealt with in a similar manner to the property specified in section 63 :—

Provided that—

Special trusts.

(*a*) nothing in this section or in section 63 shall in any way affect any obligation accepted by or imposed upon any municipality by any declarations of trust executed by or on behalf of such municipality or by any scheme settled under the [4]Charitable Endowments Act, 1890, for the administration of any trust, or by a trust of the nature specified in clause (*b*) of this proviso;

VI of 1890.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "other than fines imposed by any court" were inserted by *ibid.*

[3] The word "Crown" was substituted for the words "Secretary of State for India in Council" by *ibid.*

[4] Central Acts.

(*b*) a municipality may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on it by or under this Act or any other law for the time being in force, credit to a separate heading in the municipal accounts any portion of the municipal fund received or set apart by it specially for the purposes of schools or dispensaries or water works or fire-brigades or other such purposes as the Commissioner in this behalf approves, and the municipality may apply any sums properly so credited exclusively to the special purposes for which such sums were received or set apart.

[1](*c*) (*1*) Every municipality in a municipal borough in which a tax on pilgrims resorting periodically to a shrine within the limits of the municipal borough is levied shall, subject to the condition that reasonable provision shall be made for the purposes specified in clause (*2*), credit the proceeds of the said tax to a separate heading in the municipal account, to be called the "Pilgrim Fund Account."

(*2*) The purposes for which provision shall be made by a municipality before the proceeds of the pilgrim tax are credited to the Pilgrim Fund Account shall be the following, namely, the payment to the municipality of such percentage of the proceeds of the said tax as may be determined from time to time by the municipality with the approval of the Commissioner for

(*i*) making reasonable provision for the performance of all obligations imposed or which may be imposed on it by or under this Act or any other law for the time being in force;

(*ii*) such general duties of the municipality as are connected with the health, convenience and safety of the said pilgrims; and

(*iii*) the cost of collection of the said tax.

(*3*) The sums credited under clause (*1*) shall be devoted to such works conducive to the health, convenience and safety of the said pilgrims as may be approved by the Commissioner.

Application of municipal property and funds within and without the municipal borough.

66. The municipal fund and all property vested in a municipality shall be applied for purposes of this Act within the limits of the municipal borough:

Provided always that it shall be lawful for the municipality, with the sanction of [2][the Provincial Government] or any officer duly authorised by it in this behalf,—

(*a*) to incur expenditure in the acquisition of land or in the construction, maintenance or repair of works beyond the said limits for the purpose of obtaining a supply of water required for the inhabitants of the municipal borough, or of establishing slaughter-houses or places

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[1] This proviso was added by Bom. 4 of 1930, s. 4 (*x*).

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

for the disposal of night-soil or sewage or carcasses of animals or for drainage works, or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the said borough ; or

(*b*) to make a contribution towards expenditure incurred by any other local authority or out of any public funds for measures affecting the health, instruction, safety or convenience of the public and calculated to benefit the residents within the limits of the contributing municipality ; or

(*c*) to create scholarships tenable outside the limits of the municipal borough :

Provided, further, that nothing in this section or in any other provision of this Act shall be deemed to make it unlawful for a municipality when with such sanction as aforesaid it has constructed works beyond the limits of the municipal borough for the supply of water or for drainage as aforesaid—

(*a*) to supply or extend to or for the benefit of any person or buildings or lands in any place whether such place is or is not within the limits of the said borough, any quantity of water not required for the purposes of this Act within the said borough, or the advantages afforded by the system of drainage-works, on such terms and conditions with regard to payment and to the continuance of such supply or advantages as shall be settled by agreement between the municipality and such person or the occupier or owner of such buildings or lands, or

(*b*) to incur any expenditure, on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repair or alteration of any connection pipes or other works necessary for the purpose of such supply or for the extention of such advantages.

Power to deposit and invest surplus funds.

67. (*1*) It shall be lawful for a municipality to deposit [1]* * with the Imperial Bank of India or such other bank as may hereafter be appointed to conduct the business of His Majesty's treasury at Bombay or with the sanction of [2][the Provincial Government] in any bank in the Presidency of Bombay, any surplus funds in its hands which may not be required for current charges, and to invest such funds in public securities in the name of the municipality, and from time to time to dispose of such securities as may be necessary.

Surplus not so deposited or invested how to be dealt with.

(*2*) All surplus funds over and above what may be required for current expenses, unless deposited or invested as provided for in sub-section (*1*), shall be deposited in the local Government treasury or such other place of security as may be sanctioned in the rules of the municipality.

[1] The words "at interest" were deleted by Bom. 23 of 1931, s. 4 (*i*).

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

CHAPTER VI.

OBLIGATORY AND DISCRETIONAL FUNCTIONS OF MUNICIPALITIES.

Duties of municipalities.

68. It shall be the duty of every municipality to make reasonable and adequate provision—

(*1*) for the following matters within the municipal borough under its authority, namely :—

(*a*) lighting public streets, places and buildings ;

(*b*) watering public streets and places ;

(*c*) cleansing public streets, places and sewers, and all spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the municipality or not ; removing noxious vegetation ; and abating all public nuisances ;

(*d*) extinguishing fires, and protecting life and property when fires occur ;

(*e*) regulating or abating offensive or dangerous trades or practices ;

(*f*) removing obstructions and projections in public streets or places and in spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the municipality or in His Majesty ;

(*g*) securing or removing dangerous buildings or places, and reclaiming unhealthy localities ;

(*h*) acquiring and maintaining, changing and regulating places for the disposal of the dead ;

(*i*) constructing, altering and maintaining public streets, culverts municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like ;

(*j*) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at a reasonable cost ;

(*k*) naming streets and numbering houses ;

(*l*) registering births, marriages and deaths ;

(*m*) public vaccination ;

(*n*) suitable accommodation for any calves, cows, or buffaloes required within the municipal borough for the supply of animal lymph ;

(*o*) establishing and maintaining public hospitals and dispensaries, and providing public medical relief ;

(*p*) establishing and maintaining primary schools;

(*q*) printing such annual reports on the municipal administration of the borough as [1][the Provincial Government] by general or special orders requires the municipality to submit;

(*r*) paying the salary and the contingent expenditure on account of such police or guards as may be required by the municipality for the purposes of this Act or for the protection of any municipal property;

(*s*) erecting substantial boundary marks of such description and in such position as shall be approved by the Collector, defining the limits or any alteration in the limits of the municipal borough; and

(*2*) subject to such reasonable and adequate provision as aforesaid, for the following special matters, namely:—

(*a*) providing special medical aid and accommodation for the sick in time of dangerous disease; and taking such measures as may be required to prevent the outbreak or to suppress and prevent the recurrence of the disease;

(*b*) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the municipal borough.

Provision for anti-rabic treatment of indigent persons.

69. Every municipality shall, out of the municipal property and fund, make payments, at such rates and subject to such conditions as [1][the Provincial Government] from time to time by general or special order prescribes, for the maintenance and treatment in any institution which [1][the Provincial Government] declares by notification to be suitable for such purpose either within or without the municipal borough, and for other necessary expenses, of persons undergoing anti-rabic treatment as indigent persons according to the rules applicable to such institution and proceeding from the municipal borough:

Provided that the municipality shall not be liable under this section for the maintenance, treatment and other necessary expenses of any person undergoing anti-rabic treatment as an indigent person in any such institution as aforesaid, unless such person, previous to his admission thereto, has been resident in the municipal borough for at least one year.

Provision for lunatics and lepers.

70. Every municipality shall also, out of the municipal property and fund, make payments at such rates as [1][the Provincial Government] from time to time by general or special order prescribes, for the maintenance and treatment either in the municipal borough or at any asylum, hospital or house, whether within or without such borough, which

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[1][the Provincial Government] declares by notification to be suitable for such purpose,—

(*a*) of lunatics, not being persons for whose confinement an order under Chapter XXXIV of the Code of Criminal Procedure, 1898, is in force, and V of 1898.

(*b*) of lepers,

resident within, or under any enactment for the time being in force removed from, such borough :

Provided that the municipality shall not be liable under this section for the maintenance and treatment of any lunatic or leper in any such asylum, hospital or house as aforesaid, unless such lunatic or leper, immediately previous to his admission thereto, has been resident in the municipal borough for at least one year :

Provided further that [2][where an application is made to the High Court or a District Court under the provisions of section 88 of the Indian Lunacy Act, 1912, no order for the payment of the cost of maintenance of the lunatic by a municipality shall be made without an opportunity being given to such municipality to show that the lunatic has an estate applicable to his maintenance or that there is a person legally bound, and having the means, to maintain him]. The officer in charge of any asylum to which lunatics for whose maintenance and treatment a municipality is liable under this section are admitted shall maintain a clear account of the cost of maintenance and treatment incurred on account of each lunatic detained in the asylum and shall furnish a copy thereof to the municipality on application. IV of 1912.

Discretionary powers of expenditure of municipalities.

71. A municipality may, at its discretion, provide, either wholly or partly, out of the municipal property and fund for—

(*a*) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, and the land required for the construction of buildings or curtilages thereof, to abut on such streets ;

(*b*) constructing, establishing, or maintaining public parks, gardens, libraries, museums, lunatic asylums, halls, offices, dharamsalas, rest-houses and other public buildings ;

(*c*) furthering educational objects other than those set forth in clause (*p*) of sub-section (*1*) of section 68 ;

(*d*) planting and maintaining road-side and other trees ;

(*e*) providing music for the people ;

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of the Indian Laws Order in Council.

[2] These words were substituted for the words beginning with the words "before making any order" and ending with the words "the Local Government" by Bom. 15 of 1936, s. 4.

(*f*) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics ;

(*g*) making a survey ;

(*h*) paying the salaries and allowances, rent and other charges incidental to the maintenance of the Court of any stipendiary or honorary Magistrate, or any portion of any such charges ;

Bom. IV of 1890.

(*i*) arranging for the destruction or the detention and preservation of dogs which may be destroyed or detained under section 157 of this Act or under section 49 of the Bombay District Police Act, 1890 ;

(*j*) securing or assisting to secure suitable places for the carrying on of the offensive trades specified in sub-section (*l*) of section 186 ;

(*k*) supplying, constructing and maintaining, in accordance with a general system approved by the sanitary board, receptacles, fittings, pipes and other appliances whatsoever, on or for the use of private premises, for receiving and conducting the sewage thereof into sewers under the control of the municipality ;

(*l*) the acquisition and maintenance of grazing grounds ; and the establishment and maintenance of dairy farms and breeding stud ;

(*m*) establishing and maintaining a farm or factory for the disposal of sewage ;

(*n*) the construction, maintenance, management, organisation or purchase of telephone lines, or for guaranteeing the payment of interest on money expended for the construction of a telephone line subject to the previous sanction of the Commissioner when the line extends beyond the limits of the municipal borough ;

(*o*) providing accommodation for any class of servants employed by the municipality ;

(*p*) the construction of sanitary dwellings for the poorer classes ;

(*q*) the construction, management and maintenance of light-railways and tramways ;

(*r*) any other measure not specified in section 68 likely to promote the public safety, health, convenience or education ; and

(*s*) by a resolution passed at a general meeting and supported by two-thirds of the whole number of councillors any public reception, ceremony, entertainment or exhibition within the municipal borough.

Arrangements purporting to be binding permanently or for a term of years.

72. Where a municipality has entered into any arrangement or made any promise, purporting to bind it or its successors for a term of years or for an unlimited period, to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the municipality or its successors with the sanction of [1][the Provincial Government] to cancel such arrangement or promise, or to discontinue, or to diminish such yearly contribution, provided that it shall have given at least twelve months' notice of its intention so to do to the manager or managers of such institution.

[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

CHAPTER VII.

MUNICIPAL TAXATION.

1) *Imposition of Taxes.*

Taxes which may be imposed.

73. Subject to any general or special orders which [1][the Provincial Government] may make in this behalf and to the provisions of sections 75 and 76, a municipality may impose for the purposes of this Act any of the following taxes, namely—

(*i*) a rate on buildings or lands or both situate within the municipal borough;

(*ii*) a tax on all vehicles, boats or animals used for riding, draught or burden and kept for use within the said borough, whether they are actually kept within or outside the said borough;

(*iii*) a toll on vehicles [2][(other than motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)] and animals used as aforesaid, entering the said borough but not liable to taxation under clause (*ii*) of this section; Bom. XXXI of 1935

(*iv*) an octroi on animals or goods or both, brought within the octroi limits for consumption or use therein;

(*v*) a terminal tax on goods imported into or exported from the terminal tax limits:

Provided that, save as provided in clause (*xiv*) no such tax shall be leviable in a borough in which an octroi was not levied on or before the 6th July 1917;

(*vi*) a tax on dogs kept within the said borough;

(*vii*) a special sanitary cess upon private latrines, premises or compounds cleansed by municipal agency, after notice given as hereinafter required;

(*viii*) a general sanitary cess for the construction and maintenance of public latrines, and for the removal and disposal of refuse;

(*ix*) a drainage tax;

(*x*) a general water-rate or a special water-rate or both for water supplied by the municipality, which may be imposed in the form of a rate assessed on buildings and lands or in any other form, including that of charges for such supply, fixed in such mode or modes as shall be best adapted to the varying circumstances of any class of [3][cases] or of any individual case;

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words, figures and brackets were inserted by Bom. 34 of 1935, s. 22, Sch. II.

[3] The word "cases" was substituted for the word "case" by Bom. 24 of 1926, s. 2, Sch.

(*xi*) a lighting tax;

(*xii*) a tax on pilgrims resorting periodically to a shrine within the limits of the municipal borough;

(*xiii*) a special educational tax;

[1][(*xiv*) any other tax (not being a toll on motor vehicles and trailers, save as provided by section 14 of the Bombay Motor Vehicles Tax Act, 1935) which under the Government of India Act, 1935, the Provincial Legislature has power to impose in the Province.]

Bom. XXXIV of 1935.

[2](*xv*)* * * * * * *

Provided that—

(*a*) no tax imposed as aforesaid, other than a special sanitary cess, a drainage tax or a water-rate, shall, without the express consent of the [3][Crown], be leviable in respect of any building or part of any building or of any vehicle, animal or other property, belonging to His Majesty and used solely for public purposes and not used or intended to be used for purposes of profit; and no toll shall be leviable in respect of any animal or vehicle used for the passage of troops or the conveyance of [3][Crown] stores or of any other [3][Crown] property, or for the passage of military or police-officers on duty or the passage or conveyance of any person or property in their custody;

(*b*) no special sanitary cess shall be leviable in respect of any private latrines, premises or compounds unless and until the municipality has—

(*i*) made provision for the cleansing thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

(*ii*) issued either severally to the persons to be charged, or generally to the inhabitants of the borough or part of the borough to be charged with such cess, one month's notice of the intention of the municipality to perform such cleansing and to levy such cess;

(*c*) the municipality in lieu of imposing separately any two or more of the taxes described in clauses (*i*), (*viii*), (*x*) and (*xi*), may impose a consolidated tax assessed as a rate on buildings or lands or both situate within the municipal borough.

[4][(2) Nothing in this section shall authorise the imposition of any tax which the Provincial Legislature has no power to impose in the Province under the Government of India Act, 1935:

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[1] This clause was substituted for the original clause by the Adaptation of Indian Laws Order in Council.

[2] Clause (*xv*) was omitted by *ibid.*

[3] The word "Crown" was substituted for the word "Government" by *ibid.*

[4] Sub-section (2) was inserted by *ibid.*

Provided that a municipality, which immediately before the commencement of Part III of the said Act was lawfully levying any such tax under this section as then in force, may continue to levy that tax until provision to the contrary is made by the Central Legislature.]

Payment to be made to the municipality in lieu of a rate on buildings by the Government concerned or the Crown Representative, as the case may be.

74. (*1*) The [1][Government concerned or the Crown Representative, as the case may be,] shall pay to the municipality annually in lieu of a rate on buildings from which buildings vesting in His Majesty are exempted by proviso (*a*) to section 73, a sum ascertained in the manner provided in sub-sections (*2*) and (*3*).

(*2*) The rateable value of the buildings vesting in His Majesty and beneficially occupied, in respect of which but for the said exemption a rate on such buildings would be leviable from the [2][Government concerned or the Crown Representative] shall be fixed by a person from time to time appointed in this behalf by [3][the Provincial Government]. The said value shall be fixed by the said person, with a general regard to the provisions hereinafter contained concerning the valuation of property assessable to property-taxes, at such amount as he shall deem to be fair and reasonable. The decision of the person so appointed shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number and extent of the buildings vesting in His Majesty in the said borough materially increases or decreases.

(*3*) The sum to be paid annually to the municipality by the [2][Government concerned or the Crown Representative] shall be eight-tenths of the amount which would be payable by an ordinary owner of buildings in the said borough on account of the said rate on buildings on a rateable value of the same amount as that fixed under sub-section (*2*).

Procedure preliminary to imposing tax.

75. A municipality before imposing a tax shall observe the following preliminary procedure :—

(*a*) it shall, by resolution passed at a general meeting, select for the purpose one or other of the taxes specified in section 73 and approve rules prepared for the purposes of clause (*j*) of section 58, prescribing the tax selected, and in such resolution and in such rules specify—

(*i*) the classes of persons or of property or of both, which the municipality proposes to make liable, and any exemptions which it proposes to make ;

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[1] The words " Government concerned or the Crown Representative, as the case may be " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] The words " Government concerned or the Crown Representative " were substituted for the word " Government " by *ibid.*

[3] The words " the Provincial Government " were substituted for the words " the Government " by *ibid.*

(*ii*) the amount or rate at which the municipality proposes to assess each such class;

(*iii*) in the case of a rate on buildings or lands or both, the basis, for each class, of the valuation on which such rate is to be imposed;

(*iv*) all other matters which [1][the Provincial Government] may require to be specified therein.

(*b*) When such resolution has been passed, the municipality shall publish the rules so approved with a notice in the form of Schedule II prefixed thereto.

(*c*) Any inhabitant of the municipal borough objecting to the imposition of the said tax or to the amount or rate proposed or to the classes of persons or property to be made liable thereto or to any exemptions proposed may, within one month from the publication of the said notice, send his objection in writing to the municipality; the municipality shall take all such objections, into consideration, or shall authorize a committee to consider the same and report thereon; and unless it decides to abandon the proposed tax, shall submit such objections with its opinion thereon and any modifications proposed in accordance therewith, together with the notice and rules aforesaid to [1][the Provincial Government].

Explanation.—In the case of lands the basis of valuation may be either capital or annual letting value.

Power to sanction, modify and impose conditions.

76. [1][The Provincial Government] may refuse to sanction the rules submitted under section 75, or may return them to the municipality for further consideration; or if no objection or no objection which is in its opinion sufficient, was made to the proposed tax within the period prescribed under section 75, may sanction the said rules without modification, or subject to such modifications not involving an increase in the amount to be imposed, or to such conditions as to the application within the municipal borough to any purpose or purposes of this Act specified in such conditions of the whole or any part of the proceeds of the tax, as it deems fit.

Publication of sanctioned rules with notice.

77. Rules sanctioned under section 76 with the modifications and conditions, if any, subject to which the sanction is given shall be published by the municipality in the municipal borough, together with a notice reciting the sanction and the date and serial number thereof; and the tax as prescribed by the rules so published shall, from a date which shall be specified in such notice and which shall not be less than one month from the date of publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the municipality

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

in accordance with all conditions, if any, subject to which sanction under section 76 was given :

Provided that—

(*a*) a tax leviable by the year shall not come into force except on one of the following days, namely, the first day of April, the first day of July, the first day of October or the first day of January in any year ; and if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April then next ensuing ;

(*b*) on or before the day on which a notice is issued under this section, the municipality shall publish such further detailed rules as may be required, and as may have been approved by [1][the Provincial Government] under clause (*a*) of the proviso to section 58, prescribing the mode of levying, and recovering the tax therein specified and the dates on which it or the instalments, if any, thereof shall be payable ;

(*c*) if the levy of a tax, or of a special portion of a tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards unpaid arrears which may have become due during that period.

Municipalities empowered by Provincial Government to levy taxes at varying amount or rate.

[2]**77A.** (*1*) [1][The Provincial Government] may, by notification in the [3][*Official Gazette*], empower any municipality to levy any tax imposed by such municipality under section 73 within such maximum and minimum limits either as to the amount or the rate as may be specified in such notification.

(*2*) Notwithstanding any resolution or rule under section 75 specifying the amount or rate at which such tax is leviable, any municipality empowered under sub-section (*1*) may, by a resolution passed at a general meeting, decide to increase or reduce the amount or rate at which such tax is leviable :

Provided that—

(*a*) such increase or reduction shall be within the maximum and minimum limits fixed in respect of such tax under sub-section (*1*), and

(*b*) such increase or reduction shall not exceed ten percentum of the amount or rate at which such tax was leviable during the preceding official year.

(*3*) When a municipality has by a resolution passed under sub-section (*2*) decided to increase or reduce the amount or rate at which any tax is leviable, the municipality shall publish in the municipal borough the resolution together with notice specifying a date, which shall not be less

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] S. 77A was inserted by Bom. 19 of 1935, s. 8.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

than one month from the date of publication of such notice, from which the amount or rate at which any tax is leviable shall be so increased or reduced. The tax at the amount or rate so increased or reduced shall be leviable from the date specified in such notice.

(2) *Assessment of and liability to rates on buildings or lands.*

Preparation of an assessment-list.

78. (*1*) When a rate on building or lands or both is imposed, the Chief Officer shall cause an assessment-list of all buildings or lands or lands and buildings in the municipal borough to be prepared containing—

(*a*) the name of the street or division in which the property is situate;

(*b*) a description of the property sufficient for identification;

(*c*) the names of the owner and occupier, if known;

(*d*) the valuation based on capital or annual letting value, as the case may be, on which the property is assessed; and

(*e*) the amount of the tax assessed thereon.

(*2*) In assessing a tax on buildings or lands, where the valuation determined under clause (*d*) of sub-section (*1*) of this section is the annual letting value, a sum equal to ten per centum of the said valuation shall be deducted therefrom in lieu of all allowance for repairs or on any other account whatsoever.

Power to inspect and require returns.

(*3*) For the purpose of preparing such assessment-list the Chief Officer or any person acting under his authority may inspect any building or land in the municipal borough; and on the requisition of the Chief Officer the owner or occupier of any such building or land shall, within such reasonable period as shall be specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief and subscribed with his signature of the name and place of abode of the owner or occupier or of both and the annual letting value and his estimate of the value of such building or land.

Person primarily liable for a rate on buildings or lands or both how to be designated if his name cannot be ascertained.

79. (*1*) When the name of the person primarily liable for the payment of a rate on buildings or lands or both in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the assessment book, and in any notice which it may be necessary to serve upon the said person under this Act, "the holder" of such premises, without further description.

Occupier liable for a rate on buildings or lands or both until he gives information.

(*2*) If, in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining who is primarily liable as aforesaid, such person shall himself be liable, until such information is obtained, for all rates on buildings or lands or both leviable on the premises of which he is in occupation.

Publication of notice of assessment-list.

80. When the assessment-list has been completed, the Chief Officer shall give public notice thereof and of the place where the list or a copy thereof may be inspected; and every person claiming to be either the owner or occupier of property included in the list, and any agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Public notice of time fixed for lodging objections.

81. (*1*) The Chief Officer shall, at the time of the publication of the assessment-list under section 80, give public notice of a date, not less than one month after such publication, before which objections to the valuation or assessment in such list shall be made; and in all cases in which any property is for the first time assessed or the assessment is increased, he shall also give notice thereof to the owner or occupier of the property, if known, and if the owner or occupier of the property is not known, he shall affix the notice in a conspicuous position on the property.

Objections how to be made.

(*2*) Objections to the valuation and assessment of any property in such list shall, if the owner or occupier of such property desires to make an objection, be made by such owner or occupier or any agent of such owner or occupier to the standing committee before the time fixed in the aforesaid public notice, by application in writing, stating the grounds on which the valuation or assessment is disputed; all applications so made shall be registered in a book to be kept by the standing committee for the purpose.

Hearing of objections.

(*3*) The standing committee, after allowing the applicant an opportunity of being heard in person or by agent, shall—

(*a*) investigate and dispose of the objections,

(*b*) cause the result thereof to be noted in the book kept under sub-section (*2*), and

(*c*) cause any amendment necessary in accordance with such result to be made in the assessment list:

Provided that powers and duties of the standing committee under this sub-section may be transferred to any other committee appointed by the municipality or with the permission of the Commissioner, to any officer or pensioner of [1][the Crown].

Authentication of list.

(*4*) When all objections made under this section have been disposed of and all amendments required by sub-section (*3*) have been made in the assessment-list, the said list shall be authenticated by the signatures of the chairman and at least one other member of the standing committee, or if the standing committee's powers and functions under sub-section (*3*) have been transferred to any other committee or to an officer or pensioner of [2][the Crown], by the signatures of not less than two

[1] The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Crown" were substituted for the words "the Government" by *ibid*

members of such committee or of the officer or pensioner aforesaid; the person or persons so authenticating the list shall certify that no valid objection has been made to the valuation and assessment contained in the list except in the cases in which amendments have been made therein.

Custody and inspection of list.

(5) The list so authenticated shall be deposited in the municipal office, and shall there be open for inspection during office hours to all owners and occupiers of property entered therein or to the agents of such persons, and a notice that it is so open shall be forthwith published.

Authenticated list how far conclusive.

(6) Subject to such alterations as may be made therein under the provisions of section 82 and to the result of any appeal or revision made under section 110, the entries in the assessment-list so authenticated and deposited and the entries, if any, inserted in the said list under the provisions of section 82 shall be accepted as conclusive evidence—

(*i*) for the purposes of all municipal taxes, of the valuation, or annual letting value on the basis prescribed in the rules regulating the rate, of buildings, lands and both buildings and lands to which such entries respectively refer, and

(*ii*) for the purposes of the rate for which such assessment-list has been prepared, of the amount of the rate leviable on such buildings or lands or both buildings and lands in any official year in which such list is in force.

Amendment of assessment-list. Notice of new buildings.

82. (1) The standing committee may at any time alter the assessment-list by inserting or altering an entry in respect of any property, such entry having been omitted from or erroneously made in the assessment-list through fraud, accident or mistake, or in respect of any building constructed, altered, added to or reconstructed in whole or in part, where such construction, alteration, addition or reconstruction has been completed after the preparation of the assessment-list, after giving notice to any person interested in the alteration of the list of a date, not less than one month from the date of service of such notice, before which any objection to the alteration should be made.

Objection how dealt with.

(2) An objection made by any person interested in any such alteration, before the time fixed in such notice, and in the manner provided by sub-section (2) of section 81, shall be dealt with in all respects as if it were an application under the said section.

Effect of amendment.

(3) An entry or alteration made under this section shall, subject to the provisions of section 110, have the same effect as if it had been made in the case of a building constructed, altered, added to or reconstructed on the day on which such construction, alteration, addition or reconstruction was completed or on the day on which the new construction, alteration, addition or reconstruction was first occupied, whichever first occurs, or in other cases, on the earliest day in the current official year on which the circumstances justifying the entry or alteration

existed; and the tax or the enhanced tax as the case may be shall be levied in such year in the proportion which the remainder of the year after such day bears to the whole year.

Notice to be given to the standing committee of demolition or removal of a building.

83. (*1*) When any building or any portion of a building which is liable to the payment of a rate on buildings or lands or both is demolished or removed, otherwise than by order of the standing committee, the person primarily liable for the payment of the said rate shall give notice thereof, in writing, to the Chief Officer.

(*2*) Until such notice is given the person aforesaid shall continue liable to pay every such rate as he would have been liable to pay in respect of such building, if the same, or any portion thereof, had not been demolished or removed.

(*3*) Provided that nothing in this section shall apply in respect of a building or portion of a building which has fallen down or been burnt down.

New assessment-list need not be prepared every year.

84. (*1*) It shall not be necessary to prepare a new assessment-list every year. Subject to the condition that every part of the assessment-list shall be completely revised not less than once in every four years, the Chief Officer may adopt the valuation and assessment contained in the list for any year, with such alterations as may be deemed necessary, for the year immediately following.

(*2*) But the provisions of sections 80, 81 and 82 shall be applicable every year as if a new assessment-list had been completed at the commencement of the official year.

Tax from whom primarily leviable.

85. A tax imposed in the form of a rate on buildings or land or both shall be leviable primarily from the actual occupier of the property upon which the tax is assessed if he is the owner of the property, or holds it on a building or other lease from the [1][Crown] or from the municipality, or on a building lease from any person. Otherwise the tax shall be primarily leviable as follows, namely:—

(*a*) if the property is let, from the lessor;

(*b*) if the property is sublet, from the superior lessor;

(*c*) if the property is unlet, from the person in whom the right to let the same vests:

Recovery from occupiers.

Provided that where the tax is based on the annual letting value, on failure to recover any sum due on account of such tax from the person primarily liable, such portion of the sum may be recovered from the occupier of any part of the property in respect of which it is due, as bears to the whole amount due the same ratio, which the rent annually

[1] The word "Crown" was substituted for the words "Secretary of State for India in Council" by the Adaptation of Indian Laws Order in Council.

payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said property, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment-list, whichever of those two amounts is the greater :

Remedy of occupier in such case.

Provided, further, that for any sum paid by or recovered from any occupier who is not primarily liable under this section, he shall be entitled to credit in account with the person primarily liable for the payment of that sum.

Remission of tax in case of vacancies : when obligatory.

86. (*1*) Where any building or land which is assessed to a rate based on the annual letting value and payable by the year, or in respect of which a special sanitary cess is payable by the year or by instalments, has remained vacant and unproductive of rent throughout the year or portion of the year for which the rate is leviable, or throughout the period in respect of which any such instalment is payable, the standing committee shall remit or refund not less than two-thirds of the amount of the rate, or of the cess or instalment of the cess, as the case may be :

Provided that no such remission or refund shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Chief Officer, and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

When discretional.

(*2*) Where any such building or land as aforesaid—

(*a*) has been vacant and unproductive of rent for any period of not less than sixty consecutive days, or

(*b*) consist of separate tenements one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid, or

(*c*) is wholly or in great part demolished or destroyed by fire or otherwise deprived of value, the standing committee may remit or refund such portion, if any, of the rate, cess or instalment as it may think equitable.

Burden of proof on claimant.

(*3*) The burden of proving the facts entitling any person to claim relief under this section shall be upon him.

Explanatory clause.

(*4*) For the purposes of this section [1][(*a*) a dwelling-house within the limits of a municipal borough notified by [2][the Provincial Government] as a hill station municipal borough shall be deemed to be vacant notwithstanding the fact that it contains the furniture habitually used in it, if otherwise unoccupied ; and (*b*)] a building or land shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not.

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[1] These words were inserted by Bom. 12 of 1931, s. 3 (*ii*).

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Notice to be given to the Chief Officer of all transfers of title of persons primarily liable to payment of a rate on buildings or lands.

87. (*1*) Whenever the title of any person primarily liable for the payment of a rate on buildings or lands or both to or over such land or buildings or both is transferred, [1][the person whose title is so transferred and] the person to whom the same is transferred shall, within three months after execution of the instrument of transfer, or after its registration if it be registered, or after the transfer is effected, if no instrument be executed, give notice of such transfer in writing to the Chief Officer.

(*2*) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred as heir or otherwise, shall give notice of such transfer to the Chief Officer within one year from the death of the deceased.

(*3*) If the person liable to give the notice referred to in sub-section (*1*) or sub-section (*2*) fails to give such notice he shall be punished with fine which may extend to fifty rupees.

Form of notice.

88. (*1*) The notice to be given under the last preceding section shall be in the form of Schedule III or Schedule IV, as the case may be, and shall state clearly and correctly all the particulars required by the said form.

(*2*) On receipt of any such notice, the Chief Officer may, if he thinks it necessary, require the production of the instrument of transfer, if any, or a copy thereof, obtained under section 57 of the [2]Indian Registration Act, 1908. XVI of 1908.

Liability for payment of a rate on buildings or lands or both to continue in the absence of any notice of transfer.

89. (*1*) Every person primarily liable for the payment of a rate on buildings or lands or both who transfers his title to or over such building or land or both without giving notice of such transfer to the Chief Officer as aforesaid, shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of the said rate on the buildings or lands or both until he gives such notice, or until the transfer shall have been recorded by the standing committee.

(*2*) But nothing in this section shall be held to diminish the liability of the transferee for the said rate or to affect the prior claim of the municipality on the said buildings and lands conferred by section 112, for the recovery of the rate on the lands or buildings or both.

(3) *Power to charge fees.*

Fees may be charged for certain licenses.

90. (*1*) When any license is granted under this Act, or when permission is given thereunder for making any temporary erection or for putting up any projection, or for the temporary occupation of any public street or other land vested in the municipality, the authority granting or giving such license or permission may charge a fee for the same.

[1] These words were inserted by Bom. 24 of 1936, s. 2, Schedule.

[2] Central Acts.

(2) The municipality may charge a higher fee by way of penalty for any erection, or projection, or for the use or occupation of any public street or other land vested in the municipality, by any person without its permission or license. Such fee shall be leviable irrespective of any other penalty or liability to which the person liable to pay the same may be subject under any other provision of this Act or any other law for the time being in force. Levy of fees for unauthorised occupation or projection.

The rates of such higher fees shall be determined by rules.

(3) A Chief Officer may also charge such fees as may be fixed by by-laws under clause (*a*) of sub-section (*1*) of section 61, for the use of any such places mentioned in that clause as belong to the municipality and as may be fixed by by-laws under clause (*h*) of sub-section (*1*) of section 61 for stamping weights and measures. Market and other fees.

(4) *Special provisions relating to certain taxes.*

91. (*1*) A municipality may, instead of imposing a water-rate, or where a water-rate has been imposed, in individual cases, instead of levying a rate imposed in respect of the supply of water belonging to the municipality to or for use in connection with any private lands or buildings,— Fixed charges and agreements for payment in lieu of taxes for water supplied.

(*a*) fix at rates not exceeding such as shall be specified in the rules in force under section 58, charges for such supply according to the quantity used, as ascertained by measurement; or

(*b*) arrange with any person on his application to supply on payment, periodical or otherwise, water belonging to the municipality, in such quantities or for such purposes, whether domestic, ornamental, or irrigational or for trade, manufacture or any other purpose, on such terms and subject to such conditions as it shall fix by agreement with such person:

Provided that—

(*a*) the meters, connection-pipes and all other works necessary for and incidental to such supply, and all repairs, extensions and alterations of such works shall be under the control of the municipality, and the expense thereof shall, so far as is not inconsistent with the rules or by-laws of the municipality, be defrayed by the persons liable for the charges or payments fixed in respect of such supply; and

(*b*) such supply of water shall be and shall be deemed to have been granted, subject to all such conditions as to the limit or stoppage thereof and as to the prevention of waste or misuse, as are prescribed in the by-laws for the time being in force under section 61.

(2) Where a municipality has made provision for the cleansing of any factory, hotel or club or any group of buildings or lands used for any one purpose and under one management, it may, instead of levying in respect thereof any special sanitary cess imposed under this chapter, fix a special rate and the dates and other conditions for periodical payments thereof; such rate, dates and conditions shall be determined either, Power to fix a special rate in lieu of special sanitary cess.

(*i*) in accordance with the rules for the time being in force under section 58, or

(*ii*) by written agreement with the person who would have been otherwise liable for the cess: provided that in fixing the amount of such rate proper regard shall be had to the probable cost to the municipality of the service to be rendered.

Power to compound tax on vehicles or animals.

(*3*) Where a municipality has imposed a tax on vehicles or animals used for riding draught or burden and kept for such use within the municipal borough it may compound with the keeper of any livery-stable or of horses or vehicles kept for sale and hire for the payment of a lump sum for any period not exceeding one year at a time, in lieu of any amount which such keeper would otherwise have been liable to pay on account of the tax imposed as aforesaid.

Recovery of sums claimed under this section.

(*4*) Every sum claimed by a municipality as due under sub-section (*1*) as charges, payments or expenses, or as a special rate under sub-section (*2*) or as a lump sum payable under sub-section (*3*), shall for the purposes of chapter VIII be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of a tax recoverable under the said chapter:

Provided that nothing in this section shall affect the right or power of a municipality to contract with any person to supply for use beyond the limits of the municipal borough, at such rates and on such conditions as the municipality may think fit, any quantity of water belonging to the municipality but not required for the purposes of this Act.

Taxes on pilgrims may be assigned in part to local boards.

92. Where a tax is imposed under this Act on pilgrims resorting periodically to a shrine within the limits of a municipal borough, the Commissioner may require the municipality of such borough to assign and pay to the district local board or to the taluka local board having authority in the taluka in which such municipal borough is situate, or partly to the said district local board and partly to the said taluka local board, such portion of the total collections on account of such tax as he shall deem fit; and the portion so assigned shall be expended by the said board or boards, within the areas respectively under their authority, on works conducive to the health, convenience and safety of the said pilgrims.

(5) *Octroi and Tolls.*

Octroi by-laws to be submitted with proposal for imposition of octroi.

93. A municipality, when submitting for sanction a proposal for the imposition of octroi, shall submit therewith for sanction a draft of by-laws for the purposes of clause (*n*) of sub-section (*1*) of section 61, after observing the requirements of sub-sections (*2*) and (*3*) of that section.

Power to examine articles liable to octroi.

94. (*1*) A person bringing into or receiving from beyond the octroi limits of a municipal borough any animal or goods on which octroi is payable shall, when required by an officer authorized in this behalf by the Chief Officer and so far as may be necessary for ascertaining the amount of tax chargeable,—

(*a*) permit that officer to inspect, examine, weigh, and otherwise deal with such animal or goods; and

(*b*) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to such animal or goods ;

(*c*) make a declaration in writing to that officer regarding the correctness and accuracy of the document shown to him.

Power to search where octroi is leviable.

(*2*) If any person bringing into or receiving from beyond the octroi limits of a municipal borough in which octroi is leviable, any conveyance or package, shall refuse on the demand of an officer authorized by the Chief Officer in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains anything in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistrate or such officer of the municipality as [1][the Provincial Government] appoints in this behalf by name or office, who shall cause the inspection to be made in his presence.

Presentation of bills for octroi.

95. An officer demanding octroi by the authority of the municipality shall tender to every person introducing or receiving anything on which the tax is claimed, a bill specifying the animal or goods taxable, the amount claimed, and the rate at which the tax is calculated.

Penalty for evasion of octroi.

96. Where any animal or goods passing into a municipal borough are liable to the payment of octroi, any person who, with the intention of defrauding the municipality, causes or abets the introduction of or himself introduces or attempts to introduce within the octroi limits of the said borough any such animal or goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend to ten times the amount of such octroi or to fifty rupees, whichever may be greater.

Tables of tolls to be shown on demand.

97. A municipality imposing any toll under this Act shall cause to be kept at each place where such toll is to be collected, a table in the vernacular language of the district, showing the amounts leviable in all cases provided for in the rules, including the terms, if any, on which the liability to pay such tolls may be compounded by periodical payments ; and it shall be the duty of every person authorized to demand payment of a toll, to show such table on the request of any person from whom such demand is made.

Power to seize vehicle or animal or goods on non-payment of octroi or toll.

98. (*1*) In the case of non-payment on demand of any octroi or of any toll leviable by a municipality, any person appointed to collect such octroi or toll may seize any animal or goods on which octroi is chargeable, or any vehicle or animal on which the toll is chargeable or any part of the burden of such vehicle or animal which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the vehicle, animal or thing seized, a list of the property together with a written notice in the form of Schedule VII.

[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Power to sell property seized at once.

(*2*) When any property seized is subject to speedy decay, or when the expense of keeping it together with the amount of the octroi or toll chargeable is likely to exceed its value, the person seizing such property may inform the person in whose possession it was that it will be sold at once ; and shall sell it or cause it to be sold accordingly unless the amount of octroi or toll demanded be forthwith paid.

Release of property on payment.

(*3*) If at any time before a sale has begun, the person from whose possession the property has been seized, tenders at the municipal office the amount of all expenses incurred and of the octroi or toll payable, the Chief Officer shall forthwith deliver to him the property seized.

Sale.

(*4*) If no such tender is made, the property seized may be sold, and the proceeds of such sale shall be applied in payment of such octroi, or toll and the expenses incidental to the seizure, detention and sale.

Surplus how dealt with.

(*5*) The surplus if any, of the sale-proceeds shall be credited to the municipal fund, and may, on application made to the Chief Officer in writing within three years next after the sale, be paid to the person in whose possession the property was when seized, and if no such application is made, shall be the property of the municipality.

Power to keep account current with person, firm or public body in lieu of levying octroi on introduction of goods.

99. The standing committee, if it thinks fit, instead of requiring payment of octroi due from any person, mercantile firm or public body to be made at the time when the animals or goods in respect of which the octroi is leviable are introduced within the octroi limits of the municipal borough, may at any time direct that an account-current shall be kept on behalf of the municipality of the octroi so due from such person, firm or body. Such account shall be settled at intervals not exceeding one month, and such person, firm or public body shall give such information or details and make such deposit or furnish such security as the standing committee or any officer authorized by it in this behalf shall consider sufficient to cover the amount which may at any time be due from such person, firm or body in respect of such dues. Any amount so due at the expiry of any such interval shall, for the purposes of chapter VIII, be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of any tax recoverable under the said chapter.

Collection of octroi by one public body on behalf of others.

100. Where any agreement such as is referred to in clause (*b*) of sub-section (*1*) of section 47 has been entered into, such one of the bodies entering into the agreement as by the terms thereof shall be specified in this behalf, shall have the same power to establish such octroi limits and octroi stations as that body may deem necessary for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought within the limits so established, and the provisions of [1][the Act under which that body is constituted] relating to octroi shall apply in the same way as if the limits so established were wholly comprised within the area subject to

[1] The words "the Act under which that body is constituted" were substituted for the words "this Act" by Bom. 14 of 1934, s. 4 (*2*) (*i*).

the control of [1][that body]; and the collections made and the costs thereby incurred shall, subject to the provisions of section 44, be divided between the bodies entering into the agreement, in such proportions as shall have been determined in the agreement.

Farming of tolls.

101. (*1*) It shall be lawful for a municipality to lease by public auction or private contract the levy of any toll that may be imposed under this Act:

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

Persons employed by lessee of toll to have power of seizure.

(*2*) Where any toll has been leased under this section, any person employed by the lessee to collect such toll shall, subject to the conditions of the lease, execute the powers and perform the duties conferred and imposed by sub-sections (*1*) and (*2*) of section 98 on a person appointed to collect a toll, and any property seized shall be dealt with as if it had been seized under the provisions of that section:

Provided that no property seized may be sold except under the orders of the Chief Officer.

(6) *Powers of Provincial Government in respect of municipal taxes.*

Power of Provincial Government to suspend levy of objectionable taxes.

102. If it shall at any time appear to [2][the Provincial Government] on complaint made or otherwise that any tax leviable by a municipality is unfair in its incidence, or that the levy thereof or of any part thereof is obnoxious to the interest of the general public, it may require the municipality, within such period as [2][the Provincial Government] shall fix in this behalf, to take measures for removing any objection which appears to it to exist to the said tax; and if, within the period so fixed, such requirements shall not be carried into effect to the satisfaction of [2][the Provincial Government], it may, by notification in the [3][*Official Gazette*], suspend the levy of such tax, or of such part thereof, until such time as the objection thereto shall be removed.

[2][The Provincial Government] may at any time by a like notification, rescind any such suspension.

Power of Provincial Government to require municipalities to impose taxes.

103. Where it appears to [2][the Provincial Government] that the balance of the municipal fund of a municipality is insufficient for meeting any expenditure incurred under section 215 or for the performance of any duties for the performance of which [2][the Provincial Government] has directed the Commissioner to fix a period under section 218 [2][the Provincial Government] may by notification require the municipality to impose, within the municipal borough, any tax specified in the

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[1] The words "that body" were substituted for the words "the body by which they are so established" by Bom. 14 of 1934, s. 4 (*2*) (*ii*).

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

notification which may be imposed under section 73 and which is not at the time imposed within the said borough or to enhance any existing tax in such manner or to such extent as [1][the Provincial Government] considers fit; and the municipality shall forthwith proceed to impose or enhance, in accordance with the requisition, such tax under the provisions of this chapter as if a resolution of the municipality had been passed for the purpose under section 75:

Provided that—

(*a*) [1][the Provincial Government] shall take into consideration any objection which the municipality or any inhabitant of the municipal borough may make against the imposition or enhancement of such tax;

(*b*) it shall not be lawful for the municipality to abandon or modify or to abolish such tax when imposed;

(*c*) [1][the Provincial Government] may at any time cancel or modify any requisition made by it under this section and the levy of the tax or the enhancement, except as to arrears theretofore accrued due, shall thereupon cease or be modified accordingly.

CHAPTER VIII.

RECOVERY OF MUNICIPAL CLAIMS.

Presentation of bill for taxes.

104. (*1*) When any amount,

(*a*) which by or under any provisions of this Act, is declared to be recoverable in the manner provided by this chapter, or

(*b*) which, not being leviable under sub-section (*1*) of section 98 or payable on demand on account of an octroi or a toll, is claimable as an amount or instalment on account of any other tax which now is imposed or hereafter may be imposed in any municipal borough,

shall have become due, the Chief Officer shall, with the least practicable delay, cause to be presented to any person liable for the payment thereof, a bill for the sum claimed as due.

Contents of bill.

(*2*) Every such bill shall specify the period for which, and the property, occupation or thing in respect of which, the sum is claimed, and shall also give notice of the liability incurred in default of payment and of the time within which an appeal may be preferred as hereinafter provided against such claim.

If bill not paid within fifteen days, notice of demand to issue.

(*3*) If the sum for which any bill has been presented as aforesaid is not paid at the municipal office or to a person authorized by any rule in that behalf to receive such payments, within fifteen days from the presentation thereof, the Chief Officer may cause to be served upon the person to whom such bill has been presented, a notice of demand in the form of Schedule V, or to the like effect.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

105. (*1*) If the person on whom a notice of demand has been served under section 104, sub-section (*3*), does not, within fifteen days from the service of such notice, either— In what cases warrant may issue.

(*a*) pay the sum demanded in the notice, or

(*b*) show cause to the satisfaction of the Chief Officer, why he should not pay the same, or

(*c*) prefer an appeal in accordance with the provisions of section 110 against the demand,

such sum with all cost of the recovery may be levied under a warrant signed by the Chief Officer in consultation with the President in the form of Schedule VI or to the like effect, by distress and sale of the movable property or the attachment and sale of the immovable property of the defaulter: provided that where any measures precautionary or otherwise, have been taken in respect of any such property for the recovery of any sum claimed by [1][the Provincial Government], any proceedings under this chapter in respect of such property shall abate.

(*2*) Where the property is in the municipal borough the warrant shall be addressed to an officer of the municipality. Where the property is in another municipal borough or district, the warrant shall be addressed to the Chief Officer in the municipal borough or to the vice-president in the municipal district, as the case may be; [2][where the property is in a cantonment the warrant shall be addressed to the Executive Officer of the Cantonment]; and where the property is not in a municipal borough or district [2][or Cantonment], to a Government officer not lower in rank than a Mahalkari: provided that such Chief Officer, vice-president, [2][Executive Officer] or Government officer may endorse such warrant to a subordinate officer. Where the property is in the City of Bombay, the warrant shall be addressed to the Registrar of the Court of Small Causes of Bombay: To whom warrant should be addressed.

Provided that the Registrar may endorse such warrant to a subordinate officer.

(*3*) It shall be lawful for any officer to whom a warrant issued under sub-section (*1*) is addressed or endorsed, if the warrant contains a special order authorizing him in this behalf, to break open at any time between sunrise and sunset any outer or inner door or window of a building, in order to make any distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance he cannot otherwise obtain admittance: Power of entry under special order.

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 4 of 1930, s. 4.

Provided that such officer shall not enter or break open the door of any apartment appropriated for women, until he has given three hours' notice of his intention and has given such women an opportunity to remove.

Warrant how to be executed.

(*4*) It shall also be lawful for any such officer, if authorized by the warrant, to distrain, wherever it may be found, any movable property or attach any immovable property of the person named in the warrant issued under sub-section (*1*) as defaulter, subject to the following conditions, exceptions and exemptions, namely:—

(*a*) the following property shall not be distrained:—

(*i*) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(*ii*) the tools of artizans,

(*iii*) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood;

(*b*) the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant; and if any property has been distrained which, in the opinion of the Chief Officer or of the person to whom the warrant was addressed, should not have been so distrained, it shall forthwith be returned to the defaulter;

(*c*) the officer shall on distraining or attaching the property forthwith make an inventory thereof, and give to the person in possession thereof at the time of distraint or attachment a written notice in the form of Schedule VII;

(*d*) (*i*) when the property is immovable, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge;

(*ii*) the order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and thereupon a conspicuous part of the municipal office, and also, when the property is land paying revenue to [1][the Provincial Government], in the office of the Collector of the district in which the land is situate;

(*e*) any transfer of or charge on the property attached or of any interest therein made without the written permission of the Chief Officer shall be void as against all claims of the municipality enforceable under the attachment.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Sale of goods distrained in special cases.

106. (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the Chief Officer shall at once give notice to the person in whose possession the property was, when distrained, to the effect that it will be sold at once; and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

Sale of property distrained or attached; application of proceeds of sale.

(*2*) If not sold at once under sub-section (*1*), the property distrained or attached or in the case of immovable property a sufficient portion thereof may, unless the warrant is suspended by the Chief Officer or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress or attachment and detention of the property, is paid, be, on the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under the orders of the Chief Officer, and the proceeds or such part thereof as shall be requisite, shall be applied firstly in discharge of any sum due to [1][the Provincial Government] in respect of such property and secondly in discharge of the sum due and of all such incidental costs as aforesaid. Where the sum due together with costs is paid by the defaulter as aforesaid, the attachment if any of immovable property shall be deemed to have been removed. Sales of immovable property under this sub-section shall be held in the manner laid down in the rules framed in that behalf.

Surplus, if any, how dealt with.

(*3*) The surplus, if any, shall be forthwith credited to the municipal fund, notice of such credit being given at the same time to the person in whose possession the property was at the time of distraint or attachment; if such person shall claim the surplus by written application to the Chief Officer within three years from the date of the notice given under this sub-section, the Chief Officer shall refund the surplus to such person. Any sum not claimed within [2][three years] from the date of such notice shall be the property of the municipality.

Sale outside the district.

107. Where the warrant is addressed outside the municipal borough the Chief Officer may by endorsement direct the officer or Registrar of the Court of Small Causes of Bombay to whom the warrant is addressed, to sell the property distrained or attached; in such case it shall be lawful for such officer or Registrar to sell the property and to do all things incidental to the sale in accordance with the provisions of section 106, and to exercise the powers and perform the duties of the Chief Officer under section 106, sub-sections (*1*) and (*2*), in respect of such sale, except the power of suspending the warrant. Such officer or Registrar shall, after deducting all costs of recovery incurred by him, remit the amount recovered under the warrant to the Chief Officer by whom it was issued who shall dispose of the same in accordance with the provisions of section 106.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the words "one year" by Bom. 4 of 1930, s. 4.

Fees and costs chargeable.

108. Fees for every notice issued under sub-section (*3*) of section 104, [1][every warrant issued under sub-section (*1*) of section] 105 or distress or attachment made under sub-section (*4*) of the said section] and the maintenance of any live-stock seized under the said sub-section shall be chargeable at the rates respectively specified in such behalf in the rules of the municipality and shall be included in the costs of recovery to be levied under section 105.

Summary proceedings may be taken against persons about to leave the borough.

109. (*1*) If the Chief Officer shall at any time have reason to believe that any person from whom any sum recoverable under the provisions of this chapter is due or is about to become due, is about forthwith to remove from the municipal borough, the Chief Officer may direct the immediate payment by such person of the sum so due or about to become due by him and cause a bill for the same to be presented to him.

(*2*) If, on presentation of such bill, the said person do not forthwith pay the sum due or about to become due by him, the amount shall be leviable by distress and sale of the movable property or the attachment and sale of the immovable property of the defaulter in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand and the Chief Officer's warrant for distress and sale may be issued and executed without any delay.

Appeals to Magistrates.

110. (*1*) Appeals against any notice of demand issued under sub-section (*3*) of section 104 may be made to any Magistrate or Bench of Magistrates by whom under the directions of the District Magistrates such class of cases is to be tried.

(*2*) No such appeal shall be heard and determined unless—

(*a*) the appeal is brought within fifteen days next after service of the notice of demand complained of; and

(*b*) an application in writing, stating the grounds on which the claim of the municipality is disputed, has been made to the standing committee as follows:—

(*i*) in the case of a rate on buildings or lands or both within the time fixed in the notice given under section 81 or 82 of the assessment or alteration thereof, according to which the bill is prepared,

(*ii*) in the case of any other claim for which a bill has been presented under sub-section (*1*) of section 104 within fifteen days next after the presentation of such bill; and

(*c*) the amount claimed from the appellant has been deposited by him in the municipal office.

Entries in the assessment-list and taxes and decisions to be final.

111. (*1*) Every entry in the assessment list made under the provisions of this Act against which no objection is made as hereinbefore provided, and the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinbefore provided, and the decision of the Magistrate or Bench of Magistrates

[1] These words were substituted for the words "every distress or attachment made under sub-section (*4*) of section 105" by Bom. 12 of 1931, s. 3 (*iii*).

upon any appeal shall, at the instance of either party, be subject to revision by the Court to which appeals against his or their decisions ordinarily lie.

(2) Effect shall be given by the Chief Officer to every decision of the said Magistrate or Bench of Magistrates on any appeal or any decision in revision on such appeal against any such entry or tax.

Liability of land, buildings, etc., for rates.

112. All sums due on account of any tax imposed in the form of a rate on lands or buildings or both shall, subject to prior payment of land-revenue, if any, due to His Majesty thereupon, be a first charge upon the building or land, in respect of which such tax is leviable and upon the moveable property, if any, found within or upon such building or land, and belonging to any person liable for such tax:

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner, if such arrears have been due for more than one year or for a period during which such occupier was not in occupation.

Receipts to be given for all payments.

113. For all sums paid on account of any tax under this Act, a receipt stating the amount, and the tax on account of which it has been paid, shall be tendered by the person receiving such payments.

CHAPTER IX.

MUNICIPAL POWERS AND OFFENCES.

(1) *Powers in respect of streets.*

Power regarding public streets, etc.

114. (*1*) It shall be lawful for a municipality to lay out and make new public streets; to construct tunnels and other works subsidiary to public streets; to widen, open, enlarge or otherwise improve, and to turn, divert, discontinue or stop up any public street; and, subject to the provisions of sub-section (*2*) of section 48 to lease or sell any such land, theretofore used or acquired by the municipality for the purposes of such streets, as may not be required for any public street or for any other purposes of this Act:

[1][Provided that no public street shall be permanently discontinued, stopped up or used for any other purposes of this Act without the previous sanction of the Commissioner.]

Acquisition of adjacent land to form street.

(2) In laying out, making, turning, diverting, widening, opening, enlarging or otherwise improving any public street, in addition to the land required for the carriage-way and foot-ways and drains thereof, the municipality may purchase the land required for the construction of houses and buildings to form the said street; and, subject to the provisions contained in sub-section (*2*) of section 48, may sell and dispose of such additional land in perpetuity or on lease for a term of years,

[1] This proviso was added by Bom. 19 of 1935, s. 9.

with such stipulations as to the class and description of houses or buildings to be erected thereon as it may think fit.

Power to require repair, etc., of private streets.

115. (*1*) Where the standing committee considers that in any street not being a public street, or in any part of such street, within the municipal borough, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the standing committee may by written notice require the respective owners of the lands or buildings fronting, adjoining or abutting upon such street or part thereof, to carry out such work in a manner and within a time to be specified in such notice.

And to declare such streets public.

(*2*) After such work has been carried out by such owners or, as provided in section 194 by the municipality at the expense of such owners, the street or part thereof in which such work has been done may, and on the joint requisition of a majority of the said owners shall, be declared by a public notice, put up therein by the standing committee, to be a public street.

Apportionment of expenses in default.

(*3*) If the notice under sub-section (*1*) is not complied with and such work is executed by the municipality as provided in section 194, the expenses thereby incurred shall be apportioned by the standing committee between such owners in such manner as it may think fit, regard being had, if it deems it necessary, to the amount and value of any work already done by the owners or occupiers of any such lands or buildings.

Power to declare any street a public street subject to objections by the owners.

116. The standing committee may, at any time, by notice fixed up in any street or part of a street not maintainable by the municipality, give intimation of its intention to declare the same a public street, and unless within one month next after such notice has been so put up, the owner or the majority of the several owners of such street or such part of a street lodges or lodge objections thereto at the municipal office, the municipality may by notice in writing put up in such street, or such part, declare the same to be a public street.

New private streets.

117. (*1*) Every person intending to lay out or make any new street, shall give notice in writing thereof to the Chief Officer and shall furnish plans and sections showing the intended level, means of drainage, direction and width of such street, and such other particulars as may be required by the by-laws in force in this behalf; and save as hereinafter provided, the level, means of drainage, direction and width of every such street shall be fixed or approved by the standing committee.

Power of municipality to pass interim orders.

(*2*) Before passing orders under sub-section (*1*), the standing committee may either issue a provisional order directing that for a period therein specified, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with or a demand for further particulars.

(3) If— Right to proceed in certain cases.

(*a*) Within one month from the receipt of the notice given under sub-section (*1*) the standing committee has neither—

(*i*) passed orders and served notice thereof either fixing or disapproving the proposals submitted under sub-section (*1*) with regard to level, means of drainage, direction and width of the street, nor

(*ii*) under sub-section (*2*), issued any provisional order or demand for further particulars, or if

(*b*) the standing committee, having issued such demand for and having received in accordance with the demand such further particulars, has issued no further orders within one month from the receipt of such particulars,

then the street may be laid out and made, in such manner as may have been specified in the notice under sub-section (*1*) and as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder.

(4) Whoever lays out or makes any such street, either without giving the notice required by sub-section (*1*), or, except in accordance with the provisions of sub-section (*3*), without awaiting, or otherwise than in accordance with the instructions issued by the standing committee, or in any manner contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to two hundred and fifty rupees; and the standing committee may cause any street so laid out or made to be altered, and any building constructed in such street to be altered or removed, and the expense thereby incurred shall be paid to it by the offender, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII. Penalty.

118. (*1*) The Chief Officer shall, subject to the approval of the municipality, prescribe a line on each side of every public street within the municipal borough and may from time to time prescribe a fresh line in substitution for any line so prescribed, or for any part thereof: The regular line of a public street.

Provided that—

(*a*) at least one month previous to prescribing such line or such fresh line, as the case may be, the Chief Officer shall give public notice of the proposal and shall put up special notice thereof in the street or part of the street for which such line or such fresh line is proposed to be prescribed:

(*b*) the Chief Officer shall comply with any orders passed by the municipality after considering any written objection or suggestion in regard to such proposal, delivered at the office of the municipality

within such time as may be specified in such public or special notice.

(*2*) The line for the time being so prescribed shall be called "the regular line of the public street."

(*3*) (*a*) Except under the provisions of section 143 no person shall construct or reconstruct any portion of any building within the regular line of the public street without the permission of the Chief Officer under section 123.

(*b*) Where the Chief Officer refuses permission to construct or reconstruct any building in any area within the regular line of the public street, such area shall with the approval of the municipality be added to the street and shall thenceforth be deemed part of the public street and shall be vested in the municipality.

(*c*) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 198, shall be paid by the municipality to the owner of any land added to a street under clause (*b*) of sub-section (*3*) for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken or order passed by the Chief Officer under the said sub-section:

Provided that no such compensation shall be payable in cases to which section 149 applies.

(*4*) Whoever contravenes the provisions of sub-section (*3*) shall be punished with fine which may extend to one thousand rupees and, in the case of a continuing contravention with an additional fine which may extend to rupees ten for every day during which such contravention continues after the conviction for the first such contravention, and the chief officer may—

(*a*) direct that the building be stopped, and

(*b*) with the previous sanction of the standing committee, by written notice, require such building or portion thereof to be altered or demolished in accordance with the provisions of such notice.

(2) *Powers to regulate buildings, etc.*

Setting back projecting building.

119. (*1*) If any part of a building projects beyond the regular line of a public street as prescribed under section 118 or beyond the front of the building on either side thereof, the municipality may,—

(*a*) if the projecting part thereof is a verandah, step or some other structure external to the main building, then at any time, or

(*b*) if the projecting part is not such external structure as aforesaid, then whenever the greater portion of such building or whenever any

material portion of such projecting part has been taken down or burned down or has fallen down,

require by written notice either that the part of some portion of the part, projecting beyond the said regular line or beyond the said front of the adjoining building on either side thereof, shall be removed; or that such building when being rebuilt shall be set back to or towards the said regular line or the front of such building. The portion of land added to the street by such setting back or removal shall thenceforth be deemed part of the public street and be vested in the municipality.

Acquisition of land which is within the regular line of a street and open or occupied only by platforms, etc.

(2) If any land not vested in the municipality, whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building other than a platform, verandah, step or other structure external to a main building, the municipality after giving the owner of the land not less than fifteen clear days' written notice of his intention, or if the land is vested in His Majesty, then with the permission in writing of the Collector, may take possession of the said land with its enclosing wall, hedge or fence, if any, and, if necessary, clear the same; and the land so acquired shall thenceforward be deemed a part of the public street, and be vested in the municipality.

Compensation payable by the municipality.

(3) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 198 shall be paid by the municipality to the owner of any land added to a street under sub-section (1) or acquired under sub-section (2), for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the municipality under either of the said sub-sections: provided that no such compensation shall be payable in cases to which section 149 applies.

(4) When the amount of compensation has been so ascertained and determined, or when a ruinous or dangerous building falling under sub-section (1) has been taken down under the provisions of section 149 the municipality may, after tendering the amount of compensation, if any, as may be payable, take possession of the land so added to the street, and, if necessary, may clear the same.

Setting forward to regular line of street.

120. (1) The standing committee may, upon such terms as it thinks fit, allow any building to be set forward for improving the line of any public street in which such building is situated.

(2) If the land which will be included in the premises of any person permitted under sub-section (1) to set forward a building belongs to the municipality, the permission of the standing committee to set forward the building shall be a sufficient conveyance to the said owner of the said land; and the price to be paid to the municipality by the said owner for such land and the other terms and conditions of the conveyance shall be set forth in the said permission.

Roofs and external walls of buildings not to be made of inflammable materials.

121. (*1*) The external roofs and walls of buildings constructed or renewed after the coming into force of this Act, shall not be made of grass, wood, cloth, canvas, leaves, mats or other inflammable material except with the written consent of the Chief Officer which may be given either specially in individual cases, or generally in respect of any area specified therein.

Power to require removal of roof and wall if inflammable.

(*2*) The Chief Officer may at any time by written notice require the owner of any building which has an external roof or wall made of any such material as aforesaid, to remove such roof or wall within such reasonable time as shall be specified in the notice whether such roof or wall was or was not made before the time at which this Act came into force, and whether it was made with or without the consent of the Chief Officer.

(*3*) An appeal shall lie to the standing committee against any order of the Chief Officer refusing the consent under sub-section (*1*) or against any notice given by the Chief Officer under sub-section (*2*) if made within fifteen days of the receipt of such refusal or notice, as the case may be.

Penalty.

(*4*) Whoever without such consent as is required by sub-section (*1*) makes, or causes to be made, or in disobedience to the requirements of a notice given under sub-section (*2*) suffers to remain, any roof or wall of such material as aforesaid, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day on which the offence is continued after the date of the first conviction.

Level of buildings.

122. No building shall hereafter be constructed upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the municipality, or into some stream or river or into the sea or some cesspool or other suitable place which may be approved of by the Chief Officer.

Notice of new buildings.

123. (*1*) Before beginning to construct any building, or to alter externally or add to any existing building, or to construct or reconstruct any projecting portion of a building in respect of which the standing committee is empowered by section 119 to enforce a removal or setback, or to construct or reconstruct which the Chief Officer is empowered by section 118 to give permission, the person intending so to construct, alter, add or reconstruct shall give to the Chief Officer notice thereof in writing and shall furnish to him at the same time, if required by a by-law or by special order to do so, a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid, by reference to some level known to the Chief Officer, and all information required by the by-laws or demanded by the Chief Officer regarding the limits, design, ventilation, and materials of the proposed building, and the intended situation and construction of the drains, sewers, privies, water-closets, and cesspools, if any, to be used in connection therewith, and the location of the building withreference to any existing or projected streets, and the purpose for which the building will be used.

Power of Chief Officer to pass orders.

(2) Save as otherwise provided in this Act or the rules and by-laws thereunder, the Chief Officer may either give permission to construct, alter, add or reconstruct according to the plan and information furnished or may impose in writing conditions, in accordance with this Act and the rules and by-laws made thereunder, as to level, drainage, sanitation, materials or to the dimensions and cubical contents of rooms, doors, windows and apertures for ventilation or to the number of storeys to be erected, or with reference to the location of the building in relation to any street existing or projected, or the purpose for which the building is to be used, or may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to his satisfaction.

(3) The municipality may, before any work has been commenced in pursuance of any permission granted by the Chief Officer under sub-section (2), revoke such permission and may give fresh permission in lieu thereof on such conditions, in accordance with this Act and the rules and by-laws made thereunder, with reference to the matters mentioned in the said sub-section, as it thinks proper, and may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to its satisfaction.

Or to suspend the work or to require further particulars.

(4) Before issuing any orders under sub-section (2), the Chief Officer may, within one month from the receipt of such notice, either issue—

(a) a provisional order directing that for a period, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(b) may demand further particulars.

Right to proceed in certain cases.

(5) A work proposed in a notice given under sub-section (1) may be proceeded with in the manner specified in such notice, provided such manner is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder in the following cases, namely:—

(a) in case the Chief Officer within one month from the receipt of the notice given under sub-section (1) has neither—

(i) passed orders under sub-section (2) and served notice thereof in respect of the intended work; nor

(ii) issued under sub-section (4) any provisional order or any demand for further particulars;

(b) in case the Chief Officer having issued such demand for and having received such further particulars, has issued no further orders within one month from the receipt of such particulars.

Commencement of work.

(6) No person who becomes entitled under sub-section (2) or (5) to proceed with any intended work of which notice is required by sub-section (1)

shall commence such work after the expiry of the period of one year from the date on which he first became entitled so to proceed therewith, unless he shall have again become so entitled by a fresh compliance with the provisions of sub-sections (*1*) to (*5*). And no person to whom permission to erect or alter or add to any building has been granted by the municipality under section 96 of the Bombay District Municipal Act, 1901, shall be entitled to commence such work after the expiry of one year from the date on which this Act comes into force. Bom. III of 1901.

(*7*) Whoever begins any construction, alteration, addition or reconstruction without giving the notice required by sub-section (*1*) or without furnishing any plan, information or particulars required by or under this section, or, except as provided in sub-section (*5*), without awaiting or in any manner contrary to such legal orders of the Chief Officer as may be issued under this section, or contrary to the provisions of sub-section (*5*) or (*6*) or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to one thousand rupees; and in the case of a continuing contravention of any of the aforesaid provisions, he shall be liable to an additional fine which may extend to ten rupees for each day during which such contravention continues after conviction for the first such contravention; and the Chief Officer may—

(*a*) direct that the construction, alteration, addition or reconstruction be stopped, and

(*b*) upon a conviction being obtained under sub-clause 7 by written notice, require such construction, alteration, addition or reconstruction to be altered or demolished in accordance with the provisions of such notice.

(*8*) The Chief Officer may at any time inspect any work of which notice is required by sub-section (*1*) without giving notice of his intention to do so; and at any time during the execution of any such work as aforesaid, may, by written notice, specify any matter in respect of which the execution of such work is in contravention of any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under this section; and require the person executing such work to cause anything done contrary to any such provision or by-law or order to be amended or to do anything which by any such provision or by-law or order he is required to do but which has been omitted.

Explanation.—The expression "to construct a building" throughout this chapter includes—

(*a*) any material alteration, enlargement or reconstruction of any building, or of any wall, verandah, fixed platform, plinth, doorstep or the like, whether constituting part of a building or not,

(*b*) the conversion into a place for human habitation of any building not originally constructed for human habitation,

(*c*) the conversion into more than one place for human habitation of a building originally constructed as one such place,

(*d*) the conversion of two or more places of human habitation into a greater number of such places,

(*e*) such alterations of the internal arrangements of a building as affect its drainage, ventilation or other sanitary arrangements, or its security or stability, and

(*f*) the addition of any rooms, buildings or other structures to any building,

and a building so altered, enlarged, reconstructed, converted or added to, is throughout this chapter included under the expression "a new building".

Completion certificates; permission to occupy or use.

124. (*1*) Every person erecting a building or executing a work as described in sub-section (*1*) of section 123 shall, within one month after the completion of the erection of such building or the execution of such work, deliver or send or cause to be delivered or sent to the Chief Officer at his office, notice in writing of such completion, and shall give to the Chief Officer all necessary facilities for the inspection of such building or of such work:

Provided that—

(*a*) such inspection shall be commenced within seven days from the date of receipt of the notice of completion; and

(*b*) the Chief Officer may, not later than one month from the date of receipt of the notice of completion by written intimation addressed to the person from whom the notice of completion was received, and delivered at his address as stated in such notice or, in the absence of such address, affixed to a conspicuous part of the building to which such notice relates,

(*i*) give permission for the occupation of such building or for the use of the building or part thereof affected by such work, or

(*ii*) refuse such permission in case such building has been erected or such work executed so as to contravene any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under section 123 intimating to the person who gave the notice under sub-section (*1*) of section 123 the reasons for such refusal and requiring such person, or, if the person responsible for giving notice under sub-section (*1*) of section 123 is not at the time of such notice the owner of such building or work, then such owner to cause anything which is contrary to any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under section 123 to be amended or to do anything which by any such provision or by-law or order he is required to do but which has been omitted.

(*2*) No person shall occupy or permit to be occupied any such building or use or permit to be used the building or part thereof affected by any such work, until

(*a*) the permission referred to in proviso (*b*) to sub-section (*1*) has been received, or

(*b*) the Chief Officer has failed for one month after the receipt of the notice of completion to intimate as aforesaid his refusal of the said permission.

(*3*) Whoever contravenes the provisions of this section or fails to comply with any order or requisition made thereunder shall be punished with fine which may extend to one hundred rupees and, in the case of a continuing contravention or non-compliance, with an additional fine which may extend to ten rupees for every day during which such contravention or non-compliance continues after the conviction for the first such contravention or non-compliance.

Regulation of huts.

125. It shall not be lawful for any person to erect any hut or shed or range or block of huts or sheds, or to add any hut or shed to any range or block of huts or sheds already existing when this Act comes into operation, without giving previous notice to the Chief Officer; the Chief Officer may require such huts or sheds to be built so that they stand in regular lines, with a free passage or way in front of and between every two lines, of such width as the Chief Officer may think proper for ventilation and to facilitate scavenging, and at such a level as will admit of sufficient drainage; and may require such huts to be provided with such number of privies and such means of drainage as he may deem necessary. If any hut or shed or range or block be built without such notice being given to the Chief Officer or otherwise than as required by the Chief Officer, the Chief Officer may give written notice to the owner or builder thereof, or to the owner or occupier of the land on which the same is erected or is being erected, requiring him within such reasonable time as shall be specified in the notice to take down and remove the same, or to make such alterations therein or additions thereto as having regard to sanitary considerations the Chief Officer may think fit.

Improvement of huts.

126. (*1*) Where the standing committee is of opinion that any hut or shed whether used as a dwelling or as a stable or for any other purpose, and whether existing at the time when this Act comes into operation or subsequently erected, is by reason—

(*a*) of insufficient ventilation or of the manner in which such hut or shed is crowded together with other huts or sheds, or

(*b*) of the want of a plinth or of a sufficient plinth or of sufficient drainage, or

(*c*) of the impracticability of scavenging,

attended with risk of disease to the inhabitants of the neighbourhood, it shall cause a notice to be affixed to some conspicuous part of such hut or shed, requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the standing committee in this behalf, to take down and remove such hut or shed, or to carry out such alterations or works as the standing committee may deem necessary for the avoidance of such risk.

(*2*) Where any such owner or occupier refuses or neglects to take down and remove such hut or shed or to carry out such alterations or

works within the time appointed, the Chief Officer may cause such hut or shed to be taken down, or such alterations or works to be carried out, in accordance with the requirements of the standing committee.

(3) Where such hut or shed is taken down by the Chief Officer, the said officer shall cause the materials of the hut or shed to be sold, if such sale can be effected; and the proceeds, after deducting all expenses, shall be paid to the owner of the hut or shed, or if the owner is unknown or the title disputed, shall be held in deposit by the municipality until the person interested therein shall obtain an order of a competent Court for the payment of the same:

Provided always that where a hut or shed, existing at the time when the land on which it is situate first became part of a municipal district or borough, is taken down and removed under this section, compensation shall further be paid to the owner or owners thereof and the amount thereof, in case of dispute, shall be ascertained and determined in the manner provided in section 198.

(3) *Powers connected with drainage, etc.*

Municipal control over drains, etc.

127. (1) All sewers, drains, privies, water-closets, house-gullies and cesspools within the municipal borough shall be under the survey and control of the municipality.

(2) All covered sewers, drains and cesspools, whether public or private, shall be provided by the municipality or other persons to whom they severally belong, with proper traps or other means of ventilation; and the Chief Officer may by written notice call upon the owner of any such covered sewers, drains or cesspools to make provision accordingly.

Powers for making and repairing drains.

128. (1) It shall be lawful for a municipality for any drainage purposes to carry any drain, sewer, conduit, tunnel, culvert, pipe or watercourse through, across or under any street or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipal borough.

(2) A municipality, or any person acting under its authority, may construct a new drain in the place of an existing drain in any land wherein any drain vested in the municipality has been already constructed, or repair or alter any drain vested in the municipality.

(3) In the exercise of any power under this section no unnecessary damage shall be done, and compensation, which shall in case of dispute be ascertained and determined in the manner provided in section 198 shall be paid by the municipality to any person who sustains damage by the exercise of such power.

Power to require sufficient drainage of houses.

129. (1) If any building or land be at any time undrained, or not drained to the satisfaction of the Chief Officer, the Chief Officer, subject to the control of the standing committee, may by written notice call upon the owner to construct or lay from such building or land a drain

or pipe of such size and materials, at such level, and with such fall as he may think necessary for the drainage of such building or land into—

(*a*) some drain or sewer, if there be a suitable drain or sewer within fifty feet of any part of such building or land, or

(*b*) a covered cesspool to be provided by such owner and approved by the Chief Officer.

New buildings not to be erected without drains.

130. (*1*) It shall not be lawful to construct or reconstruct any building, or to occupy any building newly constructed or reconstructed, unless and until—

(*a*) a drain be constructed of such size, materials and description, at such level and with such fall, as shall appear to the Chief Officer to be necessary for the effectual drainage of such building;

(*b*) there have been provided for and set up in such buildings and in the land appurtenant thereto, all such appliances and fittings as may appear to the Chief Officer to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said land, and of effectually flushing the drain of the said building and every fixture, connected therewith.

(*2*) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place set apart by the municipality for the discharge of drainage, situate at a distance not exceeding fifty feet from such building; but if there is no such drain or place within that distance, then such drain shall empty into a cesspool provided by the owner of such building and approved by the Chief Officer.

Powers of owners and occupiers of buildings or lands to drain into municipal drains.

131. (*1*) The owner or occupier of any building or land within the municipal borough shall be entitled to cause his drains to empty into a municipal drain: provided that he first obtains the written permission of the Chief Officer, and that he complies with such conditions as the Chief Officer may prescribe as to the mode in which and the superintendence under which the communications are to be made between drains not vested in the municipality and drains which are so vested.

(*2*) An appeal shall lie to the standing committee against any order of the Chief Officer under sub-section (*1*) if made within fifteen days of the receipt of such order.

Right to carry drain through land or into drain belonging to other persons.

132. (*1*) If the owner or occupier of any building or land desires to connect the same with any municipal drain, by means of a drain to be constructed through land, or to be connected with a drain, belonging to or occupied by or in the use of some other person, he may make a written application in that behalf to the Chief Officer.

(*2*) Subject to the control of the standing committee the Chief Officer thereupon, after giving to such other person a reasonable opportunity of stating any objection to such application, may, if no objection is raised or if any objection which is raised is in his opinion insufficient, by an order in writing authorize the applicant to carry his drain into, through, or under the said land, or into the said drain, as the case may be, in such manner and on such conditions as to the payment of rent or compensation, and as to the respective responsibilities of the parties

for maintaining, repairing, flushing, cleaning and emptying the said drains as may appear to him to be adequate and equitable.

(*3*) Every such order shall be a competent authority to the person in whose favour it is made, or to any agent or other person employed by him for this purpose, after giving or tendering to the owner, occupier or user of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling as far as possible the conditions of the said order, and after giving to the said owner, occupier or user reasonable notice in writing, to enter upon the land specified in the said order with assistants and, workmen at any time between sunrise and sunset and, subject to all provisions of this Act, to do all such work as may be necessary—

(*a*) for the construction or connection of the drain, as may be authorized by the said order;

(*b*) for renewing, repairing or altering the same as may be necessary from time to time; or

(*c*) for discharging any responsibility attaching to him under the terms of the order as to maintaining, repairing, flushing, cleaning or emptying the said drain or any part thereof.

(*4*) In executing any work under this section as little damage as possible shall be done, and the owner or occupier of the buildings or lands for the benefit of which the work is done, shall—

(*a*) cause the work to be executed with the least practicable delay;

(*b*) fill in, reinstate and make good at his own cost and with the least practicable delay the ground or any portion of any building or other construction opened, broken up or removed for the purpose of executing the said work; and

(*c*) pay compensation to any person who sustains damage by the execution of the said work.

Rights of owner of land through which drain is carried in regard to subsequent building thereon.

133. If the owner of any land into, through or under which a drain has been carried under section 132 whilst such land was unbuilt upon, shall at any subsequent time desire to construct a building thereon, the Chief Officer subject to the control of the standing committee shall, if he sanctions the construction of such building, by written notice require the owner or occupier of the building or land for the benefit of which such drain was constructed, to close, remove or divert the same, and to fill in, reinstate and make good the land in such manner as he may deem to be necessary, in order to admit of the construction or safe enjoyment of the proposed building.

Provision of privies, etc.

134. (*1*) Where the Chief Officer is of opinion that any privy or cesspool, or additional privies or cesspools, should be provided in or on any building or land, or, in any municipal borough in which with the approval of the sanitary board a water-closet system has been introduced, that water-closets should be substituted for the existing privies in or on any building or land, or that additional water-closets should be provided therein or thereon, the Chief Officer, subject to the control of the standing committee, may by written notice call upon the owner of such building

or land to provide such privies, cesspools or water-closets at such sites as he may deem proper.

(2) The Chief Officer subject to the control of the standing committee may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, school or theatre or other place of public resort, to provide such latrines and urinals at such sites as he may direct, and to cause the same to be kept in proper order, and to be daily cleaned.

(3) The Chief Officer subject to the control of the standing committee may by written notice require the owner or occupier of any land upon which there is a privy or urinal, to have such privy or urinal shut out, by a sufficient roof and a wall or fence, from the view of persons passing by or resident in the neighbourhood, or to alter as he may direct any privy door or trap door which opens on to any street, and which he deems to be a nuisance.

Power to require owners to keep drains, etc., in proper order; or to demolish or close a privy or cesspool.

135. (1) All sewers, drains, privies, water-closets, urinals, house-gullies and cesspools within a municipal borough shall, unless constructed at the cost of the municipality, be altered, repaired, and kept in proper order at the cost and charge of the owners of the lands or buildings to which they belong, or for the use of which they have been constructed or continued; and the Chief Officer subject to the control of the standing committee may by written notice require any such owner to alter, repair, and put the same in good order in such manner as he may think fit.

(2) Subject to the control of the standing committee the Chief Officer may by written notice require the owner to demolish or close any privy or cesspool, whether constructed before or after the coming into operation of this Act, which in the opinion of the Chief Officer is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleaned or kept in good order.

Power to close existing private drains.

136. When any building or land within a municipal borough has a drain communicating with any cesspool or sewers, the Chief Officer, if he considers that such drain, though it may be sufficient for the drainage of such building or land and though it may be otherwise unobjectionable, is not adapted to the general sewerage of the locality, may, subject to the control of the standing committee, close such drain and such cesspool or sewer, whether they are or are not on land vested in the municipality, on providing a drain or drains equally effectual for the drainage of such building or land, and the Chief Officer may, subject as aforesaid, do any work necessary for the purpose.

Power in respect of sewers, etc., unauthorizedly constructed, rebuilt or unstopped.

137. The standing committee may by written notice require that any sewer, drain, privy, water-closet, urinal, house-gully or cesspool on any land within a municipal borough, constructed, rebuilt or unstopped—

(*a*) after such land became part of a municipal district or borough, and

(*b*) either without the consent or contrary to the orders, directions or general regulations or by-laws, of the municipality, or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped,

shall be demolished, amended or altered, as it may deem fit, by the person by whom it was so constructed, rebuilt or unstopped; and every person so constructing, rebuilding or unstopping any such sewer, drain, privy, water-closet, urinal, house-gully or cess-pool, whether he does or does not receive such notice or does or does not comply therewith, shall, in addition to any penalty to which he may be liable on account of such non-compliance, be punished with fine which may extend to twenty-five rupees.

Encroachments on municipal drains.

138. (*1*) Whoever, without the written consent of the Chief Officer first obtained, makes or causes to be made any drain into or out from any of the sewers or drains vested in a municipality, shall be punished with fine which may extend to twenty-five rupees, and the Chief Officer may by written notice require such person to demolish, alter, remake, or otherwise deal with such drain as he may think fit.

(*2*) No building shall be newly constructed or reconstructed over any sewer, drain, culvert or gutter vested in a municipality, without the written consent of the Chief Officer; and the Chief Officer may by written notice require any person who has so constructed or reconstructed any building without such written consent, to pull down or otherwise deal with the same as he may think fit.

Inspection of drains, etc.

139. (*1*) A Chief Officer after due notice to the occupier may inspect any sewer, drain, privy, water-closet, urinal, house-gully or cesspool; and for that purpose, at any time between sunrise and sunset, may enter upon any lands or buildings with assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be.

Expense of inspection when to be borne by the municipality.

(*2*) The expense of such inspection and of causing the ground to be closed and made good as before shall be borne by the municipality, unless the sewer, drain, privy, water-closet, urinal, house-gully or cesspool is found to be in bad order or condition, or was constructed in contravention of the provisions of any enactment or of any by-laws or orders thereunder in force at the time or issued in respect of such construction; in which case such expense shall be paid by the owner of such sewer, drain, privy, water-closet, house-gully or cesspool, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

Standing committee may execute certain works under this sub-chapter without allowing option to person concerned of executing the same.

140. (*1*) The standing committee may, if it thinks fit, cause any work, the execution of which may be ordered by or on behalf of the municipality under any of the provisions of this sub-chapter, to be executed by municipal or other agency under its own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

Expenses in such cases by whom to be paid.

(*2*) The expenses of any work so done shall be paid by the person aforesaid, unless the municipality shall, by a general or special order or resolution, sanction as it is hereby empowered to sanction the execution of such work at the charge of the municipal fund.

Pipes, etc., constructed by municipality to be municipal property.

141. Any pipes, fittings, receptacles, or other appliances for or connected with the drainage of any private building or land shall, if supplied, constructed or erected at the expense of the municipality, be deemed to be municipal property, unless the municipality shall have transferred its interest therein to the owner of such building or land.

(4) *Powers in respect of water-supply.*

Power of carrying water mains.

142. For the purpose of obtaining a supply or an additional supply of water or of distributing the same, the municipality shall have the same powers and be subject to the same restrictions for carrying, renewing, repairing and altering water mains, pipes and ducts within or without the municipal borough as it has and is subject to under the provisions hereinbefore contained for carrying, renewing and repairing drain within the municipal borough.

(5) *Powers regarding external structures, etc.*

Permission necessary for certain projections.

143. (*1*) The Chief Officer, subject to any by-laws made under the provisions of this Act, may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies or rooms, to project from any upper storey of such buildings, to an extent not exceeding four feet beyond the line of the plinth or basement wall of the building; and may prescribe the extent to which and the conditions under which roofs, eaves, weather-boards, shop-boards, and the like may be allowed to project over such streets.

(*2*) (*a*) Notwithstanding any proceedings which may be taken under clause (*b*) of this sub-section, the Chief Officer may, by written notice, require the owner or occupier of any such building to remove or alter any such projection which has been constructed either without, or contrary in any manner to, the permission or orders given or issued by or on behalf of the municipality.

(*b*) Any such owner or occupier putting up any projection as aforesaid without such permission or in contravention of such permission or orders, shall be punished with fine which may extend to twenty-five rupees; and if any such owner or occupier fails to remove any projection in respect of which he has been convicted under this section, he shall be punished with further fine which may extend to five rupees for each day on which such failure or neglect continues.

Removal of projections.

(*3*) The Chief Officer may, by written notice, require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction which, whether made before or after the site of such building became part of a municipal district or borough, shall have been made against or in front of such building, and which—

(*a*) overhangs or juts into or in any way projects or encroaches upon any public street, so as to be an obstruction to safe and convenient passage along such street, or

(*b*) projects and encroaches into, upon or over any uncovered aqueduct, drain or sewer in any such street, so as to obstruct or interfere with such aqueduct, drain or sewer or the proper working thereof:

Provided always that the Chief Officer shall, if such projection, encroachment, or obstruction shall have been made in any place before the date on which such place became part of a municipal district or borough or after such date with the written permission of the municipality, pay reasonable compensation to every person who suffers damage by such removal or alteration; and if any disputes shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner provided in section 198.

Troughs and pipes for rain water.

144. The Chief Officer may by written notice require the owner of a building in any street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same, in such manner as he may think fit, so that it shall not fall upon the persons passing along the street.

Fixing of lamps, brackets, etc., to houses.

145. The Chief Officer may erect or fix to the outside of any building brackets for lamps to be lighted with oil or gas, or subject to the provisions of the [1]Indian Electricity Act, 1910, for lamps to be lighted with electricity or otherwise or subject to the provisions of the [1]Indian Telegraph Act, 1885, for telegraph wires or telephone wires, or wires for the conduct of electricity for locomotive purposes; or such pipes as he may deem necessary for the proper ventilation of sewers and water-works: such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the occupants of the said building or of any others in the neighbourhood, or to the public.

IX of 1910.

XIII of 1885.

Naming streets and numbering houses; penalty for defacing, etc.

146. (*1*) The municipality may from time to time cause to be put up or painted on a conspicuous part of any building at or near each end or corner of or entrance to a street, the name by which such street is to be known, and may from time to time fix a number in a conspicuous place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

(*2*) Any person who destroys, pulls down or defaces any such name or number, or puts any name or number different from that put up by the municipality, and any owner or occupier of any building who shall not at his own expense keep such number in good order after it has been put up thereon, shall be punished with fine which may extend to twenty-five rupees.

Penalty for defacing buildings, etc.

147. Any person—

(*a*) who, without the consent of the owner or occupier, and in the case of municipal property without the permission in writing of the Chief Officer affixes any posting bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence, pale, post, lamp-post or the like, or

(*b*) who, without such consent as aforesaid, writes upon, soils, defaces or marks any such building, wall, board, fence, pale, post, lamp-post or the like, with chalk or paint or in any other way whatsoever,

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

[1] Central Acts.

Removal and trimming of hedges, trees, etc.

148. The Chief Officer may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet; and to cut down, lop, or trim all trees or shrubs which in any way overhang, endanger or obstruct, or which such officer deems likely to overhang, endanger, or obstruct any public street or to cause damage thereto, or which so overhang any public tank, well or other provision for water-supply as to pollute, or be likely to pollute the water thereof.

(6) *Powers for promotion of public health, safety and convenience.*

Ruinous or dangerous buildings; precautionary measures.

149. (*1*) Where any building or anything affixed thereon is deemed by the Chief Officer to be in a ruinous state or likely to fall or in any other way dangerous to any inhabitant of such building or of any neighbouring building or to any occupier thereof or to passengers, the Chief Officer shall immediately, if it appears to him to be necessary, cause a proper hoard or fence to be put up for the protection of passengers:

Provided that if the danger be not of hourly imminence, the Chief Officer may, instead of causing a hoard or fence to be put up, issue in the first instance notice in writing to the owner or occupier to put up a proper hoard or fence, and in the event of the owner or occupier failing to put up within two days from the service of such notice a hoard or fence which the Chief Officer considers sufficient in the circumstances of the case, the Chief Officer shall at once cause such hoard or fence to be put up.

Repairs to be made by owner or occupier; default by such.

(*2*) The Chief Officer shall also cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure, or repair such building, or thing affixed thereon, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure such building or thing within three days after the service of such notice, and complete such work with due diligence, the Chief Officer shall cause all or so much of such building or thing as he shall think necessary to be taken down, repaired or secured.

(*3*) All expenses incurred by the Chief Officer under this section shall be paid by the owner or occupier of such building and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Powers and duties with regard to dangerous, stagnant or insanitary sources of water-supply.

150. (*1*) A Chief Officer may at any time by written notice require that the owner of or any person who has the control over any well, stream, channel, tank or other source of water-supply, shall, whether such source is private property or not, within a reasonable time to be specified in the notice, or in any case falling under clause (*d*) within twenty-four hours of such notice—

(*a*) keep and maintain any such source of water-supply, other than a stream, in good repair, or

(*b*) cleanse any such source of water-supply from silt, refuse and decaying vegetation, or

(*c*) in such manner as the Chief Officer may prescribe, protect any such source of water-supply from pollution by surface drainage, or

(*d*) repair, protect or enclose in such manner as the Chief Officer approves, any such source of water-supply other than a stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water-supply is in the opinion of the Chief Officer dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same; or

(*e*) desist from using and from permitting others to use for drinking purposes any such source of water-supply, other than a stream in its natural flow, which is proved to the satisfaction of the Chief Officer to be unfit for drinking, or

(*f*) if notwithstanding any such notice under clause (*e*) such use continues and cannot in the opinion of the Chief Officer be otherwise prevented, close either temporarily or permanently or fill up or enclose or fence in such manner as the Chief Officer considers sufficient to prevent such use, such source of water-supply as aforesaid, or

(*g*) drain off or otherwise remove from any source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Chief Officer considers is injurious to health or offensive to the neighbourhood.

Remedy on non-compliance with directions issued.

(*2*) If the owner or person having control as aforesaid, fails or neglects to comply with any such requisition within the time specified by or under the provisions of sub-section (*1*), the Chief Officer may, and if in his opinion immediate action is necessary to protect the health or safety of any person, shall at once proceed to execute the work required by such notice; and all the expenses incurred therein by the Chief Officer shall be paid by the owner of, or person having control over, such water-supply, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII:

Provided that in the case of any well or private stream or of any private channel, tank or other source of water-supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by the Chief Officer or necessarily incurred by such owner or person having such control, may, if the standing committee so direct, be paid from the municipal fund.

Displacing pavements, etc.

151. (*1*) Whoever displaces, takes up, or makes any alteration in the pavement, gutter, flags or other materials of any public street, or the fences, walls, or posts thereof, or any municipal lamp, lamp-post, bracket, water post, hydrant, or other such municipal property therein, without the written consent of the Chief Officer or other lawful authority, shall be punished with fine which may extend to one hundred rupees.

Penalty for failure to replace after notice.

(*2*) Any person who, having displaced, taken up or made alteration in any such pavement, gutter, flags, or other materials or in such fences, walls, posts, municipal lamps, lamp-posts, brackets, water-posts, hydrants, or other municipal property, shall fail to replace or restore the same to the satisfaction of the Chief Officer after notice to do so, shall be punished with fine which may extend to fifty rupees, and shall pay any expense which may be incurred in replacing or restoring the same; and such expense shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

Obstructions and encroachments upon public streets and open spaces.

152. (*1*) Whoever in any [1][area] after it has become a municipal district, or borough

(*a*) shall have built or set up, or shall build or set up, any wall or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or

(*b*) shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing,

in any public [2][place or]street or in or over or upon any open drain, gutter, sewer, or aqueduct in such [2][place or] street shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(*2*) The Chief Officer shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open space not being private property, whether such space is vested in the municipality or not: provided that if the space be vested in His Majesty the permission of the Collector shall have first been obtained; the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

(*3*) Whoever, not being duly authorised in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon any open space which is not private property, shall be punished with fine which may extend to fifty rupees, and, in the case of encroachment, with further fine which may extend to ten rupees for every day on which the encroachment continues after the date of first conviction for such offence.

(*4*) Nothing contained in this section shall prevent the Chief Officer from allowing any temporary occupation of or erections in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and spaces for not more than ten days and in such manner as not to inconvenience the public or any individual [3][or from allowing the occupation of, or temporary erection of structures on, any such streets or spaces for any other purpose in accordance with by-laws made under the Act].

(*5*) Nothing contained in this section shall apply to any projection duly authorised under sub-section (*1*) of section 143.

Hoards to be set up during repairs, etc.

153. (*1*) A person intending to construct or take down any building or to alter or repair any building externally shall, if the position or circumstances of the work is or are likely to cause or may cause obstruction, danger or inconvenience in any street, before beginning such work—

(*a*) first obtain a license in writing from the Chief Officer so to do, and

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[1] The word "area" was substituted for the word "place" by Bom. 19 of 1935, s. 10 (*a*) (*i*).

[2] The words "place or" were inserted by *ibid*, s. 10 (*a*) (*ii*) and (*iii*).

[3] These words were added by *ibid*, s. 10 (*b*).

(*b*) cause sufficient hoards or fences to be put up in order to separate the area where the work is to be carried on from the street, and shall maintain such hoard or fence standing and in good condition to the satisfaction of the Chief Officer during such time as the Chief Officer considers necessary for the public safety or convenience, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the Chief Officer.

(*2*) Whoever contravenes any of the provisions of this section shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of such conviction for such offence.

Fencing and lighting during repairs, etc.

154. (*1*) The Chief Officer shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in the municipality, take proper precaution for guarding against accident, by shoring up and protecting the adjoining buildings, and shall cause such bars, chains or posts as he shall think fit, to be fixed across or in any street to prevent the passage of carriages, carts or other vehicles, or of cattle or horses, while such construction or repair is being carried on and shall cause any such construction or repair work in a street to be sufficiently lighted and guarded during the night.

(*2*) Whoever takes down, alters or removes any of the said bars, chains or posts, or removes or extinguishes any such light without the authority or consent of the Chief Officer, shall be punished with fine which may extend to fifty rupees.

Timber not to be deposited or hole made in street without permission.

155. (*1*) No person shall, without the written permission of the Chief Officer or otherwise than in accordance with the conditions of such permission, make a hole in any street or deposit on any street any timber, stone, brick, earth or other material that has been or is intended to be used for building; such permission shall be terminable at the discretion of the Chief Officer; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed to the satisfaction of the Chief Officer until the materials are removed, or the hole is filled up or otherwise made secure, and shall cause such materials or hole to be sufficiently lighted during the night.

(*2*) Whoever contravenes any of the provisions of sub-section (*1*) shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction for such offence.

Dangerous quarrying.

156. (*1*) If in the opinion of the Chief Officer the working of any quarry or the removal of stone, earth or other material from the soil in any place, is dangerous to persons residing in or having a right of access to the neighbourhood thereof, or creates or is likely to create a nuisance,

the Chief Officer may, by written notice, require the owner of the said quarry or place or the person responsible for such working or removal not to continue or permit the working of such quarry or the removing of such material, or to take such order with such quarry or place as the Chief Officer shall direct for the purpose of preventing the danger or of abating the nuisance arising or likely to arise therefrom:

Provided that if such quarry or place is vested in His Majesty, or if such working thereof or removal therefrom as aforesaid is being carried on by or on behalf of [1][the Crown]; or any person acting with the permission or under the authority of [1][the Crown] or of any [2][servant of the Crown] acting as such, the Chief Officer shall not take such action unless and until the Collector has consented to his so doing:

Provided further that the Chief Officer shall immediately cause a proper hoard or fence to be put up for the protection of passengers near such quarry or place, if it appears to him to be necessary in order to prevent imminent danger.

(*2*) Any expense incurred by the Chief Officer in taking action under this section shall be paid by such owner or the person responsible for such working or removal, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

Provision as to dogs.

157. (*1*) The Chief Officer may by public notice require that every dog while in the streets and not being led by some person shall be muzzled in such a way as to allow the dog freely to breathe and to drink, while effectually preventing it from biting.

(*2*) Subject to the provisions of sub-section (*3*) the Chief Officer may take possession of any dog found wandering unmuzzled in any public place and may either detain such dog until its owner has claimed it, has provided a proper muzzle for it, and has paid all the expenses of its detention, or cause it to be destroyed.

(*3*) When a dog which has been detained under the last preceding sub-section is wearing a collar with the owner's name and address thereon, such dog shall not be destroyed until a letter stating the fact that it has been so detained has been sent to the said address, and the dog has remained unclaimed for three clear days: provided that any dog which is found to be rabid may be destroyed at any time.

(*4*) Any unclaimed dog and any dog, the owner of which refuses to pay all the expenses of its detention, may be sold or destroyed, after having been detained for the said period of three clear days.

(*5*) All expenses incurred by the Chief Officer under this section may be recovered from the owner of any dog which has been taken possession of or detained in the manner provided by chapter VIII.

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[1] The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "servant of the Crown" were substituted for the words "officer of Government" by *ibid.*

(7) *Powers for the prevention of nuisances.*

Depositing dust, etc.; committing nuisance.

158. (*1*) Whoever deposits or causes or suffers any member of his family or household to deposit any dust, dirt, dung, ashes, refuse or filth of any kind or any animal matter or any broken glass or earthenware or other rubbish or any other thing that is or may be a nuisance, in any street or in any arch under a street or in any drain beside a street or on any open space or on any quay, jetty or landing-place or on any part of the seashore on the bank of a tidal river, whether above or below high-water mark, or on the bank of any river, water-course or nullah, except at such places, in such manner and at such hours as shall be fixed by the Chief Officer, and whoever commits or suffers any member of his family or household to commit nuisance in any such place as aforesaid, shall be punished with fine which may extend to twenty-five rupees.

(*2*) Whoever throws or puts or causes or suffers any member of his family or household to throw or put any of the matters described in sub-section (*1*) except night-soil, or, except with the permission of the Chief Officer, any night-soil into any sewer, drain, culvert, tunnel, gutter or water-course, and whoever commits nuisance or suffers any member of his family or household to commit nuisance in any such sewer, drain, culvert, tunnel, gutter or water-course, or in such close proximity thereto as to pollute the same, shall be punished with fine which may extend to twenty-five rupees.

Discharging sewage, etc.

159. Whoever causes or allows the water of any sink or sewer or any other liquid or other matter which is or which is likely to become offensive, from any building or land under his control, to run, drain, or be thrown or put upon any street or open space, or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the Chief Officer or who fails to comply with any condition prescribed in such permission, shall be punished with fine which may extend to twenty-five rupees.

Non-removal of filth, etc.

160. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from and to cleanse and purify such receptacle, or keeps or allows to be kept in or upon such building or land any animal in such a way as to cause a nuisance, shall be punished with fine which may extend to twenty-five rupees and with further fine which may extend to five rupees for every day on which such offence is continued, after the date of the first conviction for such offence.

Removal of night-soil.

161. (*1*) The Chief Officer may from time to time fix the hours within which only it shall be lawful to remove any night-soil or other such offensive matter.

(*2*) Whoever,—

(*a*) when the Chief Officer has fixed such hours and given public notice thereof by beat of drum, removes or causes to be removed along any street any such offensive matter at any time except within the hours so fixed, or

(*b*) at any time, whether such hours have been fixed by the Chief Officer, or not,

(*i*) uses for any such purpose any cart, carriage, receptacle or vessel, not having a covering sufficient for preventing the escape of the contents thereof and of the stench therefrom, or

(*ii*) wilfully or negligently slops or spills any such offensive matter in the removal thereof, or

(*iii*) does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

(*iv*) places or sets down in any public place any vessel containing such offensive matter, or

(*v*) drives or takes or causes to be driven or taken any cart, carriage, receptacle or vessel used for any such purpose as aforesaid, through any street or by any route, other than such as shall from time to time be appointed for that purpose by the Chief Officer by public notice,

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

Filthy buildings, etc.

162. (*1*) Whoever, being the owner or occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or in the opinion of the Chief Officer a nuisance to persons residing in the neighbourhood, or overgrown with prickly-pear or rank and noisome vegetation, and who shall not, within a reasonable time after notice in writing by the Chief Officer to cleanse, clear or otherwise put such building or land in a proper state have complied with the requisition contained in such notice, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which the failure to comply with the said notice is continued after the date of the first conviction for such offence.

Deserted and offensive buildings.

(*2*) Where any building, by reason of dilapidation, neglect, abandonment, disuse or disputed ownership, or of its remaining untenanted and thereby—

(*a*) becoming a resort of idle and disorderly persons, or of persons who have no ostensible means of subsistence, or who cannot give a satisfactory account of themselves, or

(*b*) coming into use for any insanitary or immoral purpose, or

(*c*) affording a shelter to snakes, rats or other dangerous or offensive animals,

is open to the objection that it is a nuisance, or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building, the standing committee, if it considers such objection cannot under any other provision of this Act be otherwise removed, may, if there is any person known or resident within the municipal borough who claims to be the owner of such building, by written notice directed to such person, require such person, or in any other case by written notice fixed on the door or any other conspicuous part of the building, require all persons claiming to be interested in such building, within a period which shall be specified in the notice and shall not be less than seven days from the date of such notice, to cause such building to be taken down and the materials thereof to be removed; in the event of non-compliance with such requirement, the standing committee, on the expiration of the period specified as aforesaid, may forthwith cause the building to be taken down and the materials to be removed, and may sell such materials and apply the proceeds to defray any expenses incurred by it in so doing; all such expenses not thereby defrayed shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

Buildings or rooms in buildings unfit for human habitation.

163. (*1*) If, for any reason, it shall appear to the standing committee that any building or any room in a building intended for or used as a dwelling is unfit for human habitation, the standing committee shall give to the owner or occupier of such building notice in writing, stating such reason, and signifying its intention to prohibit the further use of the building or room, as the case may be, as a dwelling, and shall in such notice call upon the owner or occupier aforesaid to state in writing any objection thereto within thirty days after the receipt of such notice; and if no objection is raised by such owner or occupier within such period as aforesaid, or if any objection which is raised by such owner or occupier within such period appears to the standing committee invalid or insufficient, the standing committee may by an order in writing prohibit the further use of such building or room as a dwelling.

(*2*) When any such prohibition as aforesaid has been made, the Chief Officer shall cause notice of such prohibition to be affixed to, and the letters "U.H.H." to be painted on, the door or some conspicuous part of such building or room as the case may be; and no owner or occupier of such building or room shall use or suffer the same to be used for human habitation until the standing committee certifies in writing that the building or room, as the case may be, has been rendered fit for human habitation.

Power to enter and inspect, etc., buildings.

164. It shall be lawful for the president, vice-president, chairman of the standing committee, Chief Officer or any councillor or officer authorised by the municipality in this behalf, at any time between sunrise and sunset after due notice to enter into and inspect all buildings

and lands, and by written notice to direct for sanitary reasons all or any part thereof to be forthwith internally and externally limewashed or otherwise cleansed.

Bathing places.

165. (*1*) The standing committee may set apart sufficient public places, or any part of the seashore, not being private property, for the purpose of being used as bathing places, and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also set apart tanks or reservoirs or runs of water for washing animals or clothes, or for any purpose connected with the health, cleanliness and comfort of the inhabitants, and may prohibit the use, for any purpose mentioned in this section, of any or all other public places within the municipal borough.

(*2*) Copies of all orders passed and notices issued by the standing committee and for the time being in force under this section, shall be kept at the municipal office and shall be open for inspection by the public at all reasonable times.

Regulation of washing of clothes by washermen.

[1][**165A.** (*1*) The standing committee may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as it shall appoint for this purpose; and when any such prohibition has been made, no person who is, by calling, a washerman shall wash clothes at any place not appointed for this purpose by the standing committee, except for such person himself or for the owner or occupier of such place.

Washing place to be provided by the standing committee for washermen.

(*2*) The standing committee shall provide suitable places for the exercise by washermen of their calling and may require payment of such fees for the use of any such place as shall from time to time be determined by it with the approval of the municipality.

(*3*) The standing committee shall, before issuing any public notice under sub-section (*1*), publish in such manner as shall in its opinion be sufficient, for the information of persons likely to be affected thereby, a list of washing places proposed to be provided under sub-section (*2*), together with a notice specifying a date on or after which the list will be taken into consideration; and shall, before finally fixing the said places, receive and consider any objection or suggestion in respect thereto which may be made in writing by any person before the date so specified.]

Fouling water.

166. Whoever, in disobedience of any order of the municipality under section 165, or of any by-law, bathes in any stream, pool, tank, reservoir, well, cistern, conduit or aqueduct belonging to the municipality, or washes or causes to be washed therein any animal or anything whatever, or throws, puts or casts or causes to enter therein any animal or anything, or causes or suffers to run, drain or be brought there into anything that is or may become a nuisance, or does anything whatsoever whereby any water therein shall be in any degree fouled or corrupted and

[1] This section was inserted by Bom. 12 of 1931, s. 3 (*iv*).

whoever without permission of the Chief Officer steeps in any tank, stream, or ditch within or on the boundary of, the municipal borough any animal, vegetable or mineral matter likely to render the water of such tank, stream or ditch offensive or a nuisance shall be punished with fine which may extend to fifty rupees.

Abatement of nuisance from wells, etc.

167. (*1*) If, in the opinion of the Chief Officer—

(*a*) any pool, ditch, quarry, hole, excavation, tank, well, pond, drain, water-course, or any collection of water, or

(*b*) any cistern or other receptacle for water whether within or outside a building, or

(*c*) any land on which water accumulates and which is situate within a distance of one hundred yards from any building used as a dwelling house, is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance, the Chief Officer may, by notice in writing, require the owner thereof to fill up, cover over or drain off the same in such manner and with such materials as the Chief Officer shall prescribe, or to take such order with the same for removing or abating the nuisance as the Chief Officer shall prescribe.

(*2*) (*a*) No new well, tank, pond, cistern or fountain shall be dug or constructed without the previous permission in writing of the Chief Officer.

(*b*) If any such work is begun or completed without such permission, the Chief Officer may either—

(*i*) by written notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Chief Officer shall prescribe ; or

(*ii*) grant written permission to retain such work ; but such permission shall not exempt such owner from proceedings for contravening the provisions of clause (*a*) of this sub-section.

Using offensive manure, etc.

168. Whoever, except with the written permission of the Chief Officer, and in accordance with the conditions of such permission, stores or uses nightsoil or other manure or substance emitting an offensive smell, shall be punished with fine which may extend to twenty-five rupees.

Tethering cattle, etc.

169. Whoever tethers cattle or other animals, or causes or suffers them to be tethered by any member of his family or household, in any public street or place so as to obstruct or endanger the public traffic therein, or to cause a nuisance, or who causes or suffers such animals to stray about without a keeper shall be punished with fine which may extend to twenty-five rupees.

Feeding animals on filth.

170. Whoever feeds any animal which is kept for dairy purposes or is intended for human food on excrementitious matter, stable-refuse,

filth or other offensive matter, or permits such animal to feed or to be fed on such matter, shall be punished with fine which may extend to fifty rupees.

Consumption of smoke.

171. (*1*) It shall be lawful for the municipality to direct by public notice that every furnace employed, or to be employed, in any works or buildings used for the purpose of any trade or manufacture whatsoever, within the limits of the municipal borough whether a steam engine be or be not used or employed therein, shall in all cases be constructed, supplemented or altered so as to consume or burn, or reduce as far as may be practicable, the smoke arising from such furnace.

(*2*) If any person shall after such direction use, or permit to be used any such furnace not so constructed, supplemented or altered, or shall so negligently use, or permit to be used, any such furnace that the smoke arising therefrom shall not be effectually consumed or burnt as far as may be practicable, such person being the owner or occupier of the said works or buildings or an agent or other person employed by such owner or occupier for managing the same, shall be punished with fine which may extend to fifty rupees and upon any subsequent conviction to five hundred rupees :

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway or for the repair of roads.

(8) *Regulation of markets, sale of food, etc.*

Licensing markets and slaughter-houses.

172. (*1*) It shall be lawful for the municipality to direct that no place other than a municipal market or slaughter-house, shall be used for any of the purposes specified in sub-clauses (*i*) and (*ii*) of clause (*b*) of sub-section (*1*) of section 61 except under and in accordance with the conditions of a license from the standing committee, which may at its discretion from time to time grant, suspend, withhold or withdraw such licenses either generally or in individual cases.

(*2*) Whoever uses or permits the use of any place contrary to such direction, or without the license required as aforesaid, or in contravention of any of the conditions or during the suspension or after the withdrawal of such license, shall be punished with fine which may extend to twenty-five rupees.

(*3*) Upon a conviction being obtained in respect of any place under sub-section (*2*) of this section, the magistrate shall, on the application of the standing committee but not otherwise, order such place to be closed, and thereupon appoint persons or take other steps to prevent such place being so used ; and every person who so uses or permits the use of a place after it has been so ordered to be closed, shall be punished with a fine which may extend to five rupees for each day during which he continues so to use, or permits such use of, the place after it has been so ordered to be closed.

(*4*) Nothing in this section or in sub-clause (*ii*) of clause (*b*) of sub-section (*1*) of section 61 shall apply to any liquor as defined in the Bom. V of 1878. Bombay Abkari Act, 1878.

Opening, closing and letting of markets and slaughter-houses.

173. (*1*) The municipality may from time to time open or close any public market or slaughter-house. It may also either take stallage or other rents or fees for the use by any person of any such market or slaughter-house, or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in or of otherwise using any such market or slaughter-house.

(*2*) Any person who, without the permission of or a license from the municipality, shall sell or expose for sale any article in the said markets or use the said slaughter-houses, shall be punished with fine which may extend to twenty-five rupees.

Farming of market and slaughter house rents.

174. It shall be lawful for the municipality to lease by public auction or private contract the collecting of any rent or fees which may be imposed under section 173 :

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

Slaughter-houses, etc., beyond municipal limits.

175. It shall be lawful for a municipality with the sanction of the Commissioner or, if authorized by him, of the Collector to establish slaughter-houses or places for the disposal of carcasses of animals beyond the limits of the municipal borough and all provisions of this Act and of by-laws in force thereunder relating to such slaughter-houses or places within the municipal borough, shall have full force in slaughter-houses or places established under this section, as if they were within the municipal borough.

Search for and inspection of unwholesome articles.

176. (*1*) The president, vice-president, chairman of the standing committee, Chief Officer or any councillor or officers authorized by the municipality in this behalf—

(*a*) may at all reasonable times enter into any place for the purpose of inspecting and may inspect any animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter or other articles intended for human food or drink or for medicine, whether exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale, or may enter into and inspect any place used as a slaughter-house, and may examine anything which may be therein ; and

(*b*) in case any such animals, carcasses, or other articles before mentioned appear to be diseased or unsound or unwholesome or unfit for human food or drink or medicine may seize the same.

Any article which is of a perishable nature may under the orders of the president, vice-president, chairman of the standing committee or

Chief Officer if in his opinion it is diseased, unsound, unwholesome or unfit for human food, drink or medicine, forthwith be destroyed.

Every animal and every article which is not of a perishable nature, if seized as aforesaid, shall be taken before a Magistrate.

If it appear to the Magistrate upon sufficient evidence that any such animal or article is diseased or unsound or unwholesome or unfit for human food, drink or medicine, the owner or person in whose possession it was found, not being merely bailee or carrier thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees, and the Magistrate shall cause such animal or article to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for human food or drink or medicine. XLV of 1860.

Adulterated articles for food or drink.

(*2*) In every municipal borough in which by virtue of a notification under sub-section (*4*) of section 1, of the [1]Bombay Prevention of Adulteration Act, 1899, the provisions of that Act are in force, and in respect of any food or drink to which the provisions of any section coming into force under sub-section (*4*) of section 1 of that Act are for the time being applicable in such borough by a notification, under sub-section (*5*) of section 1 of that Act, the following provisions shall be in force, namely :— Bom. II of 1899.

If any article to which this sub-section is applicable as aforesaid is intended for food or drink, the president, vice-president, chairman of the standing committee, Chief Officer or any councillor or officers authorised by the municipality in this behalf in case such article appears not to be what it is represented to be, may seize the same, and if it appears to a Magistrate upon sufficient evidence that such article is not what it is represented to be, such Magistrate may order the same to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink; and the owner thereof or the person in whose possession the same was found, not being merely carrier or bailee thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees. XLV of 1860.

Explanation.—If such article having been exposed or stored in or brought to any place for sale as ghee contains any substance not exclusively derived from milk, it shall be deemed to be for the purposes of this sub-section, an article which is not what it is represented to be.

Protection to persons acting in good faith.

Where any article to which this sub-section is applicable, appears to the Magistrate not to be what it is represented to be, solely by reason of the fact that there has been added to it some substance not injurious to

[1] On coming into operation of the Bombay Prevention of Adulteration Act, 1925 (Bom. 5 of 1925), in any local area, in respect of any article of food, Bom. 2 of 1899, except sec. 6, shall be deemed to have been repealed (*vide* Bom. 5 of 1925, sec. 20, Schedule B).

health, no offence shall be deemed to have been committed by the owner of the article or the person in whose possession the same is found, if such owner or person proves to the satisfaction of the Magistrate—

(*a*) that such substance has been added to the article because the same is required for the production or preparation thereof, as an article of commerce, in a state fit for carriage or consumption, and not fradulently to increase the bulk, weight, or measure of the article or conceal the inferior quality thereof, or

(*b*) that in the process of production, preparation or conveyance of such article, the extraneous substance has unavoidably become intermixed therewith, or

(*c*) that, by a label distinctly and legibly written or printed on or with the said article or by other means of public description, he has given sufficient notice that such substance has been so added, or

(*d*) that—

(*i*) the said article was purchased by him with a written warranty that it was of a certain nature, substance and quality,

(*ii*) he had no reason to believe that it was not of such nature, substance and quality as aforesaid, and

(*iii*) it was not exposed, hawked about, or brought for sale by him otherwise than as an article of the nature, substance and quality specified in the written warranty, and was in the same state in which he purchased it.

Bom. V of 1925. Provided that this sub-section shall not apply to any borough to which the Bombay Prevention of Adulteration Act of 1925 has been extended.

(*3*) In all prosecutions under this section the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against its provisions unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused. Application for summons to be refused if not applied for within reasonable time.

[1]**177.** The president, vice-president, chief officer or any councillor authorised by the municipality in this behalf may at all reasonable times enter into any place [2][other than a place prescribed by rules made under the Bombay Weights and Measures Act, 1932)] where weights or measures or weighing or measuring instruments are used or kept for purposes of trade and inspect such weights or measures or weighing or measuring instruments. Powers of inspection of weights and measures, etc.

[1] This section was substituted for the original section by Bom. 15 of 1932, second Schedule, Pt. I.

[2] These words, brackets and figures were inserted by Bom. 9 of 1935 s. 6 (*1*).

(9) *Regulation of dairies and cattle sheds.*

Licensing of dairies.

178. (*1*) No person shall, for the purposes of trade, use or permit to be used any place for stabling milch cattle or for storing or selling milk or for making, storing or selling butter except under and in accordance with the terms of a license from the standing committee.

(*2*) The standing committee may grant such license subject to such conditions as it may deem fit and may at any time withdraw such license on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the license, the license may be withdrawn without any such notice.

(*3*) Whoever so uses or permits to be used any place for any of the aforesaid purposes without, or in contravention of any of the conditions of, or after the withdrawal of, or during the suspension of, such license, shall be punished with fine which may extend to fifty rupees and in the case of a continuing offence with additional fine which may extend to ten rupees for each day during which such offence is continued after the date of the conviction for the first such offence.

(*4*) Upon a conviction being obtained in respect of any place under sub-section (*3*) the Magistrate shall, on the application of the municipality but not otherwise, order such place to be closed, and thereupon, appoint persons or take other steps to prevent such place being so used.

(10) *Prevention of dangerous diseases.*

Powers to prevent disease which may at any time be conferred.

179. (*1*) [1][The Provincial Government] may at any time confer by notification on any municipality designated therein, all or any of the powers specified in sub-section (*2*) and such municipality shall, subject to all such limitations, restrictions and conditions, if any, as [1][the Provincial Government] in the same or in any subsequent notification may prescribe in such behalf, exercise within the municipal borough every power so conferred on it, for such period as may be specified in this behalf, in any such notification, or if no period is so specified, then, until the power is withdrawn.

(*2*) The powers, all or any of which may be conferred under the preceding sub-section, are :

(*a*) power by orders, which may be either of special or general application, to direct that every medical practitioner, who knows or may have reason to believe that any person whom he has visited in his professional capacity in any dwelling not being a hospital, or that every manager of any factory or educational institution, or every head of a household, who knows or has reason to believe that any person who resides in any dwelling under his management or control, is suffering

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

from any illness which may reasonably be supposed to be a dangerous disease, shall give information of the same with the least practicable delay to such person as may be designated by the municipality in that behalf;

(*b*) power to direct or authorize the inspection, without notice, or with such notice as to the person directed or authorised to inspect appears reasonable of any place in which any dangerous disease is reported or suspected to exist and the taking of measures to prevent the spread of the disease beyond such place;

(*c*) power to prohibit the removal of water for the purpose of drinking from any well, tank or other place which may appear to the municipality, on the advice of a medical officer, likely to endanger or cause the spread of any dangerous disease;

(*d*) power to direct or cause the removal, on a certificate signed by any duly qualified medical practitioner authorised by the municipality in this behalf, of any person who is without proper lodging or accommodation, or who is lodged in a room or set of apartments occupied by more than one family, or in a place where his presence may be a danger to the neighbourhood, and who is suffering from a dangerous disease, to any hospital or place at which persons suffering from the said disease are received for medical treatment; and to prohibit the person so removed from leaving such hospital or place without the permission of the municipality;

(*e*) power to require by written notice the owner or occupier of any building or part of a building, or a person owning or in charge of any article therein, to cleanse or disinfect such building or part thereof or article, either at his own expense, or in case of poverty, or for other cause which the municipality in the circumstances of the case considers reasonable, at the expense of the municipality;

(*f*) power to provide the means and to prescribe places, for disinfecting or washing, bedding or other articles which have been exposed to infection from any dangerous disease, and to direct the destruction thereof;

(*g*) power—

(*i*) to provide and maintain suitable conveyance for the free carriage of persons suffering from any dangerous disease, and

(*ii*) when such provision is made, to prohibit the conveyance of such person in all or any public conveyances, and

(*iii*) to direct that any conveyances that may at any time be used for conveying any such persons shall be immediately disinfected;

(*h*) power to prohibit—

(*i*) any person suffering from any dangerous disease from wilfully exposing himself, without proper precautions against spreading the

said disease, in any street or in any school or factory, or in any inn, dharmshala, theatre, market or other place of public resort, or

(*ii*) any person in charge of any person so suffering from so exposing such sufferer;

(*i*) power to prohibit any person from removing to another place, or transferring to another person, except for the purpose of disinfection, any article which the person prohibited knows or has reason to believe has been exposed to infection of any kind whatsoever from any dangerous disease;

(*j*) power to prohibit the letting of or the providing of accommodation in any hotel, inn, dharmshala, or serai, in which a person has, or in which there is reason to believe that a person has been suffering from a dangerous disease, unless and until the person desiring so to let or provide accommodation shall have had the building, or part thereof, and any article therein likely to retain infection, disinfected to the satisfaction of the municipality, or of such officer as the municipality may appoint in this behalf;

(*k*) power, with the previous permission in each case of a Magistrate exercising not less than second class powers, to destroy any insanitary huts or sheds in which there is reason to believe that persons have been suffering from a dangerous disease.

(*3*) The municipality may, in its discretion, give compensation to any person who sustains substantial loss by the destruction of any property under this section, but, except as allowed by the municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

(*4*) Any person who in a municipal borough disobeys any order which is for the time being in force therein, and which has been passed by the municipality in exercise of any power conferred on such municipality under this section, or obstructs any officer of the municipality or other person acting under the authority of the municipality in carrying out executively any such order, shall be punished with fine which may extend to fifty rupees.

Duties of municipality on threatened or actual outbreak of dangerous disease.

180. (*1*) In the event of the municipal borough or any part thereof being at any time threatened or visited with an outbreak of any dangerous disease, the municipality shall take all such measures as the [1][Commissioner] may deem necessary for the purpose of preventing, meeting, mitigating or suppressing such outbreak.

(*2*) In such event as aforesaid the [1][Commissioner] may by special notification declaring that such municipal borough is threatened or visited with an outbreak of a dangerous disease, confer on the municipality all or any of the additional powers specified in the following sub-section, and such municipality shall, subject to such limitations, restrictions and conditions, if any, as the [1][Commissioner] in the same or in any subsequent

[1] The word "Commissioner" was substituted for the word "Government" by Bom. 19 of 1935, s. 11.

notification may prescribe, exercise every such power so conferred on it until the same is withdrawn by means of a like notification.

(*3*) The powers, all or any of which may be conferred under the preceding sub-section, are—

(*a*) power to order, subject to the conditions—

(*i*) that the permission of a Magistrate exercising not less than second class powers shall be in each case first obtained, and

(*ii*) that accommodation for all persons to whom the order refers is available, or shall be provided, elsewhere,

the evacuation of an infected building used as a dwelling or of any part thereof, or of any building so used adjacent to such building, by the person or persons residing, whether habitually or temporarily, therein;

(*b*) power to direct the examination by a medical officer of persons and if necessary, the disinfection of the clothing, bedding, or other articles suspected of being infected, belonging to persons either arriving from places outside the municipal borough, or residing in any building adjacent to any infected building, and to direct that any such person shall give his address and present himself daily for medical examination at such times and places as may be prescribed, for a period not exceeding ten days;

(*c*) power to prohibit either generally, or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in the opinion, recorded in writing, of the Civil Surgeon of the district or other medical officer appointed by [1][the Provincial Government] in this behalf, such assemblages in such place or in such circumstances or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent.

(*4*) The municipality may in its discretion give compensation to any person who sustains substantial loss by the destruction of any property under this section; but except as allowed by the municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

(*5*) If in any municipal borough in which a notification under sub-section (*2*) is for the time being in force, any person—

(*a*) knowingly disobeys any order which for the time being is in force in such borough and which has been passed by the municipality in exercise of any power conferred on it under section 179 or under this section, or

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(*b*) obstructs any officer of the municipality or other person acting under the authority of the municipality in carrying out executively any such order,

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

Withdrawal and modification of powers and orders.

181. (*1*) [1] [[2]The Provincial Government], in the case of any power conferred under section 179, and the Commissioner, in the case of any power conferred under section 180, may at any time—

(*a*) withdraw any such power ;]

(*b*) cancel or modify any limitation, restriction or condition prescribed in respect of any such power ; or

(*c*) cancel any order passed by a municipality in exercise of any such power.

(*2*) Every order passed by a municipality in exercise of any such power as aforesaid shall, on the withdrawal of such power, cease to be in force in the municipal borough.

Duties of municipality in respect of diseases among cattle, sheep or goats.

182. If in any municipal borough any infectious disease amongst cattle, sheep or goats breaks out or if the introduction of any such disease appears to be likely, the municipality shall take all such measures as it may deem necessary for the purpose of preventing, meeting, mitigating or suppressing the disease or the outbreak or introduction thereof.

Proceedings to abate the overcrowding of the interiors of buildings.

183. (*1*) Whenever the standing committee considers the interior of a building is so overcrowded as to be or to be likely to become dangerous or prejudicial to the health of the inhabitants of that or of any neighbouring building, the standing committee may cause proceedings to be taken before a Magistrate of the first class for the purpose of obtaining an order to prevent such overcrowding.

(*2*) Such Magistrate may, on the production of a certificate by a medical officer stating his opinion that the overcrowding complained of is likely to cause disease or risk of disease, and after such further inquiry, if any, as may appear to such Magistrate necessary, require the owner of the building within a reasonable time, not being more than six weeks or less than ten days, to abate the number of lodgers, tenants or other inmates of the said building to such extent as he shall deem necessary to prescribe, or may pass such other order as he shall deem just and proper.

(*3*) If the owner of the said building shall have sublet the same, the landlord of the lodgers, tenants or other actual inmates of the same shall for the purposes of this section be deemed to be the owner of the building.

(*4*) It shall be incumbent on any owner, to whom a requisition is issued under sub-section (*2*), forthwith to give to so many of the lodgers, tenants

[1] These words, letter, figures and brackets were substituted for the original words letter, brackets and figures by Bom. 19 of 1935, s. 12.

[2] The words "The Provincial Government" were substituted for the words "The Government" by the Adaptation of Indian Laws Order in Council.

or other actual inmates of the said building as may be necessary to fulfil the conditions prescribed in such requisition, written notice to vacate the said building within the period specified in such requisition, and any such lodgers, tenants, or inmates receiving such notice shall be bound to comply therewith.

(*5*) Any owner who after the date specified in any requisition issued under sub-section (*2*) permits the overcrowding of any building in contravention of such requisition, and any person who omits to vacate any such building in accordance with notice given to him under sub-section (*4*), shall be punished with fine which may extend to ten rupees for each day subsequent to the date specified in such requisition during which such overcrowding or such omission to vacate, continues.

Special powers which may be conferred by the Provincial Government in respect of overcrowded area.

184. (*1*) If [1][the Provincial Government] is of opinion that risk of disease has arisen or is likely to arise either to any occupier in, or to any inhabitant in the neighbourhood of, any area by reason of any of the following defects, namely —

(*a*) the manner in which either buildings or blocks of buildings, already existing or projected therein, are, or are likely to become, crowded together, or

(*b*) the impracticability of cleansing any such buildings or blocks of buildings, already existing or projected, or

(*c*) the want of drainage or scavenging, or the difficulty of arranging therein for the drainage or scavenging of any such buildings or blocks or area as aforesaid, or

(*d*) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or groups of buildings,

it may by notification confer on the municipality to which such area is subject, all or any of the powers specified in sub-section (*2*), and may, if it deems necessary, at any time make rules prescribing any limitations, restrictions, modifications, conditions, or regulations, subject to which the municipality shall exercise within that area all powers so conferred, unless and until those powers are withdrawn by a subsequent notification of [1][the Provincial Government].

(*2*) The powers all or any of which may be conferred on a municipality under sub-section (*1*) are as follows :—

(*a*) power when any building or block already existing or in course of erection, by reason of any defect specified in sub-section (*1*), has given or is in the opinion of the municipality likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block and addressed, as the municipality deems fit, either to the owners thereof or to the owners

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

of the land on which such building or block is erected or is in course of erection that the persons so addressed shall, within such reasonable time as shall be specified in the notice, either pull down or remove such building or block, or execute such works or take such action in connection therewith as the municipality deems necessary to prevent all such risk of disease;

(*b*) power by municipal or other agency to pull down or remove such building or block, or to execute such works or take such action as aforesaid, if the persons addressed in the said notice neglect so to do within the time specified therein;

(*c*) power, subject to a right of appeal to the Commissioner whose decision shall be conclusive, to prohibit, by written notice addressed to the owners and occupiers of any site or space hereinafter described and by general notice published in the manner provided in sub-section (*3*) of section 192, the erection of any building or of any building exceeding such dimensions as may be specified in such notice :—

(*i*) on the site of any building which has, in whole or in part, under the provisions of this section, been pulled down, or

(*ii*) on any space not occupied by buildings, whether such space is private property or not and whether it is enclosed or not, if the municipality considers that in order to prevent such risk as aforesaid, such site or space should not be built upon in whole or in part; and either to acquire such site or space or to prescribe such conditions as may be deemed necessary as to the use which the owner or occupier may make or permit to be made thereof:

Provided that in every case compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 198, shall be paid to any person whose rights are affected by such prohibition.

(*3*) When, in pursuance of any notice under sub-section (*2*), any building has been pulled down, the municipality shall, unless such building has been erected contrary to any provision of this Act or of any by-law in force thereunder, pay to such owner or occupier as may have sustained damage thereby, reasonable compensation, the amount of which shall in case of dispute be ascertained or determined in the manner provided in section 198.

(*4*) [1][The Provincial Government] may prescribe by rule a fine not exceeding five hundred rupees, for every breach, and a further fine not exceeding twenty rupees a day for every continuing breach, of any order made or conditions imposed by the municipality in exercise of any powers conferred upon it under this section.

Closing of places for disposal of the dead.

185. (*1*) Where the municipality is of opinion that any place used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health, it may submit its opinion with the reasons

[1] The words "The Provincial Government" were substituted for the words "the nment" by the Adaptation of Indian Laws Order in Council.

therefor to the Commissioner and the Commissioner thereupon, after such further inquiry, if any, as he shall deem fit to cause to be made, may by notification direct that such place shall cease to be so used from such date as may be specified in that behalf in the said notification.

(*2*) A copy of the said notification together with a translation thereof in the vernacular of the district shall be published in the local newspapers, if any, and shall be posted up at the municipal office and in one or more conspicuous spots on or near the place to which the same relates.

(*3*) Any person who buries or otherwise disposes of any corpse in any such place, after the date specified in the said notification for closure of the same, shall be punished with fine which may extend to one hundred rupees.

(*11*) *Nuisances from certain trades and occupations.*

Regulation of certain trades.

186. (*1*) If it be shown to the satisfaction of the standing committee that any building or place used or intended by any person to be used—

(*a*) for boiling or storing offal, blood, bones or rags,

(*b*) for salting, curing, or storing fish,

(*c*) for storing hides, horns or skins,

(*d*) for tanning,

(*e*) for the manufacture of leather or leather goods.

(*f*) for dyeing,

(*g*) for melting tallow or sulphur,

(*h*) for washing or drying wool or hair,

(*i*) as a brick, pottery or lime kiln,

(*j*) for soap-making,

(*k*) for oil-boiling or oil extracting,

(*l*) as a manufactory of sago,

(*m*) as a distillery,

(*n*) for storing hay, straw, fodder, wood, coal or other combustible material,

(*o*) as a manufactory of snuff,

(*p*) for the manufacture or sale of sweetmeats,

(*q*) as a factory, workshop or place of business in which animals are employed or intended to be employed for doing work, or in which steam, water or any mechanical power is used or intended to be used,

(*r*) as a manufactory or place of business of any other kind, from which offensive or unwholesome smells arise, or which may involve risk of fire,

[1][(*s*) as a hair dressing saloon, or a barber's shop or a hamamkhana,] is or is likely to become by reason of such use and of its situation a nuisance to the neighbourhood or is so used or is so situated as to be likely to be dangerous to life, health or property, the standing committee may by written notice require the owner or occupier—

(*i*) at once to discontinue the use of, or at once to desist from carrying out or allowing to be carried out the intention so to use, such building or place, or

(*ii*) to use it in such manner or after such structural alterations as the standing committee in such notice prescribes, so that it may not become, or may be no longer, a nuisance or dangerous.

Explanation 1.—For the purpose of clauses (*q*) and (*r*) nuisance shall include any contamination of the atmosphere whereby a deposit of soot is caused or any mechanical noise.

Explanation 2.—Nothing in clauses (*q*) and (*r*) shall be deemed to affect any provision of the Indian Boilers Act, 1923, or shall authorize any order relating to the fixing or fencing of any engine, mill-gearing, hoist or other machinery in any factory to which the provisions of the [2]Indian Factories Act, 1911, are applicable. V of 1923. XII of 1911.

Liability to penalty after notice.

(*2*) Whoever after notice has been given under sub-section (*1*), uses any building or place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous to life, health, or property, shall be punished with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day on which such use or permission of use is continued after the date of the first conviction.

(*3*) Upon a conviction being obtained under this section the Magistrate shall, on the application of the standing committee but not otherwise, order such place to be closed and thereupon appoint persons or take other steps to prevent such place being used for any purpose mentioned in sub-section (*1*).

Penalty for unlicensed places in district in which by-

(*4*) Whoever uses without a license or during the suspension or after the withdrawal of a license, any place for any purpose mentioned in sub-section (*1*) in any municipal borough in which by-laws are for the time being in force prescribing the conditions on or subject to which, the

[1] Clause (*s*) was inserted by Bom. 19 of 1935, s. 13.

[2] See now the Factories Act, 1934 (25 of 1934).

circumstances in which, and the areas or localities in respect of which, licenses for such use may be granted, refused, suspended or withdrawn, shall be punished with fine which may extend to fifty rupees and with further fine which may extend to ten rupees for every day on which such use is continued after the date of first conviction. laws under section 61 (*1*) (*b*) (*iii*) are in force.

187. (*1*) No person shall use or employ in any factory or any other place any whistle or trumpet operated by steam or mechanical means for the purpose of summoning or dismissing workmen or persons employed except under and in accordance with the conditions of a license from the standing committee. Prohibition of use of steam whistles, e tc.

(*2*) The standing committee may grant such license subject to such conditions as it may deem fit and may at any time withdraw such license on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the license, the license may be withdrawn without any such notice.

(*3*) Whoever uses or employs any such whistle or trumpet as aforesaid without or in contravention of any of the conditions of or after the withdrawal of such license, shall be punished with fine which may extend to fifty rupees.

[1]**188.** Whoever in any street or public place within the limits of a municipal borough loiters for the purposes of prostitution, or importunes any person to the commission of sexual immorality, shall be punished with fine which may extend to fifty rupees : Loitering or importuning for purposes of prostitution.

Provided that no Court shall take cognizance of an offence under this section except on the complaint of the person importuned, or of a Police Officer not below the rank of an officer in charge of a police station and specially authorized in this behalf by the District Magistrate or by the municipality.

189. In any municipal borough— Brothels.

(*a*) any part of which is within three miles of a cantonment, or

(*b*) to which on the application of the municipality [2][the Provincial Government] may by notification have declared this section to apply,

any Magistrate of the first class, on receiving information that a house

[1] In any municipal borough to which section 3 of the Bombay Prevention of Prostitution Act, 1923 (Bom. 11 of 1923) may be extended under section 1 of the said Act, section 188 of Bom. 18 of 1925 shall be deemed to have been repealed from the date of such extension [*vide* Bom. 11 of 1923, section 13 (*2*)].

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

within the limits of such borough is used as a brothel, may summon the owner or occupier of such house and on being satisfied that the house is so used, may order the owner or occupier to discontinue such use of it; and, if such owner or occupier shall fail to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used:

Provided that action under this section shall be taken only—

(*a*) with the sanction or by the order of the District Magistrate, or

(*b*) on the complaint of three or more inhabitants of the municipal borough residing in the vicinity of the house to which the complaint refers.

(12) *Regulation of pilgrims' lodging houses.*

Pilgrims' lodging houses.

190. (*1*) No person shall, in any municipal borough which [1][the Provincial Government] shall have declared by notification to be a pilgrim centre for the purposes of this section and of clause (*d*) of sub-section (*1*) of section 61, use or permit to be used any place or building for the purpose of lodging pilgrims except under and in accordance with the conditions of a license from the standing committee.

(*2*) The standing committee may grant such license subject to such conditions as it may deem fit and may at any time withdraw such license on giving one month's notice to the licensee:

Provided that where the licensee has contravened any of the conditions of the license, the license may be withdrawn without any further notice.

(*3*) Whoever lodges or permits to be lodged any pilgrim in any place or building without or in contravention of any of the conditions of or after the withdrawal of or during the suspension of such license, shall be punished with a fine not exceeding five rupees for each such pilgrim for each day or part of a day during which such pilgrim has been so lodged.

(13) *Powers in case of fire.*

Police and municipal officers to aid fire-brigade.

191. It shall be the duty of all police officers and of all municipal officers and servants to aid a fire-brigade in the execution of its duties. Such officers and servants may close any street in or near which a fire is burning and remove any persons who interfere by their presence with the operations of the fire-brigade.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(14) *Service of notices, penalties on non-compliance therewith, and execution of works on default.*

Service of notices, etc., addressed to individuals.

192. (*1*) The service of every notice and the presentation of every bill under this Act on any person or to any person to whom it is by name addressed, shall, in all cases not otherwise specially provided for in this Act, be effected by a municipal officer or servant or other person authorized by the Chief Officer in this behalf—

(*a*) by giving or tendering the notice or bill to the person to whom it is addressed; or

(*b*) if such person is not found, by leaving the notice or bill at his last known place of abode, if within the municipal borough, or by giving or tendering the notice or bill to some adult male member or servant of his family; or

(*c*) if such person does not reside within the municipal borough, and his address elsewhere is known to the President or other person directing the issue of the notice or bill, then by forwarding the notice or bill by registered post under cover bearing the said address; or

(*d*) if none of the means aforesaid be available, then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates.

Service of notices on owners or occupiers of buildings and lands.

(*2*) When any notice under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in cases not otherwise specially provided for in this Act shall be effected either—

(*a*) by giving or tendering the notice to the owner or occupier or if there be more owners or occupiers than one, to any one of them; or

(*b*) if no such owner or occupier be found, then by giving or tendering the notice to some male adult member or servant of the family of any such owner or occupier as aforesaid; or

(*c*) if none of the means aforesaid be available, then by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

Public and general notices how to be published.

(*3*) Every notice which this Act requires or empowers a municipality or any municipal authority or officer to give or to serve either as a public notice or generally or by provisions which do not expressly require notice to be given to individuals therein specified shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the municipal office during such period and in such other public buildings and places, or is published in such local papers or in such other manner, as the municipality in by-laws in this behalf prescribes.

Defective form not to invalidate notice.

(*4*) No notice or bill shall be invalid for defect of form.

Execution of acts required to be done by any notice.

(*5*) (*a*) Where any notice under this chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(*b*) In the event of non-compliance with the terms of the notice it shall be lawful for the Chief Officer to take such action or such steps as may be necessary for the completion of the act thereby required to be done, and all the expenses therein incurred by the municipality shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner provided in section 199.

Punishment for disobedience of orders and notices not punishable under any other section.

193. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by or on behalf of a municipality under any power conferred by this chapter, or fails to comply with the conditions subject to which any permission was given to him by or on behalf of a municipality under any power so conferred, shall, if the disobedience or failure is not an offence punishable under any other section, be punished with fine which may extend to fifty rupees, and with further fine which may extend to five rupees for every day on which the said disobedience or failure continues after the date of the first conviction:

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was reasonable time within the meaning of this Act.

General penalty.

[1][**193A.** Whoever does or omits to do an act in contravention of any provisions of this Act or the bye-laws made thereunder or the conditions of a licence or permission granted by a municipality under the said provisions or bye-laws shall, if such act or omission is not an offence under the said provisions or bye-laws, be punished with fine which may extend to fifty rupees and with further fine which may extend to five rupees for every day on which such act or omission continues after the date of the first conviction.]

Municipality in default of owner or occupier may execute works and recover expenses.

194. (*1*) Where under the provisions of this Act any work is required to be executed by the owner or occupier of any building or land and default is made in the execution of such work, the municipality, whether any penalty is or is not provided for such default, may cause such work to be executed; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to it by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII either in one sum or by instalments as to the municipality may seem fit:

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[1] Section 193A was inserted by Bom. 19 of 1935, s. 14.

Provided that—

(*a*) where any drainage scheme or water-works scheme has been commenced by any municipality, it shall be lawful for the municipality, without prejudice to its powers under section 129 or any other provision of this Act, to make a special agreement with the owner of any building or land as to the manner in which the drainage or water-connection thereof shall be carried out, and the pecuniary or other assistance, if any, which the municipality shall render: and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement or in default, in the manner described in sub-sections (*2*) and (*3*); Agreement for construction of drainage and water connections.

(*b*) where an order or requisition has been passed under sub-section (*1*) of section 115, sub-section (*1*) of section 117, sub-section (*2*) or (*3*) of section 123 or under section 127, 129, 134 or 135 or where permission has been given under section 131, or where an arrangement has been made under proviso (*a*) of this sub-section, the municipality may, without prejudice to any other powers under this Act, if it think fit, declare any expenses incurred by the municipality in the execution of such order or in the carrying out of such requisition, permission or arrangement to be improvement expenses. Improvement expenses shall be a charge upon the premises or land, and shall be levied in such instalments as the municipality may decide, including interest at the rate of seven and a half per cent. per annum, and shall be recoverable in the manner described in sub-sections (*2*) and (*3*). Improvement expenses.

(*2*) If the defaulter be the owner of the building or land, the municipality may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require, subject to the provisions of sub-section (*3*), the payment of all or any part of the expenses payable by the owner for the time being from the person who then, or any time thereafter, occupies the building or land under such owner; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier, and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses. Power to levy charges on occupier who may deduct the same from his rent.

(*3*) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable, at the time of the demand made upon him or which at any time after such demand and notice not to pay rent to the landlord, has accrued and become payable by such occupier, unless he neglect or refuse, upon application made to him for that purpose by the municipality, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable; but the burden of proof that the Occupiers not to be liable for more than the amount of rent due.

sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier :

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of any such expenses as aforesaid.

Occupier in default of owner, may execute works and deduct expenses from his rent.

195. Where default is made by the owner of any building or land in the execution of any work required to be executed by him, the occupier of such building or land may, with the approval of the municipality cause such work to be executed, and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings if any occupier opposes the execution of the Act.

196. If the occupier of any building or land prevent the owner thereof from carrying into effect in respect of such building or land, any of the provisions of this Act, after notice of his intention so to carry them into effect has been given by the owner to such occupier, any Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land, as may be necessary for carrying into effect the provisions of this Act, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order ; and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute, any such work, such occupier shall for every day during which he so continues to refuse be punished with fine which may extend to fifty rupees and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

(15) *Miscellaneous.*

Entry for purposes of the Act.

197. It shall be lawful for the president, vice-president, Chief Officer or any officer authorised by the Chief Officer for such purpose, to enter for any purpose of this Act, between sunrise and sunset, with such assistants as he may deem necessary, into and upon any building or land :

Provided that, except when herein otherwise provided, no building or land which may be occupied at the time shall be entered unless with the consent of the occupier thereof, without twenty-four hours' written notice thereof having been given to the said occupier :

Provided also that in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers.

Arbitration in cases of compensation, etc.

198. (*1*) If an agreement is not arrived at with respect to any compensation or damages which are by this Act directed to be paid, the amount and if necessary the apportionment of the same shall be ascertained and determined by a panchayat of five persons, of whom two shall be appointed by the municipality, two by the party to or

from whom such compensation or damages may be payable or recoverable, and one, who shall be sir-panch, shall be selected by the members already appointed as above.

(*2*) If either party or both parties fail to appoint members, or if the members fail to select a sir-panch within one month from the date of either party receiving written notice from the other of claim to such compensation or damages, such members as may be necessary to constitute the panchayat shall be appointed, at the instance of either party, by the District Judge.

(*3*) In the event of the panchayat not giving a decision within one month from the date of the selection of the sir-panch or of the appointment by the District Court of such members as may be necessary to constitute the panchayat, the matter shall, on application by either party, be determined by the District Court which shall, in cases in which the compensation is claimed in respect of land, follow as far as may be the procedure provided by the [1]Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the Court:

of 1894.

Provided that—

(*a*) no application to the Collector for a reference shall be necessary, and

(*b*) the Court shall have full power to give and apportion the costs of all proceedings in any manner it thinks fit.

(*4*) In any case where the compensation is claimed in respect of land and the panchayat has given a decision, either party, if dissatisfied with the decision, may within a month of the date thereof apply to the District Court, and the matter shall be determined by the District Court in accordance with the provisions of sub-section (*3*).

(*5*) In any case where the compensation is claimed in respect of any land or building the municipality may, after the award has been made by the panchayat or the District Court, as the case may be, take possession of the land or building, after paying the amount of the compensation determined by the panchayat or the District Court to the party to whom such compensation may be payable. If such party refuses to accept such compensation, or if there is no person competent to alienate the land or building, or if there is any dispute as to the title to the compensation or as to the apportionment of it, the municipality shall deposit the amount of the compensation in the District Court.

Costs or expenses how determined and recovered.

199. If a dispute arises with respect to any costs or expenses which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same shall, save where it is otherwise expressly provided in this Act, be ascertained and determined by the standing committee and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

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[1] Central Acts.

CHAPTER X.

PROSECUTIONS, SUITS AND POWERS OF POLICE.

Municipality may prosecute.

200. (*1*) The standing committee and, subject to the provisions of sub-section (*3*), the Chief Officer may direct any prosecution for any public nuisance whatever and may order proceedings to be taken for the recovery of any penalties and for the punishment of any persons offending against the provisions of this Act or of any rule or by-law thereunder and may order the expenses of such prosecutions or other proceedings to be paid out of the municipal fund:

Provided that no prosecution for an offence under this Act or by-laws framed thereunder shall be instituted except within six months next after the commission of such offence.

Jurisdiction of Magistrate; recovery of compensation and expenses.

(*2*) Any prosecution under this Act or under any rule or by-law thereunder may, save as therein otherwise provided, be instituted before any Magistrate; and every fine or penalty imposed under or by virtue of this Act or any rule or by-law thereunder, and any compensation, expenses, charges or damages for the recovery of which no special provision is otherwise made in this Act, may be recovered on application to any Magistrate, by the distress and sale of any movable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

(*3*) The Chief Officer shall not, except with the previous approval of the standing committee, direct a prosecution or order proceedings to be taken for the punishment of any person offending against the provisions of the following sections or sub-sections, namely:—

section 55; sub-section (*4*) of section 118; section 171; and sub-section (*4*) of section 117; sub-section (*4*) of section 184.

Distress lawful though defective in form.

201. No distress levied or attachment made by virtue of this Act shall be deemed unlawful nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any summons, conviction or warrant of distress or attachment or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Damage to municipal property how made good.

202. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of a municipality shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted; and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

Alternative procedure by suit.

203. In lieu of any process of recovery allowed by or under this Act or in case of failure to realise by such process the whole or any part of any amount recoverable under the provisions of chapter VIII, or of any compensation, expenses, charges or damages payable under this Act, it shall be lawful for a municipality to sue in any Court of competent jurisdiction the person liable to pay the same.

Power to sue, compromise and pay compensation.

204. (*1*) A municipality may sue in any Court of competent jurisdiction any person who may have in any way caused or may appear likely to cause any injury to any property, rights or privileges of the municipality.

(*2*) A municipality may compound or compromise in respect of any suit instituted by or against it, or, in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient:

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compounding or compromising any claim or demand arising out of such contract.

(*3*) A municipality may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it, its committees, officers and servants under this Act.

(*4*) The municipal fund shall be liable to pay the expenses of any civil proceeding prosecuted or defended on its behalf.

Assistance for the recovery of rent on land.

205. For the purpose of the recovery of any amount due on account of rent from any person to a municipality in respect of any land vested in or otherwise held by such municipality, the municipality shall be deemed to be a superior holder and every such person an inferior holder of such land, within the meaning of sections 86 and 87 of the Bombay Land Revenue Code, 1879; and the municipality as superior holder shall be entitled, for the recovery of every such amount, to all the assistance to which under the said sections a superior holder is entitled for the recovery of rent or land-revenue payable to him by an inferior holder.

Bom. V of 1879.

Limitation of suits, etc.

206. No person shall commence any suit against any municipality or against any officer or servant of a municipality or any person acting under the orders of a municipality for anything done or purporting to have been done in pursuance of this Act, without giving to such municipality, officer, servant or person two months' previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of;

and in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

Powers of police officers.

207. (*1*) Any Police-officer may arrest any person committing in his view any offence against any of the provisions of this Act or of any by-law thereunder, if the name and address of such person is unknown to him, and if he declines to give his name and address or if the Police-officer has reason to doubt the accuracy of such name and address if given; and such person may be detained at the station-house until his name and address has been correctly ascertained:

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for bringing him before a Magistrate, or than twenty-four hours at the utmost.

(*2*) It shall also be the duty of all Police-officers to give immediate information to the municipality of the commission of any offence against the provisions of this Act or of any by-law thereunder and to assist all municipal officers and servants in the exercise of their lawful authority.

Accounts to be kept.

208. Accounts of the receipts and expenditure of every municipality shall be kept in accordance with the Municipal Account Code subject to such modifications as [1][the Provincial Government] may in each case direct.

CHAPTER XI.

MUNICIPAL ACCOUNTS.

Presentation of accounts. Budget Estimates.

209. (*1*) A municipality shall have prepared and laid before it, at its periodical general meetings, complete accounts of the receipts and expenditure of the municipality since the 1st day of April last preceding, and at a general meeting which shall be held on such day between the 10th January and the 1st of March as may be fixed in this behalf by the rules of the municipality, a complete account of the actual and expected receipts and expenditure for the financial year ending on the 31st March next following, together with a budget estimate of the income and expenditure of the municipality for the financial year to commence on the 1st April next following.

(*2*) The municipality shall thereupon decide upon the appropriation and the ways and means contained in the budget of the year to commence on the 1st April next following. The budget so sanctioned may be varied or altered from time to time, as circumstances may render desirable, at a special general meeting called for the purpose:

Provided that the standing committee or any other committee appointed under the Act may, within the budget so sanctioned, sanction

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

re-appropriations not exceeding Rs. 500 from one sub-head to another or from one minor head to another minor head under the same major head and controlled by the same committee. A statement of such re-appropriations shall be submitted to the municipality at every quarterly general meeting.

(*3*) The municipality shall at the general meeting in April, or after audit of the past year's accounts, if such audit has not before that general meeting taken place, pass the accounts of the past years.

Audit of accounts.

210. [1][(*1*) Independently of the audit provided for under the provisions of the Bombay Local Fund Audit Act, 1930, the municipal accounts may be audited at such intervals and by such agency as may be prescribed in the rules of the municipality.]

Bom. XXV of 1930.

(*2*) The auditor shall, for the purposes of his office, have access to all the accounts and other records of the municipality.

Transmission of accounts to Provincial Government.

211. A municipality shall as soon as the accounts of the past year have been finally passed by it transmit to [2][the Provincial Government] or any officer duly authorized by it in this behalf, a copy thereof, or an account in such form as [2][the Provincial Government] may prescribe, and shall furnish such details and vouchers relating to the same as [2][the Provincial Government] or such officer may from time to time direct.

Publication of accounts.

212. The quarterly and annual accounts, receipts and expenditure, and the budget when sanctioned, shall be open to public inspection, and shall be published in such manner as the municipality may prescribe in this behalf.

CHAPTER XII.

CONTROL.

Power of inspection and supervision.

213. (*1*) The Commissioner, Collector or any officer of Government authorized by [2][the Provincial Government] by a general or special order shall have power—

(*a*) to enter on and inspect, or cause to be entered on and inspected any immovable property occupied by any municipality or any institution under its control or management or any work in progress under it or under its direction;

(*b*) to call for or inspect any extract from any municipality's or any committee's proceedings and any book or document in the possession of or under the control of a municipality.

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[1] This sub-section was substituted for the original sub-section by Bom. 25 of 1930, s. 16 (*3*).

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(*2*) The Collector shall have power—

(*a*) to call for any return, statement, account or report which he may think fit to require such municipality to furnish;

(*b*) to require a municipality to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by or on behalf of such municipality or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the municipality, and to make a written reply to him within a reasonable time, stating its reasons for not desisting from doing, or for not doing, such thing.

Collector's powers of suspending execution of orders, etc., of municipalities.

214. (*1*) If, in the opinion of the Collector, the execution of any order or resolution of a municipality, or the doing of anything which is about to be done or is being done by or on behalf of a municipality, is causing or is likely to cause injury or annoyance to the public or to lead to a breach of the peace or is unlawful, he may by order in writing under his signature, suspend the execution or prohibit the doing thereof.

Collector's order to be reported to Commissioner, who may confirm or modify it.

(*2*) When the Collector makes any order under this section, he shall forthwith forward to the Commissioner and to the municipality affected thereby a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force with or without modification permanently or for such period as he thinks fit.

Every case under this section to be reported to Provincial Government for their final orders.

(*3*) The Commissioner shall forthwith submit to [1][the Provincial Government] a report of every case occurring under this section, and [1][the Provincial Government] may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made:

Provided that no order of the Collector or the Commissioner passed under this section shall be confirmed, revised or modified by [2][the Provincial Government] without giving the municipality reasonable opportunity of showing cause against the said order.

Extraordinary powers of Collector in case of emergency.

215. (*1*) In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which may be executed or done by or on behalf of a municipality and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public; and may direct that the reasonable expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the municipality.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the word "Government" by *ibid.*

(*2*) If the expense and remuneration are not so paid, the Collector may make an order directing any person, who for the time being has custody of any moneys on behalf of the municipality, as its officer, treasurer, banker or otherwise, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

(*3*) The provisions of sub-sections (*2*) and (*3*) of section 214 shall apply, so far as may be, to any order made under this section.

Power of Commissioner to prevent extravagance in the employment of establishment.

216. If in the opinion of the Commissioner the number of persons who are employed by a municipality as officers or servants, or whom a municipality proposes to employ or the remuneration assigned by the municipality to those persons or to any particular person is excessive the municipality shall, on the requirement of the Commissioner, reduce the number of the said persons or the remuneration of the said person or persons:

Provided that the municipality may appeal against any such requirement to [1][the Provincial Government] whose decision shall be conclusive.

Inquiry into municipal matters by Provincial Government.

217. [1][The Provincial Government] may order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the municipal administration of any municipal borough or any matters with respect to which its sanction, approval or consent is required under this Act.

V of 1908. (*2*) The officer holding such inquiry shall for the purposes thereof have the powers which are vested in a Court under the Code of Civil Procedure in respect of the following matters:—

(*a*) discovery and inspection,

(*b*) enforcing the attendance of witnesses, and requiring the deposit of their expenses,

(*c*) compelling the production of documents,

(*d*) examining witnesses on oath,

(*e*) granting adjournments,

(*f*) reception of evidence taken on affidavit, and

(*g*) issuing commissions for the examination of witnesses;

and may summon and examine *suo motu* any person whose evidence appears to him to be material; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

V of 1898.

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[1]The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Explanation.—For the purpose of enforcing the attendance of witnesses the local limits of such officer's jurisdiction shall be the limits of the Bombay Presidency.

(*3*) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the officer holding the inquiry to such person and shall be deemed to be part of the costs.

(*4*) Costs shall be in the discretion of [1][the Provincial Government] and [1][the Provincial Government] shall have full power to determine by and to whom and to what extent such costs are to be paid, and to allow interest on costs at a rate not exceeding 6 per cent. per annum; and such costs and interest shall be leviable as an arrear of land revenue.

Power of Provincial Government to provide for performance of duties on default by municipality.

218. (*1*) When [1][the Provincial Government] is informed, on complaint made or otherwise, that default has been made in the performance of any duty imposed on a municipality by or under this Act or by or under an enactment for the time being in force, [1][the Provincial Government], if satisfied after due inquiry that the alleged default has been made may direct the Commissioner to fix a period for the performance of that duty.

(*2*) If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the municipality.

[2][(*3*) If the expense and remuneration are not so paid, the Commissioner may make an order directing the bank in which any moneys of the municipality are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the municipality are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the municipality in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the municipality by way of deposit by such bank or person; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the municipality in respect of any sum or sums so paid by it or him out of the moneys of the municipality so deposited with such bank or person.]

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This sub-section was substituted for the original sub-section (*3*) by Bom. 23 of 1931, s. 4 (*ii*).

Power of Provincial Government to dissolve or supersede municipality in case of incompetency, default or abuse of power.

219. (*1*) If, in the opinion of [1][the Provincial Government], a municipality is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act, or otherwise by law, exceeds or abuses its powers, [1][the Provincial Government] may, after giving the municipality an opportunity to render an explanation, by an order published, with the reasons therefor, in the [2][*Official Gazette*] declare the municipality to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and may dissolve such municipality or supersede it for a period to be specified in the order.

Consequences of dissolution or supersession.

(*2*) When the municipality is so dissolved or superseded, the following consequences shall ensue :—

(*a*) all councillors of the municipality shall, in the case of supersession as from the date of the order of supersession, and in the case of dissolution as from the date specified in the order of dissolution vacate their offices as such councillors ;

(*b*) all powers and duties of the municipality shall, during the period of dissolution or supersession, be exercised and performed by such person or persons as the Commissioner from time to time appoints in this behalf ;

(*c*) all property vested in the municipality shall, during the period of dissolution or supersession, vest in His Majesty.

(*d*) The person or persons appointed under clause (*b*) may delegate his or their powers and duties to an individual or to a committee or sub-committee.

(*e*) When more than one person are appointed under clause (*b*) they may sue or be sued by any one of them who has been duly authorised to sue and be sued on behalf of the rest by a resolution duly passed by them in this behalf.

Re-establishment of municipality after dissolution.

(*3*) On the issue of an order of dissolution under sub-section (*1*) elections of councillors shall be held under the provisions of this Act or of the rules made thereunder on or before a date to be specified by [1][the Provincial Government] in the order, and the municipality shall be re-established by the election or appointment of councillors under the aforesaid provisions on such date as may be specified by [1][the Provincial Government] in the aforesaid order.

Power after inquiry to continue period of supersession.

(*4*) If, after inquiry made, [1][the Provincial Government] so directs the period of supersession with all the consequences aforesaid shall, from time to time be continued by an order published as aforesaid until such date as may be fixed by [1][the Provincial Government] for the re-establishment of the municipality.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(*5*) After the municipality is superseded it shall be re-established by the election or appointment of councillors under the provisions of this Act or the rules made thereunder applicable thereto,

(*a*) if no direction has been made under sub-section (*4*) on the expiration of the period specified in the order of supersession under sub-section (*1*) and

(*b*) if a direction has been made under sub-section (*4*) on such date as is fixed under that sub-section for the re-establishment of the municipality.

Powers of Provincial Government and of the Commissioners over Collectors, etc.

220. In all matters, connected with this Act, [1][the Provincial Government], Commissioners and Collectors shall, respectively, have and exercise the same authority and control over Commissioners, Collectors and their subordinates as in matters of general and revenue administration.

All rules made by Provincial Government or Commissioner to be laid before each Chamber of the Provincial Legislature.

221. All rules made by [1][the Provincial Government] or the Commissioner under this Act shall be laid [2][before each Chamber of the Provincial Legislature] for one month previous to the session thereof, and shall be liable to be rescinded or modified by a resolution [3][in which each of the said Chambers concurs during] its next session.

SCHEDULE I.

(*See section 4.*)

MUNICIPAL BOROUGHS.

Northern Division.

1. Ahmedabad.
2. Nadiad.
3. Broach.
4. Surat.
5. Thana.
6. [4] *

Bombay Suburban.

7. Bandra.
8. [5]Kurla.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council" by *ibid.*

[3] The words "in which each of the said Chambers concurs during" were substituted for the words "of the said Council tabled at" by *ibid.*

[4] Godhra Municipal borough was repealed by Government Notification in the General Department No. 371, dated 29th September 1927, published in the *Bombay Government Gazette*, 1927, Part I-A, p. 56.

[5] Kurla Municipality was included in this Schedule by Government Notification in the General Department No. 5107, dated the 19th April 1929, published in the *Bombay Government Gazette*, 1929, Part I-A, p. 65.

SCHEDULE I—*contd.*

MUNICIPAL BOROUGHS—*contd.*

Central Division.

8. Ahmednagar.
9. Jalgaon.
10. Bhusaval.
11. Amalner.
12. Dhulia.
13. Nasik.
14. Poona City.
15. Poona Suburban.
16. Lonavla.
17. Satara City.
18. Sholapur.
19. Pandharpur.
[1]20. Chalisgaon.
[2]21. Barsi.

Southern Division.

22. Belgaum.
23. Bijapur.
24. Dharwar.
25. Hubli.
26. Gadag-Bettigeri.
27. Ratnagiri.

Sind.

28. Hyderabad.
29. Sukkur.
30. Shikarpur.
31. Larkana.

SCHEDULE II.

(*See clause (b) of section 75.*)

Notice is hereby given to the inhabitants of the municipal borough of that the municipality desire to impose the tax, rate, toll, octroi or cess (*as the case may be*) defined in the rules appended (in lieu of the tax known as the which is published at page of the sanctioned rules*).

*To be inserted if the tax is to be substituted for any existing tax.

Any inhabitant of the municipal borough objecting to the proposed tax may, within one month from the date of this notice, send his objection in writing to the municipality.

RULES.

(*The rules approved by the municipality under clause (a) of section 75 are to be appended here.*)

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[1] Entry 20 was added by G.N., G.D., No. 9029, dated 28th September 1932.
[2] Entry 21 was added by G. N., G.D., No. 1408/33, dated 6th July 1936.

SCHEDULE III.

(*See section* 88.)

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS BEEN EFFECTED BY INSTRUMENT.

To

THE CHIEF OFFICER,
Municipality.

I, *A. B.* hereby give notice as required by section 88 of the Bombay [1][Municipal Boroughs] Act, 1925, of the following transfer of property :—

Date of Notice.	Date of instrument.	Name of vendor or Assignor.	Name of purchaser or Assignee.	Amount of consideration.	DESCRIPTION OF THE PROPERTY.						If any instrument has been registered, the date of registration.	Remarks.
					Of what it consists.	Situation.	Number in Assessment Book.	Chief Officer's No.	Dimensions of land.	Boundaries.		

Dated

(Signed)

[1] The words "Municipal Boroughs" were substituted for the words "City Municipalities" by Bom. 24 of 1936, sec. 2, Schedule.

SCHEDULE IV.

(*See section* 88.)

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS TAKEN PLACE OTHERWISE THAN BY INSTRUMENT.

To

THE CHIEF OFFICER,

Municipality.

I, *A. B.*, hereby give notice as required by section 88 of the Bombay [1][Municipal Boroughs] Act, 1925, of the following transfer of property :—

Date of Notice.	Name in which the property is at present entered in the Chief Officer's record.	To whom it is to be transferred.	DESCRIPTION OF THE PROPERTY.						Remarks.
			Of what it consists.	Situation.	Number in Assessment Book.	Chief Officer's No.	Dimensions of land.	Boundaries.	

Dated

(Signed) _____

SCHEDULE V.

(*See sub-section* (*3*) *of section* 104.)

FORM OF NOTICE OF DEMAND.

To

A. B., residing at

Take notice that the municipality of demand from the sum of due from on account of

(*Here describe the property or other thing in respect of which the tax is leviable.*)

leviable under rule No. for the period of commencing on the day of 19 , and ending on the day of 19 ,

[1] The words "Municipal Boroughs" were substituted for the words "City Municipalities" by Bom. 24 of 1936, s. 2, Schedule.

and that if, within fifteen days from the service of this notice, the said sum is not paid into the municipal office at , , and sufficient cause for non-payment is not shown to the satisfaction of the Chief Officer, a warrant of distress or attachment will be issued for the recovery of the same with costs.

Dated this day of 19

(Signed)

Chief Officer.

SCHEDULE VI.

(See sub-section (1) of section 105.)

FORM OF WARRANT.

(Here insert the name of the officer charged with the execution of the warrant.)

Whereas A. B. of has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due for the tax* mentioned in the margin for the period commencing on the day of 19 , and ending with the day of 19 , and leviable under rule No. ;

*Here describe the tax.

And whereas fifteen days have elapsed since the service on him of notice of demand for the same ;

This is to command you to $\frac{\text{distrain}}{\text{attach}}$, subject to the provisions of section 105 of the Bombay City Municipalities Act, [..] $\frac{\text{the goods and chattels}}{\text{any property}}$ of the said A. B. to the amount of.....being the amount due from him, as follows :—

	Rs.	a.	p.
On account of the said tax ..			
For service of notice ..			
[1][For issue of warrant] ..			

and forthwith to certify to me together with this warrant all particulars of the $\frac{\text{goods distrained}}{\text{property attached}}$ by you thereunder.

Dated this day of 19 .

(Signed)

Chief Officer.

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[1] These words were inserted by Bom. 12 of 1931, s. 3 (*v*).

SCHEDULE VII.

(See clause (c) of sub-section (4) of section 105 and sub-section (1) of section 98.)

FORM OF INVENTORY AND NOTICE.

To

A. B., residing at

Take notice that I have this day distrained / attached the goods and chattels / property specified in the inventory beneath this, for the value of due for the tax* mentioned in the margin for the period commencing with the day of 19 and ending with the day of 19 together with Rs. due as for service of notice of demand [1][and Rs. due as for issue for warrant] and that unless within five days from the day of the date of this notice you pay into the municipal office at the said amount together with the costs of recovery, the said goods and chattels / property will be sold.

*Here describe the tax.

Dated this day of 19

Signature of officer executing the warrant / collecting octroi.

Inventory.

(Here state particulars of goods and chattels / property seized.)

[1] These words were added by Bom. 19 of 1935, s. 15.

THE INVALIDATION OF HINDU CEREMONIAL EMOLUMENTS ACT, 1926.

CONTENTS.

PREAMBLE.

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1. Short title.
2. Extent and commencement.
3. Definitions.
4. Right to claim ceremonial emoluments.
5. Hereditary priest may be relieved of his obligation to perform services.
6. Extent to which rights of hereditary Hindu priest or his alienee affected under the Act.

BOMBAY ACT No. XI OF 1926.[1]

[THE INVALIDATION OF HINDU CEREMONIAL EMOLUMENTS ACT, 1926]

[*13th October, 1926*]

An Act to amend the law relating to the emoluments claimable by hereditary Hindu priests.

WHEREAS it is expedient to amend the law relating to the emoluments claimable by hereditary Hindu priests and whereas the previous sanction of the Governor General required under section 80-A (*3*) of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6 Geo. V, c. 61.

Short title.

1. This Act may be called the Invalidation of Hindu Ceremonial Emoluments Act, 1926.

Extent and commencement.

2. (*1*) This Act shall apply to the whole of the presidency of Bombay.

(*2*) It shall come into operation on the first day of April 1928.

Definitions.

3. In this Act,

"Ceremonial emoluments" means all perquisites, fees and any other dues claimable by any person for religious ceremonials, on account of his being a hereditary priest or an alienee from a hereditary priest.

Right to claim ceremonial emoluments.

4. No person shall be entitled to claim, as a matter of right, any ceremonial emoluments from any Hindu who does not call in the services of the person claiming those emoluments.

Hereditary priest may be relieved of his obligation to perform services.

5. After this Act comes into operation—

(*i*) Every hereditary priest who holds no inam land or receives no cash allowance as remuneration for the performance of his services to the village shall be deemed to be relieved of his obligation to perform such services when required by any villager to officiate or to provide a substitute to officiate at any religious ceremony in the village.

(*ii*) A hereditary priest who holds inam lands or receives a cash allowance as remuneration for the performance of his services shall, at his option, on written application to the Collector, be relieved of his obligation to perform such services when required by any villager to officiate or to provide a substitute to officiate at any religious ceremony in the village if he agrees to pay full revenue assessment on his inam lands or, as the case may be, to forego his cash allowance; provided that such option shall be allowed to be exercised once only in the case of each inam grant.

Extent to which rights of hereditary Hindu priest or his alienee affected under the Act.

6. Nothing in this Act shall affect the rights of a hereditary Hindu priest or an alienee from such priest to the inam lands or cash allowance attached to his office for the performance of any service pertaining to it, except to the extent specified herein.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1925, Part V, p. 488; for Report of the Select Committee, see *ibid*, 1926, Part V, pp. 81-83; and for Proceedings in Council, see Bombay Legislative Council Debates, 1925, Vol. XVI, and 1926, Vols. XVII and XVIII.

THE BOMBAY COTTON MARKETS ACT, 1927.

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   "Cotton".
   "Cotton market".
   "Grower of cotton".
   "Prescribed".
4. Notification of a cotton market.
5. The Market Committee.
6. Rules.
7. By-laws.
8. Sub-committees and joint committees and delegation of powers.
9. Appointments and salaries of servants of the market committee.
10. Contracts how executed.
11. The market committee fund.
12. Purposes for which the market committee fund may be expended.
13. No trade allowance not recognized by custom or rules allowable.
14. Market committee to be a body corporate.
15. Power to borrow.
16. Supersession of market committee.
17. No private market to be opened in or near places declared to be cotton markets.
18. Penalties.
19. Offences to be triable only by a First Class Magistrate.

BOMBAY ACT No. XVII OF 1927.[1]

[THE BOMBAY COTTON MARKETS ACT, 1927]

[*30th January, 1928*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for the establishment and the better regulation of Cotton Markets in the Bombay Presidency.

WHEREAS it is expedient to provide for the establishment of recognised open markets for the purchase and sale of cotton in the Bombay Presidency excluding the City of Bombay [2] * and the town of Karachi, and for the better regulation of such markets; And Whereas the previous sanction of the Governor General required by section 80-A of the Government of India Act and the previous sanction of the Governor required by section 80-C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

1. This Act may be called the Bombay Cotton Markets Act, 1927. Short title.

2. This Act shall apply to the whole of the Presidency of Bombay except the City of Bombay, [2] * and the town of Karachi comprising, as from time to time constituted, the municipal district of Karachi, the Port of Karachi and the Cantonments of Karachi and Manora. Extent.

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

(*i*) "Cotton" includes ginned cotton and unginned cotton. "Cotton".

(*ii*) "Cotton market" means a market established under section 4. "Cotton market".

(*iii*) "A grower of cotton" shall not include a dealer or broker in cotton, although such a person may grow cotton. If a question arises whether any person is a grower of cotton or not for the purpose of this Act, the decision of the Collector of the district in which the person permanently resides shall be final. "Grower of cotton".

(*iv*) "Prescribed" means prescribed by rules or by-laws made under this Act. "Prescribed".

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1927, Pt. V, p. 8; for Report of the Select Committee, see *ibid*, pp. 102-109 and for proceedings in Council, see Bombay Legislative Council Debates, 1927, Volumes XX and XXI.

[2] The word "Aden" was omitted by the Adaptation of Indian Laws Order in Council.

Notification of a cotton market.

4. (*1*) The [1][Provincial Government] may, after consulting the District Local Board and such other local authorities as they deem necessary or upon a representation made by the District Local Board, by notification in the [2][*Official Gazette*], declare that any place shall be a cotton market established under this Act.

(*2*) Every such notification shall define the limits of the cotton market so established, and may, for the purposes of this Act, include within such limits such local area as the [1][Provincial Government] may prescribe.

The Market Committee.

5. For every cotton market there shall be a market committee. The market committee shall be constituted as prescribed and shall consist of not less than twelve and not more than sixteen members. Of these not less than half, shall be persons elected by the growers of cotton of such area as the [1][Provincial Government] may prescribe, one shall be a member nominated by the [1][Provincial Government], one shall be elected by the District Local Board of the district in which the cotton market is situated, one by the municipality, if any, of the area in which the market is situated, and the remainder shall be elected by the traders in the cotton market in such manner as may be prescribed.

Rules.

[3]**6.** (*1*) The [1][Provincial Government] may, either generally, or specially for any cotton market or group of such cotton markets, make rules consistent with this Act for the purpose of the management and regulation of such cotton markets under this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or regulate—

(*i*) the election and nomination of members of the market committee, the number of members to be elected by each of the bodies or groups of individuals referred to in section 5, and the manner of election, the preparation and revision of lists of voters from time to time, the payment of all expenditure in connection with or incidental to such election and the term of office of such members;

(*ii*) the powers to be exercised by the cotton market committee;

(*iii*) the election of the chairman of such committee and his term of office;

(*iv*) the filling of casual vacancies in the offices of members or in the office of chairman of the market committee;

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[1] The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

[3] For Rules under the section, *see* Bombay Local Rules and Orders, Vol. IV.

(*v*) the management of the cotton market and the prescribing of fees by the market committee, and, subject to the provisions of this Act, the collection and disposal of such fees;

(*vi*) the issue by the market committee of licenses to brokers, weighmen, measurers, surveyors, and warehousemen and other persons using the cotton market, the form in which, and the conditions under which such licenses shall be issued, and the fees to be charged for such licenses;

(*vii*) the place or places at which cotton shall be weighed or measured, and the kind and description of the scales, weights and measures to be used at such place or places;

(*viii*) the periodical inspection, verification and correction of all scales, weights and measures in use in the cotton market;

(*ix*) the trade allowances which may be made or received by any person in any transaction in a cotton market;

(*x*) the preparation of the plans and estimates for works proposed to be constructed partly or wholly at the expense of the market committee and the grant of sanction to such plans and estimates;

(*xi*) the form in which the accounts of the market committee shall be kept, the manner in which they shall be audited, and the time or times, at which they shall be published;

(*xii*) the preparation of an annual budget and its submission for sanction, and the reports and returns which shall be furnished by the market committee;

(*xiii*) the disposal of any surplus funds of the market committee;

(*xiv*) generally for the guidance of the market committee.

(*3*) Any such rules may, when necessary, provide that any contravention thereof or of any of the conditions of any license issued thereunder shall on conviction by a magistrate be punishable with fine which may extend to five hundred rupees.

(*4*) All rules made under this section shall be subject to previous publication and shall, when made, be laid [1][before each Chamber of the Provincial Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified by a motion [2][carried in each Chamber during its] next session.

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[1] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "carried in each Chamber during its" were substituted for the words "of the said Council tabled at the" by *ibid.*

By-laws.

7. Subject to any rules made by the [1][Provincial Government] under the last preceding section and with the previous sanction of the Commissioner, the market committee may, in respect of the cotton market under its management, make by-laws for the regulation of the business and the conditions of trading in such market and may provide that contravention thereof shall on conviction by a magistrate be punishable with fine which may extend to fifty rupees.

Sub-committees and joint committees and delegation of powers.

8. The market committee may appoint one or more of its members to be a sub-committee or to be a joint committee for the conduct of any work or works or to report on any matter or matters, and may delegate to any one or more of its members such of its own powers as may be necessary.

Appointments and salaries of servants of the market committee.

9. (*1*) The market committee may employ such officers and servants as may be necessary for the management of the cotton market and may pay such officers and servants such salaries as the committee thinks fit. The committee may, in the case of any officer or servant of Government which it employs, pay such pension contribution, gratuity or leave allowance as may be required by the [2][conditions of his service under the Crown] for the time being in force.

(*2*) The committee may also, in the case of any of its officers and servants, provide for the payment to them of such leave allowances, pensions or gratuities as it deems proper; and may contribute to any provident fund which may be established for the benefit of such officers and servants.

(*3*) The powers conferred by this section on the market committee shall be exercised subject to any rules which may be made in this behalf by the [1][Provincial Government].

Contracts how executed.

10. (*1*) Every contract entered into by the market committee shall be in writing and shall be signed on behalf of the market committee by the chairman and two other members of the market committee.

(*2*) No contract other than a contract executed as provided in sub-section (*1*) shall be binding on a market committee.

The market committee fund.

11. All monies received by a market committee shall be paid into a fund to be called the "Market Committee Fund" and all expenditure incurred by the market committee under or for the purposes of this Act shall be defrayed out of the said fund; and any surplus remaining after such expenditure has been met shall be invested as may be prescribed in the rules made in this behalf.

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[1] The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "conditions of his service under the Crown" were substituted for the words "regulations made by Government in this behalf and" by *ibid.*

Purposes for which the market committee fund may be expended.

12. Subject to the provisions of section 11 the market committee fund shall be expended for the following purposes only :—

(*i*) the maintenance and improvement of the cotton market;

(*ii*) the construction and repair of buildings which are necessary for the purposes of such market and for the health, convenience and safety of the persons using it;

(*iii*) the pay, pensions, leave allowances, gratuities, and pension or provident fund contributions of the officers and servants employed by the market committee; and

(*iv*) the expenses of and incidental to elections.

No trade allowance not recognized by custom or rules allowable.

13. No trade allowance, other than an allowance prescribed by rules or by-laws made under this Act, shall be made or received by any person in any transaction in a cotton market established under this Act, and no Civil Court shall, in any suit or proceeding arising out of any transaction in any such cotton market, have regard to any trade allowance not so prescribed.

Explanation.—Every deduction other than deductions on account of deviation from sample, when the purchase is made by sample or of deviation from standard, when the purchase is made by reference to a known standard, or on account of difference between the actual weight of the sacking and the standard weight, or on account of the admixture of foreign matter, shall be regarded as a trade allowance for the purposes of this Act.

Market committee to be a body corporate.

14. Every market committee shall be a body corporate by the name of "The Market Committee of....." and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire and hold property both moveable and immoveable, to lease, sell or otherwise transfer any moveable or immoveable property which may have become vested in or been acquired by it, and to contract and to do all other things necessary for the purpose of this Act.

Power to borrow.

15. (*1*) Every market committee may, with the previous sanction of the [1][Provincial Government], raise the money required for carrying out the purposes of this Act on the security of any property vested in and belonging to the market committee, and of any fees leviable, by the market committee under this Act.

(*2*) The conditions under which such money shall be raised and the time within which the same shall be repayable shall be subject to the previous sanction of the [1][Provincial Government].

Supersession of market committee.

16. (*1*) If in the opinion of the [1][Provincial Government] a market committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act, or exceeds or abuses its powers, the [1][Provincial Government] may, by an order published in the [2][*Official Gazette*], declare such market committee to be incompetent, or in default, or to have exceeded or abused its powers, as the case may be, and may supersede it.

[1] The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(*2*) When a market committee has been superseded, all members of the committee shall, as from the date of the order, vacate their offices as members.

(*3*) When a market committee has been superseded, all property and rights vested in it shall, subject to all charges and liabilities affecting the same, vest [1][in the Crown for the purposes of the Province]:

Provided that if no new market committee is constituted for the cotton market under section 5, all property that shall remain after the satisfaction of all the debts and liabilities of the superseded market committee shall vest in the local authority of the area in which the cotton market is situated for the purpose of any object of public utility in the said area.

No private market to be opened in or near places declared to be cotton markets.

17. Wherever the [2][Provincial Government] has, by a notification under section 4, declared any place to be a cotton market, no person shall, within the limits of such cotton market or within a distance thereof to be notified in the [3][*Official Gazette*] in this behalf in each case by the [2][Provincial Government], except with the sanction in writing of the [2][Provincial Government] expressed over the signature of a Secretary to Government and subject to such conditions as may be imposed in such sanction, set up, establish or continue or allow to be continued any market for the purpose of the purchase and sale of cotton.

Explanation.—A person shall not be deemed to set up, establish or continue or allow to be continued a place as a market for the purpose of the purchase and sale of cotton if he sells his own cotton outside the premises set apart by the market committee for the purpose of purchase and sale of cotton.

Penalties.

18. Whoever in contravention of this Act, sets up, establishes, continues or allows to be continued any market for the purpose of the purchase and sale of cotton, or violates the conditions under which he has been allowed to set up, establish or continue, any such market, shall on conviction by a magistrate be punished with fine which may extend to Rs. 500, and, in case of a continuing breach of the provisions of section 17, with fine which may extend to Rs. 100 for each day after the first during which the breach continues.

Offences to be triable only by a First Class Magistrate.

19. No offence under this Act or under any rule made under section 6 or under any by-law made under section 7 shall be triable by a magistrate other than a magistrate of the First Class.

All [4]* * damages recovered from an offender shall be paid to the market committee.

Prosecutions under this Act may be instituted by any person duly authorized in writing by the market committee in this behalf.

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[1] The words " in the Crown for the purposes of the Province " were substituted for the words " in Government " by the Adaptation of Indian Laws Order in Council.

[2] The words " Provincial Government " were substituted for the words " local Government " by *ibid.*

[3] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

[4] The words " fines and " were omitted by *ibid.*

THE BOMBAY NON-AGRICULTURISTS' LOANS ACT, 1928.

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6. Power to make rules.

[1]BOMBAY ACT No. III OF 1928.

[THE BOMBAY NON-AGRICULTURISTS' LOANS ACT, 1928]

[*30th March, 1928*]

Amended by Bom. Act 11 of 1928.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for the grant of loans by Government to non-agriculturists for the relief of distress or other calamities and for the recovery of such loans.

WHEREAS it is expedient to provide for the grant of loans by Government to non-agriculturists for the relief of distress caused by floods or other calamities and for the recovery of such loans in manner hereinafter appearing :

And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A and the previous sanction of the Governor required by section 80C of the Government of India Act have been obtained for the passing of this Act ; It is hereby enacted as follows :—

5 & 6 Geo. V, c. 61.

1. This Act may be called " the Bombay Non-Agriculturists' Loans Act, 1928 ". Short title.

2. Section 1 and this section extend to the whole of the Bombay Presidency. The rest of the Act may be extended by the [2][Provincial Government] by notification in the [3][*Official Gazette*] to any part of the Presidency from such date as may be specified in such notification. Extent.

3. Subject to such rules as may be made under section 6, loans may be granted under this Act for rebuilding or repairing houses or for the relief of distress to any person to whom a loan under the [4]Agriculturists' Loans Act, 1884, cannot be granted. Purpose for which loans may be granted.

XII of 1884.

4. All loans granted after the 1st day of August 1927 to such persons as are referred to in section 3 for the purpose mentioned therein shall be deemed to be loans granted under this Act. Loans already granted to be deemed to have been granted under Act.

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[1]For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1928, Pt. V, p. 7 : and for proceedings in Council, *see* Bombay Legislative Council Debates, 1928, Vol. XXII.

[2]The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

[3]The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

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Recovery of loans.

5. [1] *All loans granted or deemed to have been granted under this Act, together with all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same shall be recoverable at the discretion of the Collector in any one or more of the following modes, namely :—

(*a*) from the borrower—as if they were arrears of land revenue due by him ;

(*b*) from his surety (if any)—as if they were arrears of land revenue due by him ;

(*c*) out of the assets left by a deceased borrower or surety or out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land revenue by the sale of a defaulter's moveable or immoveable property other than the land on which that revenue is due ;

(*d*) if the loan is for the benefit of a house, out of such house,—as if it were arrears of land revenue due in respect of the land on which the house stands.

Power to make rules.

[2]**6.** (*1*) The [3][Provincial Government] may, from time to time, by notification in the [4][*Official Gazette*], make rules to carry out the purpose of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may be made for the following matters, namely :—

(*a*) the manner of making applications for loans ;

(*b*) the officers by whom loans may be granted ;

(*c*) the nature of the security, if any, to be taken for the due application and repayment of the money, the rate of interest at which and the conditions under which the loans may be granted and the manner and term of granting loans ; and

(*d*) the instalments by which and the mode in which loans shall be repaid.

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[1]The figure and brackets "(1)" were repealed by Bom. 11 of 1928, s. 3, and Second Schedule.

[2]For Rules under this section, *see* Government Notification in the Finance Department, No. 6004-E., dated the 1st December 1930, published in the *Bombay Government Gazette*, 1930, Part I, pp. 2951-58. *See* also Bombay Local Rules and Orders, Vol. II.

[3]The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[4]The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

THE BOMBAY UNIVERSITY ACT, 1928.

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SCHEDULE.

BOMBAY ACT No. IV OF 1928 [1].

[THE BOMBAY UNIVERSITY ACT, 1928]

[*2nd August, 1928*]

Amended by Bom. Act 12 of 1928.
" " " " 13 of 1929.
" " " " 15 of 1930.
" " " " 20 of 1930.
" " " " 10 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to amend the law relating to the University of Bombay.

WHEREAS by [2]Act XXII of 1857 a University was established and incorporated at Bombay;

And whereas the law relating to the said University was amended by the [2]Indian Universities Act, 1904; VIII of 1904.

And whereas it is necessary to reconstitute the said University to enable it to provide greater facilities for higher education and to conduct post-graduate teaching and research in all branches of learning, including technology, while continuing to exercise due control over the teaching given by colleges affiliated to it from time to time; And whereas the

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1927, Part V, p. 81; for Report of the Select Committee, *see ibid*, 1927, Part V, p. 114; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1927, Vols. XX and XXI, and 1928, Vol. XXII.

[2] Central Acts.

previous sanction of the Governor General required by section 80A (*3*) and the previous sanction of the Governor required by section 80C of the Government of India Act have been obtained for the passing of this Act; It is hereby enacted as follows :— 5 & 6 Geo. V, c. 61.

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called the Bombay University Act, 1928.

Commencement.

2. This section and sections 1 and 44 shall come into operation at once. The rest of the Act shall come into operation on such date as Government may, by notification [1]in the [2][*Official Gazette*] appoint in this behalf.

Interpretation.

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

(*a*) "College" means an affiliated college;

(*b*) "Fellow" means an *ex-officio* Fellow or an ordinary Fellow of the University appointed under the provisions of this Act but does not include an Honorary Fellow;

(*c*) "Head Master" means the head of a High School registered by the University;

(*d*) "Prescribed" means prescribed by the Act or by any Statutes, Ordinances or Regulations made thereunder;

(*e*) "Principal" means the head of a college;

(*f*) "Registered Graduate" means a graduate registered under the provisions of this Act or of [3]the Indian Universities Act, 1904; VIII of 1904.

(*g*) "Statutes", "Ordinances" and "Regulations" mean respectively the Statutes, Ordinances and Regulations of the University made or deemed to have been made under this Act and for the time being in force;

(*h*) "Teacher" means such Professor, Reader, Lecturer and person giving instruction in any college as may be declared by the Statutes to be a teacher;

(*i*) "University" means the University of Bombay as reconstituted under this Act;

(*j*) "University Department" means any collegiate institution or post-graduate or research department maintained by the University;

(*k*) "University Professor" means a person appointed as such by the University; and

(*l*) "University Teacher" means a person appointed by the University to give instruction on its behalf.

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[1] Sections 3 to 43 and 45 to 52 came into operation on 24th January 1929 (*vide* Government Notification in the Educational Department, No. 3132, dated the 23rd January 1929, published in the *Bombay Government Gazette*, 1929, Part I, p. 132.)

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[3] Central Acts.

CHAPTER II.—THE UNIVERSITY.

Incorporation and powers of the University.

4. (*1*) The University shall be and shall be deemed to have been incorporated for the purpose (among others) of making provision for the instruction of students, with power to appoint University Professors and University Teachers, to hold and manage educational endowments, to erect, equip and maintain University laboratories and museums, to make regulations relating to the residence and conduct of students, to lay down courses of instruction for the various examinations, to guide the teaching in colleges, to inspect colleges and to take measures to ensure that proper standards of teaching are maintained in them, to hold examinations, to confer degrees, to undertake post-graduate teaching and to promote research, and to do all acts, not inconsistent with this Act, which tend to the promotion of study and research.

(*2*) The Chancellor, Vice-Chancellor, the Rector (if any), the Fellows and all persons who may hereafter become or be appointed or elected to be Chancellor, Vice-Chancellor, Rector or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor, Rector or Fellows, are hereby constituted and declared to be one Body Corporate by the name of the University of Bombay ; and such Body Corporate shall, by such name, have perpetual succession and a common seal, and by such name shall sue and be sued.

(*3*) The University shall be competent to acquire and hold property, both moveable and immoveable, to lease, sell or otherwise transfer any moveable or immoveable property which may have become vested in or been acquired by it for the purposes of the University and to contract and do all other things necessary for the purposes of this Act.

Territorial Limits of the University.

[1][**4A.** The territorial limits within which the powers conferred upon the University by this Act shall be exercised shall comprise the whole of the Bombay Presidency (excluding Aden) and such Indian States and other territories as may, from time to time, be notified in this behalf by the [2][Central Government] in the [3][*Official Gazette*].]

Inspection of the University.

5. (*1*) The Chancellor shall have the right to make an inspection or to cause an inspection to be made by such person or persons, as he may direct, of the University, of any institutions associated with the University and of any work conducted or done by the University, and to make an enquiry or to cause an enquiry to be made in like manner in respect of any matter connected with the University. The Chancellor shall in every case give notice to the Senate of his intention to make an inspection or enquiry or to cause an inspection or enquiry to be made, and the Senate shall be entitled to be represented thereat.

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[1] Section 4A was inserted by Bom. 20 of 1930, s. 2.

[2] The words "Central Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(*2*) The Chancellor may, after such inspection or enquiry, by order in writing, cancel any decision of the University or any authority thereof in respect of any matter which is not in conformity with this Act and the Statutes, Ordinances and Regulations :

Provided that, before making any such order, he shall call upon the Senate to show cause why such an order should not be made, and if any cause is shown within a reasonable time, he shall consider the same.

Religious and other tests.

6. No person shall be excluded from membership of any of the authorities of the University or from admission to any degree or course of study on the sole ground of sex, race, creed or class, and it shall not be lawful for the University to adopt or impose on any person any test whatsoever relating to religious belief or profession in order to entitle him to be admitted thereto as a teacher or student or to hold any office therein or to graduate thereat or to enjoy or exercise any privileges thereof except where in respect of any particular benefaction accepted by the University such test is made a condition thereof.

Authorities of the University.

7. The following shall be the authorities of the University :—

(*1*) The Senate,

(*2*) The Faculties,

(*3*) The Syndicate,

(*4*) The Academic Council,

(*5*) The Board of Post-graduate Studies,

(*6*) Such other bodies as the Senate may declare by Statutes to be authorities of the University.

CHAPTER III.—THE SENATE. ITS POWERS, CONSTITUTION AND DUTIES.

Constitution of the Senate

8. The Senate shall consist of the Fellows of the University (*ex-officio* and ordinary).

The Chancellor.

9. (*1*) [1][The Chancellor of the University shall be such person as the Governor-General, exercising his individual judgment, may nominate in this behalf]. He shall, by virtue of his office, be the head of the University and the President of the Senate and shall, when present, preside at meetings of the Senate and at any convocation of the University.

(*2*) The Chancellor shall exercise such powers as may be conferred on him under the provisions of this Act.

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[1] These words were substituted for the words " The Governor of Bombay, for the time being, shall be the Chancellor of the University " by the Adaptation of Indian Laws Order in Council.

10. The Chancellor shall appoint a Vice-Chancellor who shall, save as herein otherwise provided, hold office for two years, and shall be eligible for reappointment. The Vice-Chancellor.

11. The Vice-Chancellor shall be responsible for the proper administration of the University and shall Powers of the Vice-Chancellor.

(*a*) in the absence of the Chancellor, preside at the convocation and meetings of the Senate;

(*b*) convene the Senate;

(*c*) preside when present at the meetings of the Syndicate and exercise such other powers as may be conferred on him by this Act, the Statutes, Ordinances and Regulations.

12. (*1*) The Senate may create the office of the Rector by a statute to be framed by a majority of at least three-fourths of the whole number of Fellows. The Rector.

(*2*) The Rector shall be a wholetime salaried officer of the University. He shall, subject to the approval of the [1][Central Government], be appointed by the Senate and shall have rank and precedence next after the Chancellor and the Vice-Chancellor.

(*3*) The Senate may, subject to the provisions of this Act, frame Statutes prescribing the manner of appointment of the Rector, the salary and conditions of his office and his powers and duties.

13. (*1*) The Fellows of the University shall be— Fellows.

I. Ex-officio.

(A) (*i*) The Chancellor,

(*ii*) The Vice-Chancellor,

(*iii*) The Rector (if any),

(*iv*) The Registrar of the University.

(B) (*i*) The Chief Justice of Bombay,

(*ii*) The Minister of Education, Bombay,

(*iii*) The Director of Public Instruction, Bombay,

(*iv*) The Surgeon General with the Government of Bombay,

(*v*) The Director of Agriculture, Bombay,

(*vi*) The Secretary to the Government of Bombay, Public Works Department.

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[1] The words "Central Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*vii*) Vice-Chancellors of other Universities, if any, established by law in the Bombay Presidency, and holders of such other offices as are prescribed by Statutes: provided that the number of such Fellows shall not exceed five.

(C) All Heads of University Departments.

II. Ordinary.

(A) Elected as prescribed below:—

(*i*) By one electorate of principals of colleges entitled to send up students for degree examination from among themselves as under:— 13

[1](*a*) Principals of arts colleges as follows:—

(1) one principal elected by separate elections to represent the principals of arts colleges in each group as hereinafter defined 5

(2) three principals, elected by a separate election to represent the principals of arts colleges in all the groups as hereinafter defined 3

(*b*) Principals of colleges of pure science 1

(*c*) Principals of colleges of medicine 1

(*d*) Principals of colleges of agriculture 1

(*e*) Principals of colleges of engineering 1

(*f*) Principals of colleges of law 1

(*ii*) By University teachers and teachers including principals from among themselves 20

(*iii*) One by head masters of schools in each group from among themselves 5

(*iv*) By public associations or bodies in British India as under:— 15

(*a*) Municipal Corporation of the City of Bombay .. 1

(*b*) Indian Merchants' Chamber 1

(*c*) Chamber of Commerce 1

(*d*) Millowners' Association, Bombay 1

(*e*) Millowners' Association, Ahmedabad 1

(*f*) [2][Municipal Boroughs] of the Gujarat Group .. 1

(*g*) [2][Municipal Boroughs] of the Deccan Group .. 1

(*h*) [2][Municipal Boroughs] of the Karnatak Group .. 1

(*i*) [2][Municipal Boroughs] of the Konkan Group (except Bombay City) 1

(*j*) [3][Municipal Boroughs of the Sind Group] and the Karachi Municipality 1

(*k*) District local boards of the Gujarat Group .. 1

(*l*) District local boards of the Deccan Group .. 1

(*m*) District local boards of the Karnatak Group .. 1

[1] This entry was substituted by Bom. 15 of 1930, s. 2.

[2] The words "Municipal Boroughs" were substituted for the words "City Municipalities" by Bom. 13 of 1929, s. 2.

[3] These words were inserted by *ibid.*

(*n*) District local boards of the Konkan Group 1
(*o*) District local boards of the Sind Group 1
(*v*) By registered graduates 25
(*vi*) By the Faculties 10
(*vii*) By the [1][Bombay Legislative Assembly], of whom one shall be the representative of the University on the [2][Assembly] if he is not already a member of the Senate 5

[3][Provided that,—

(*1*) every person elected under any of the entries (*i*), (*ii*) and (*iii*) [4][or under any of the clauses (*a*), (*b*), (*c*), (*d*) and (*e*) of entry (*iv*)] shall hold the office of a Fellow only so long as he occupies the office or comes under the designation which entitled him to be so elected; and

(*2*) the Fellows representing the [1][Bombay Legislative Assembly] shall hold office for the duration of the Legislative [2][Assembly] electing them and thereafter up to the date on which new Fellows are elected by next [2][Assembly].

[5][(*3*) The councillor of the Municipal Corporation of the City of Bombay elected by fellows shall not be eligible to be elected as a fellow by the said body.]

Explanation (*1*).—For the purposes of this section [6]* * * the Bombay Presidency (excluding Aden) shall be divided into the following groups :—

Name of Group.	Territorial extent of the group.
1 Gujarat group	.. Ahmedabad, Surat, Panch Mahals, Kaira and Broach districts.
2 Konkan group	.. The City of Bombay and the Nasik, Thana, Bombay Suburban, Ratnagiri and Kolaba districts.
3 Deccan group	.. Poona, Satara, Sholapur, Ahmednagar, West Khandesh and East Khandesh districts.
4 Karnatak group	.. Belgaum, Dharwar, Bijapur and Kanara districts.
5 Sind	.. Province of Sind.

The Senate shall, by statute, determine to which of the groups above-mentioned schools and colleges in Indian States [7][and other territories within the territorial limits of the University] shall be attached.

Explanation (*2*).—The [8]* * municipalities and district local boards mentioned in sub-clauses (*f*), (*g*), (*h*), (*i*), (*j*), (*k*), (*l*), (*m*), (*n*) and (*o*) are free to elect a person, who need not be a member of the city municipality or a district local board, to represent them on the senate.

(B) Nominated by the Chancellor 40

(C) Donors to, or for the purposes of, the University of money or property to the value of not less than one lakh of rupees, if willing to serve, to be subject to the provisions of sections 14, 15 and 17 Fellows for life.

(D) One nominee of each of the bodies giving a donation to, or for the purposes of, the University of money or property to the value

[1] The words "Bombay Legislative Assembly" were substituted for the words "Legislative Council of the Governor of Bombay" by the Adaptation of Indian Laws Order in Council.
[2] The words "Assembly" was substituted for the word "Council" by *ibid.*
[3] This proviso was added by Bom. 15 of 1930, s. 2.
[4] These words, letters, figures and brackets were inserted by Bom. 10 of 1936, s. 3 (*a*).
[5] This proviso was inserted by *ibid.*
[6] The words "the Schools and College in" were omitted by Bom. 13 of 1929, s. 2.
[7] These words were inserted by Bom. 20 of 1930, s. 3.
[8] The word "City" was omitted by Bom. 13 of 1929, s. 2.

of not less than one lakh of rupees : Provided that the right of making any such nomination and, subject also to the provisions of sections 14, 15, 16 and 17, the tenure of any such nominee shall not extend beyond a period of twenty years from the date of the acceptance by the University of any such donation.

Explanation.—For the purposes of this section the value of any property offered as a donation to the University shall mean the market value of such property on the date of acceptance of the donation by the Senate.

(*2*) If in the case of any election the question is raised whether any person is or is not a Principal or a University Professor or University teacher of Head-master or a teacher the question shall be decided by the Vice-Chancellor.

Office vacated by leaving India.

14. (*1*) If any person being Chancellor, Vice-Chancellor, or Fellow of the said University shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

(*2*) If the Vice-Chancellor is temporarily absent from India the Chancellor may appoint another person to act as Vice-Chancellor during the absence of the absent Vice-Chancellor.

Vacating of office.

15. (*1*) Any Ordinary Fellow may, by letter addressed to the Chancellor, resign his office and on the acceptance of the resignation the office shall become vacant.

(*2*) If for a period of twelve consecutive months any ordinary Fellow except a Fellow for life, has not attended a meeting of the Senate, other than a convocation, the Chancellor may declare his office to be vacant.

[1][(*3*) Any person who holds any office in the University by virtue of his being a Fellow, shall cease to hold such office on his ceasing to be a Fellow.]

Term of office of Ordinary Fellows.

16. (*1*) The Ordinary Fellows shall, save as herein otherwise provided hold office for five years.

(*2*) An Ordinary Fellow who has vacated his office may, subject to the provisions of this Act, be elected or nominated to be an Ordinary Fellow.

The appointment of a Fellow may be cancelled.

17. The [2][Central Government] may, on the recommendation of the Senate supported by at least two-thirds of the whole number of Fellows, cancel the appointment of any person appointed or elected a Fellow of the University. As soon as such order is notified in the [3][*Official Gazette*], the person so appointed or elected shall cease to be a Fellow; and he shall not be eligible for re-appointment or re-election until the disqualification has been removed by the [2][Central Government] by a notification in the [3][*Official Gazette*].

Powers of the Senate.

18. (*1*) The Senate shall be the supreme governing body of the University and shall exercise all powers and perform all duties conferred or imposed on it by or under this Act as well as all powers of the University not provided for in this Act.

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[1] This sub-section was inserted by Bom. 15 of 1930, s. 3.

[2] The words " Central Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

[3] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

(*2*) In particular, and without prejudice to the generality of the foregoing provision, the Senate may—

(*a*) save as provided in section 44 make, amend, or repeal Statutes and accept, reject or refer back but not amend draft Statutes submitted by the Syndicate;

(*b*) subject to the provisions of this Act consider and cancel or refer back but not amend ordinances of the Syndicate, and regulations of the Academic Council;

(*c*) consider and pass resolutions on the Annual Report, Accounts and Estimates;

(*d*) consider the Annual Financial Statement placed before it by the Syndicate and pass it with such modifications as the Senate may think fit;

(*e*) make provision for the physical [1]* * training of students;

[2][(*ee*) make grants from the funds of the University towards the maintenance of any University Corps established for the University under the Indian Territorial Force Act, 1920;]

XLVIII of 1920.

(*f*) institute and maintain professorships and other teaching posts, University Departments and hostels, found scholarships and prizes, and encourage the pursuit of learning by other means;

(*g*) grant and confer degrees;

(*h*) elect office-bearers and authorities provided in this Act and Statutes;

(*i*) accept donations and endowments, and, if the interests of the University so require, give up any donation or endowment it has accepted;

(*j*) consider and decide appeals in cases where such appeal is provided for in the Statutes;

(*k*) delegate any of its powers to such authority or authorities as it may deem fit; and

(*l*) generally do all such other acts and things as may be necessary or desirable to further the objects of the University.

CHAPTER IV.—FACULTIES.

19. (*1*) The University shall include such Faculties as are constituted by the Senate by Statutes from time to time. Faculties.

(*2*) The Senate shall frame Statutes prescribing the constitution of each Faculty.

(*3*) A Fellow may be assigned, on the recommendation of the Syndicate to one or more Faculties.

(*4*) The Syndicate shall frame Ordinances governing the conduct of business of each Faculty and the appointment by each Faculty of its Chairman (to be called the Dean).

(*5*) The Senate may empower any Faculty to co-opt as members to serve on Boards of Studies controlled by it persons who possess special

[1] The words "and military" were omitted by Bom. 12 of 1928, s. 2.
[2] This clause was inserted by *ibid*, s. 2.

knowledge of the subjects of study represented by the Faculty, but who are not Fellows, in such manner and for such period as may be prescribed by the Syndicate by ordinance:

Provided that the number of persons so co-opted by any Faculty shall not exceed half the number of Fellows assigned to that Faculty.

CHAPTER V.—THE SYNDICATE.

The Syndicate.

20. (*1*) The executive government of the University shall be vested in the Syndicate constituted as follows from among the Fellows:—

(*a*) the Vice-Chancellor;

(*b*) The Rector, if any;

(*c*) the Director of Public Instruction, Bombay;

[1][(*d*) seven persons elected by the members of the Academic Council from among themselves as follows:—

(*i*) one to represent each Faculty by separate elections; and

(*ii*) the remaining, if any, to represent the Academic Council generally;]

(*e*) nine persons to be elected by the Senate from among the Fellows who are neither Principals, University Professors, University Teachers, Teachers nor Head Masters.

(*2*) Every member of the Syndicate shall hold office for three years, or until he ceases to be a Fellow, whichever period is shorter.

(*3*) The Senate shall frame Statutes prescribing the manner of election of elected members of the Syndicate and the conditions governing their term of office.

(*4*) If in the case of any election the question is raised whether any person is or is not a Principal or a University Professor or a University Teacher or Teacher or Head Master, the question shall be decided by the Vice-Chancellor.

Powers and duties of the Syndicate.

21. The Syndicate shall have power—

(*a*) to direct the form, custody and use of the common seal of the University;

(*b*) subject to the powers conferred by this Act on the Senate, the Vice-Chancellor and the Rector (if any), to regulate and determine all matters concerning the University in accordance with the provisions of this Act, the Statutes and the Ordinances;

(*c*) to accept, reject, return to the Academic Council for reconsideration, but not amend regulations framed by the Academic Council;

(*d*) to frame the budget of the University for the consideration of the Senate;

(*e*) to administer the funds and property of the University;

(*f*) save as otherwise provided by this Act or the Statutes, to appoint on the recommendation of a committee of selection if any as required by the Act or Statutes the officers (other than the Chancellor, the

[1] This clause was substituted for the original clause by Bom. 15 of 1930, s. 4.

Vice-Chancellor and the Rector), University Professors, University Teachers and servants of the University, to define their duties and the conditions of their service, and to provide for the filling of temporary vacancies in their posts ;

(*g*) to accept, subject to the direction of the Senate, transfer of any moveable or immoveable property on behalf of the University ;

(*h*) to arrange for and direct the inspection of colleges and hostels, and to issue instructions for maintaining the efficiency of the Colleges and in case of disregard of such instructions, to recommend modification of the conditions of affiliation and to take such other steps as it deems proper ;

(*i*) to call for reports, returns and other information from the Colleges ;

(*j*) to appoint examiners and to make ordinances for the conduct of University examinations ;

(*k*) to publish the results of the University examinations and other tests ;

(*l*) to control the University library and to appoint a library committee provided that at least half the members of the Committee shall be appointed from the Academic Council ;

(*m*) to provide for buildings, premises, furniture, apparatus and other means needed for carrying on the work of the University ;

(*n*) to enter into, vary, carry out, and cancel contracts on behalf of the University in the exercise or performance of the powers and duties assigned to it by the Act and the Statutes ;

(*o*) to make, amend and cancel Ordinances ;

(*p*) to fix, demand and receive such fees for the degrees to be conferred by it and upon admission into the University and for continuance therein and for other purposes of a like nature as may be prescribed by Statutes ;

(*q*) to make provision for post-graduate instruction and research ; and

(*r*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act or the Statutes :

Provided that the Syndicate shall not arrive at any decision in regard to matters referred to in clauses [1][(*h*)] and (*j*) without inviting and receiving a report thereon from the Academic Council.

CHAPTER VI.—THE ACADEMIC COUNCIL.

Constitution of the Academic Council.

22. The Academic Council shall consist of the following members, all of whom need not be Fellows :—

(*i*) The Rector, if any, otherwise the Vice-Chancellor the Chairman ;

(*ii*) Deans of Faculties ;

(*iii*) Such number of representatives not exceeding five of the University Professors and whole-time University Teachers, as may be determined by Statute ;

[1] The letter and brackets "(*h*)" were substituted for the letter and brackets "(*b*)" by Bom. 15 of 1930, s. 5.

(*iv*) two Head Masters to be elected by the Senate from among the Fellows ;

(*v*) twenty representatives of the Boards of Studies or groups of Boards of allied Studies as may be determined by Statute ; and

(*vi*) five persons elected by the Senate from among Fellows.

Election of the Academic Council.

23. (*1*) The Senate shall frame a Statute prescribing the manner of election of the elected members of the Academic Council, and the conditions governing their term of office.

(*2*) If in the case of any election the question is raised whether any person is or is not a University Professor or a whole-time teacher or head master, the question shall be decided by the Vice-Chancellor.

Powers of the Academic Council.

24. The Academic Council shall frame regulations as provided in this Act and shall have the following powers :—

(*a*) to regulate teaching and examinations within the University ;

(*b*) to determine and maintain the standards of examinations remaining responsible for the maintenance of such standards ;

(*c*) to make regulations laying down courses of study subject to the approval of the Syndicate ;

(*d*) to propose to the Syndicate the institution of new University teaching appointments, their duties and emoluments ;

(*e*) to propose to the Syndicate schemes for the constitution of University Departments, Faculties and Boards of Studies ;

(*f*) to make regulations for the award of University scholarships and prizes ;

(*g*) to recommend to the Syndicate the names of persons to be appointed examiners ;

(*h*) to make regulations prescribing equivalance of examinations ;

(*i*) to arrange for co-ordination of studies and inter-collegiate lectures ;

(*j*) to make regulations prescribing the conditions to be complied with by candidates, not being students of any College for degrees, diplomas, licenses, titles, marks of honour, scholarships and prizes conferred or granted by the University ;

(*k*) to exercise such other powers as may be conferred on it by Statutes ; and

(*l*) generally to advise the University on all academic matters. .

CHAPTER VII.—THE BOARD OF POST-GRADUATE STUDIES.

The Board of Post-graduate Studies.

25. (*1*) The Board of Post-graduate Studies shall consist of :

(*i*) the Rector, if any, otherwise the Vice-Chancellor.....the Chairman ;

(*ii*) four members appointed by the Syndicate ;

[1][(*iii*) three members appointed by the Academic Council ;

(*iv*) one University Professor appointed by the Academic Council.]

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[1]Clauses (*iii*) and (*iv*) were substituted for the original clauses by Bom. 15 of 1930, s 6.

(*2*) The Board shall subject to the Act, and Statutes, Ordinances and Regulations framed thereunder control and co-ordinate post-graduate teaching and research in the University Departments and the Colleges and shall recommend to the Syndicate what teachers in the Colleges shall be recognised as University Teachers for Post-graduate instruction and research.

CHAPTER VIII.—OTHER UNIVERSITY BODIES.

Boards of Studies.

26. (*1*) The Senate may, from time to time, frame Statutes constituting Boards of Studies, defining their functions, and attaching each Board to one or more Faculties.

(*2*) The Senate may abolish any Board of Study so constituted.

Other bodies.

27. The Senate may by Statutes constitute and define the functions of such other bodies as it may from time to time deem necessary for the purpose of carrying out the work of the University, and may abolish any of the bodies so constituted.

Committee of Selection.

28. (*1*) Whenever it is necessary to appoint a whole-time University Professor or University teacher, a Committee of Selection shall be formed.

(*2*) The members of the Committee shall be :

(*a*) The Vice-Chancellor (Chairman) ;

(*b*) Four persons having special knowledge of the subject, to be selected as follows :—

(*i*) one, who shall be a member of a Faculty of the University : by the Academic Council ;

(*ii*) three, who shall not be Fellows, Members of Faculties, University Professors, University Teachers, or Teachers : one by the Academic Council, and two by the Syndicate.

(*3*) The Committee shall investigate the merits of the various candidates, and shall report to the Syndicate the names arranged in order of merit of persons, if any, whom it considers to be suitable for the vacant post.

(*4*) The Syndicate shall make the final selection out of the persons, if any, so recommended.

CHAPTER IX.—DEGREES.

Degrees, diplomas, licenses, titles and marks of honour.

29. The Senate may institute and confer such degrees, and grant such diplomas, licenses, titles and marks of honour in respect of degrees and examinations as may be prescribed by Statutes.

Honorary Degrees.

30. If not less than two-thirds of the members of the Syndicate recommend that an honorary degree be conferred on any person on the ground that he is in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree and where their recommendation is supported by not less than two-thirds of the Fellows present at a meeting of the Senate and is confirmed by the Chancellor, the Senate may confer on such person the honorary degree so recommended without requiring him to undergo any examination.

Cancellation of degrees and the like and their restoration.

31. (*1*) Where evidence is laid before the Syndicate showing that any person on whom a degree, diploma, license, title or mark of honour has been conferred by the Senate or who is an Honorary Fellow, has been convicted of what is, in the opinion of the Syndicate, a serious offence, the Syndicate may, after giving the person concerned an opportunity to explain, propose to the Senate that the degree, diploma, license, title or mark of honour or Honorary Fellowship be cancelled, and, if the proposal is accepted by not less than two-thirds of the fellows of the Senate and is confirmed by the Chancellor, the degree, diploma, license, title, mark of honour or Honorary Fellowship shall be cancelled accordingly.

(*2*) The degree, diploma, license, title or mark of honour may subsequently be restored on good cause shown.

(*3*) The procedure for the restoration of a degree, diploma, license, title or mark of honour, shall, as far as is practicable, be as in sub-section (*1*) of this section.

CHAPTER X.—University Fund.

University Fund.

32. (*1*) The fees charged by the Senate shall be carried to one General Fee Fund for the payment of expenses of the University.

(*2*) [1] * * * * *

(*3*) The accounts of income and expenditure of the University shall, once in every year, be submitted to the [2][Central Government] for such examination and audit as the Government may direct.

CHAPTER XI.—Statutes, Ordinances and Regulations.

Statutes—their scope.

33. (*1*) The Senate may, from time to time, make Statutes not inconsistent with this Act, for all matters relating to the University.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such Statutes may provide for—

(*a*) the declaration of any person to be a teacher under section 3 (*h*);

(*b*) the declaration of other bodies to be authorities of the University as provided in section 7 (*6*);

(*c*) the manner of election of the elected Fellows and the elected members of the Syndicate, the Academic Council and the Board of Post-graduate Studies and the term and conditions of their office, the maintenance of a register of registered graduates and the filling up of casual vacancies in the Senate, the Syndicate, the Academic Council and the Board of Post-graduate Studies;

(*d*) the powers of the Vice-Chancellor;

(*e*) the appointment, conditions of office, powers and duties of the Rector, if any, and the Registrar and of the officers and servants of the University;

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[1] Sub-section (*2*) was omitted by the Adaptation of Indian Laws Order in Council.

[2] The words "Central Government" were substituted for the words "Government Bombay" by *ibid.*

(*f*) the prescribing of offices the holders of which shall be *ex-officio* Fellows under section 13 (*1*) (B) (*vii*);

(*g*) the constitution, reconstitution or abolition of Faculties;

(*h*) the procedure at meetings of the Senate, the Syndicate, the Academic Council, the Board of Post-Graduate Studies and the Faculties and the quorum of members to be required for the transaction of business;

(*i*) the duties of the Academic Council;

(*j*) the constitution and powers of Boards of Studies; the functions of each such Board, the procedure of such boards and the quorum of members to be required for the transaction of business, and the attaching of each Board to one or more Faculties;

(*k*) the holding and control of the matriculation examination;

[1][(*kk*) the conditions to be complied with by schools desiring recognition for the purpose of sending up pupils as candidates for the Matriculation Examination and the conditions to be complied with by candidates for the Matriculation Examination whether sent up by recognised schools or not];

(*l*) the constitution, powers and duties of the authorities of the University save as provided in this Act;

(*m*) the institution and conferment of degrees and the granting of diplomas, licenses, titles and marks of honour in respect of degrees and examinations;

(*n*) the registers of graduates and students to be kept by the University;

(*o*) the institution of pension or provident fund for the benefit of the officers, teachers and other servants of the University;

(*p*) all matters which by this Act may be prescribed by the Statutes; and

(*q*) generally, all matters relating to the University for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the Senate, necessary.

Statutes—their framing, amendment, repeal and operation.

34. (*1*) The Statutes may be amended, repealed, or added to, by Statutes made by the Senate in the manner hereinafter provided.

(*2*) All Statutes framed by the Senate, from time to time, shall be submitted for sanction to the Chancellor and they shall not come into operation until the Chancellor has accorded his sanction thereto.

(*3*) The Senate may take into consideration the draft of a Statute either of its own motion or on a proposal by the Syndicate.

(*4*) The Senate before passing a Statute taken into consideration of its own motion and affecting the powers or duties of any officer or authority of the University shall ascertain and consider the views of the officer or authority concerned and of the Syndicate thereon.

[1] This clause was inserted by Bom. 12 of 1928, s. 3.

Ordinances—their making and scope.

35. (*1*) Subject to the provisions of this Act and the Statutes, the Syndicate may frame Ordinances to provide for all or any of the following matters, namely :—

(*a*) the admission of students to the University ;

(*b*) the courses of study to be laid down for all degrees and diplomas of the University ;

(*c*) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the University, and be eligible for degrees, diplomas, licenses, titles and marks of honour ; and the form of the certificate to be produced by a candidate for examination under section 37 and the conditions on which any such certificate may be granted ;

(*d*) the recognition of colleges and hostels ;

(*e*) [1]* * * ;

(*f*) the residence and conduct of students ;

(*g*) the number, qualifications and conditions of appointment of University Professors and University Teachers ;

(*h*) the fees to be charged for courses of instruction in the University given by University professors and University teachers, for tutorial and supplementary instruction given by the University, upon admission into the University and for continuance therein, for admission to the examinations, degrees and diplomas of the University, for the registration of graduates and for other purposes of a like nature ;

(*i*) the conditions of appointment, the mode of appointment and the duties of examiners ;

(*j*) the conduct of examinations ;

(*k*) the conduct of business of each Faculty and the appointment of the Dean of each Faculty ;

(*l*) the duties and powers of the Boards and committees to be appointed by the University jointly with any other University or body ;

(*m*) the discipline to be enforced in regard to the graduates and under-graduates in so far as they come within the jurisdiction of the University for purposes of study and examination ;

(*n*) the extension of University teaching in any suitable centre within the Presidency by means of University Extension Lectures or otherwise ;

(*o*) the rules to be observed and enforced by Colleges in respect of transfer of students ;

(*p*) the functions of each Faculty ;

(*q*) the fee (if any) to be paid for the entry or retention of a name on any register ;

(*r*) the inspection of Colleges and the reports, returns and other information to be furnished by Colleges ;

(*s*) the registers of students to be kept by Colleges ;

[1] Clause (e) was repealed by Bom. 12 of 1928, s. 4.

(*t*) the appointment and duties of University Professors and University Teachers;

(*u*) the mode of execution of contracts or agreements for or on behalf of the University;

(*v*) generally, all matters which by this Act or by the Statutes, may be provided for by the Ordinances and all matters for which provision is in the opinion of the Syndicate, necessary for the exercise of the powers conferred, or the performance of the duties imposed on the Syndicate by this Act or the Statutes:

Provided that the Syndicate shall not arrive at any decision in regard to matters referred to in clauses (*b*), (*c*), (*d*), (*g*), (*i*), (*j*), (*n*) and (*o*) without inviting and receiving a report thereon from the Academic Council.

(*2*) All Ordinances made by the Syndicate shall, except as otherwise provided by this Act, have effect from such date as it may direct, but every Ordinance so made shall be laid on the table of the Senate as soon as may be and shall be considered by the Senate at its next meeting. The Senate shall have power, by a resolution passed by a majority of not less than two-thirds of the members present at such meeting, to cancel or refer for reconsideration any such Ordinance.

(*3*) The Vice-Chancellor shall, on the application of not less than fifty members of the Senate, suspend the operation of any such Ordinance until the Senate has considered it as provided in sub-section (*2*).

Regulations —their making and scope.

36. (*1*) The Academic Council may make Regulations consistent with this Act and the Statutes and Ordinances to carry out the duties assigned to it thereunder and shall submit them to the Syndicate for approval.

(*2*) All Regulations when approved shall, except as otherwise provided by this Act, have effect from such date as the Academic Council may direct; but every Regulation so made shall be placed on the table of the Senate as soon as may be, and shall be considered by the Senate at its next meeting. The Senate shall have power, by a resolution passed by a majority of not less than two-thirds of the members present at such meeting, to cancel or refer for reconsideration any such Regulation.

(*3*) If the Syndicate does not approve of a Regulation, the Regulation shall, on a requisition by at least five members of the Syndicate, be referred to the Senate who shall thereupon have all the powers of the Syndicate in this connection. If the Regulation is accepted by the Senate the provisions of sub-section (*2*) shall not apply to it.

(*4*) The Vice-Chancellor shall, on the application of not less than fifty members of the Senate, suspend the operation of any such Regulation until the Senate has considered it as provided in sub-section (*2*) or sub-section (*3*).

CHAPTER XII.—AFFILIATED COLLEGES.

Certificates required of candidates for examination.

37. Save on the recommendation of the Syndicate, by special order of the Senate, and subject to any Statutes and Ordinances made in this behalf, no person shall be admitted as a candidate at any University examination other than an examination for matriculation, unless he

produces a certificate from a College to the effect that he has completed the course of instruction prescribed.

Existing Colleges.

38. Any College affiliated to the University before the passing of this Act may continue to exercise the rights conferred upon it by such affiliation, save in so far as such rights may be withdrawn, restricted or modified in the exercise of any power conferred by this Act.

Affiliation.

39. (*1*) A College applying for affiliation to the University shall send a letter of application to the Registrar, and shall satisfy the Syndicate and the Academic Council—

(*a*) that the College is to be under the management of a regularly constituted governing body;

(*b*) that the qualifications of the teaching staff and the conditions governing their tenure of office are such as to make due provision for the courses of instruction to be undertaken by the College;

(*c*) that the buildings in which the College is to be located are suitable, and that provision will be made, in conformity with the Statutes and Ordinances, for the residence in the College or in lodgings approved by the College, of students not residing with their parents or guardians, and for the supervision and physical welfare of students;

(*d*) that due provision has been or will be made for a library;

(*e*) where affiliation is sought in any branch of experimental science, that arrangements have been or will be made in conformity with the Statutes and Ordinances for imparting instruction in that branch of science in a properly equipped laboratory or museum;

(*f*) that due provision will, so far as circumstances may permit, be made for the residence of the Principal and some members of the teaching staff in or near the College or the place provided for the residence of students;

(*g*) that the financial resources of the College are such as to make due provision for its continued maintenance; and

(*h*) that the College rules fixing the fees (if any) to be paid by the students have not been so framed as to involve such competition with any existing College in the same neighbourhood as would be injurious to the interests of education.

The application shall further contain an assurance that after the College is affiliated any transference of management and all changes in the teaching staff shall be forthwith reported to the Syndicate.

(*2*) On receipt of a letter of application under sub-section (*1*), the Syndicate shall—

(*a*) direct a local inquiry to be made by a competent person authorized by the Syndicate in this behalf;

(*b*) make such further inquiry as may appear to them to be necessary; and

(*c*) report to the Senate on the question whether the application should be granted or refused, either in whole or in part, embodying in such report the results of any inquiry under clauses (*a*) and (*b*).

And the Senate shall, after such further inquiry (if any) as may appear to them to be necessary, record their opinion on the matter.

(*3*) The Registrar shall submit the application and all proceedings, if any, of the Academic Council, the Syndicate and Senate relating thereto to [1][the Central Government], who, after such inquiry as may appear to them necessary, shall grant or refuse the application or any part thereof.

(*4*) Where the application or any part thereof is granted, the order of [1][the Central Government] shall specify the courses of instruction in respect of which the College is affiliated; and, where the application or any part thereof is refused, the grounds of such refusal shall be stated.

(*5*) An application under sub-section (*1*) may be withdrawn at any time before an order is made under sub-section (*2*).

Extension of affiliation.

40. Where a College desires to add to the courses of instruction in respect of which it is affiliated the procedure prescribed by section 39 shall, so far as may be, be followed.

Inspection of Colleges and reports.

41. (*1*) Every College affiliated to the University, whether before or after the commencement of this Act, shall furnish such reports, returns and other information as the Syndicate, after consulting the Academic Council, may require to enable it to judge of the efficiency of the College.

(*2*) The Syndicate shall cause every such College to be inspected from time to time by one or more competent persons authorized by the Syndicate in this behalf.

(*3*) The Syndicate may call upon any College so inspected to take, within a specified period, such action as may appear to them to be necessary in respect of any of the matters referred to in sub-section (*1*) of section 39.

Disaffiliation.

42. (*1*) A member of the Syndicate who intends to move that the rights conferred on any College by affiliation be withdrawn in whole or in part, or modified, shall give notice of his motion and shall state in writing the grounds on which the motion is made.

(*2*) Before taking the said motion into consideration, the Syndicate shall send a copy of the notice and written statement mentioned in sub-section (*1*) to the Principal concerned, together with an intimation that any representation in writing submitted within a period specified in such intimation on behalf of the College will be considered by the Syndicate:

Provided that the period so specified may, if necessary, be extended by the Syndicate.

(*3*) On receipt of the representation or on expiration of the period referred to in sub-section (*2*), the Syndicate, after considering the notice of motion, statement and representation and after such inspection by any competent person authorized by the Syndicate in this behalf, and such further inquiry as may appear to them to be necessary, and after consulting the Academic Council, shall make a report to the Senate.

(*4*) On receipt of the report under sub-section (*3*), the Senate shall after such further inquiry (if any) as may appear to them to be necessary record their opinion in the matter.

(*5*) The Registrar shall submit the proposal and all proceedings, if any, of the Academic Council, the Syndicate and Senate relating thereto

[1] The words "the Central Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

to [1][the Central Government], who, after such further inquiry (if any) as may appear to them to be necessary, shall make such order as the circumstances may, in their opinion, require.

(*6*) Where by an order made under sub-section (*5*) the rights conferred by affiliation are withdrawn, in whole or in part, or modified the grounds for such withdrawal or modification shall be stated in the order.

CHAPTER XIII.—HONORARY FELLOWS.

Honorary Fellows.

43. (*1*) The Chancellor may nominate any person to be an Honorary Fellow for life, who is eminent for his attainments in any branch of learning, or is an eminent benefactor of the University, or is distinguished for services rendered to the cause of education generally.

(*2*) Notwithstanding anything contained in this Act, any person appointed to be an Honorary Fellow under section 13 of the Indian Universities Act, 1904, shall continue to be an Honorary Fellow for life, and shall be deemed to have been so appointed under this Act.

(*3*) A person shall not be debarred from appointment as fellow, member of the Syndicate, member of the Academic Council or other office under this Act, merely on the ground of being an Honorary Fellow.

CHAPTER XIV.—TRANSITORY PROVISIONS.

Syndicate first to make the Statutes, Ordinances and Regulations.

44. (*1*) Notwithstanding anything contained in this Act, the first Statutes, Ordinances and Regulations under this Act shall be framed by the Syndicate constituted under the Acts repealed by this Act (in this section referred to as "the present Syndicate") within such time before the date of coming into operation of this Act as [2][the Central Government] may fix in this behalf, and on approval by the Chancellor, shall be deemed to have been duly made under this Act.

(*2*) If the present Syndicate fails to frame the Statutes, Ordinances and Regulations referred to in sub-section (*1*) within the time therein mentioned, [2][the Central Government] may frame such Statutes, Ordinances and Regulations, and the Statutes, Ordinances and Regulations so framed shall be deemed to have been made under this Act.

(*3*) Till the Senate is constituted as provided in this Act, the Senate and other University bodies constituted under the Acts repealed by this Act and existing on the date on which this Act comes into operation and all officers of the University shall continue in office.

(*4*) Until the various University bodies other than the Senate are duly constituted under this Act, all their duties (except that of framing statutes, ordinances and regulations) shall be performed by one or more committees appointed by the Chancellor who shall also frame rules for the proper working of those Committees.

(*5*) If any difficulty arises as to the first constitution or reconstitution of any authority of the University after the commencement of this Act, or otherwise in first giving effect to the provisions of this Act,

[1] The words "the Central Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Central Government" were substituted for the word "Government" by *ibid.*

[1][the Central Government], as occasion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

Elected and nominated Fellows to retire by rotation.

45. (*1*) The Vice-Chancellor shall, after the Senate is constituted under this Act, divide by lot the first fellows elected, and nominated under Part II (A) and (B) of sub-section (*1*) of section 13 into five equal groups as far as possible, under each of the said heads, the order of the groups being also determined by lot.

(*2*) Subject to the other provisions of this Act the fellows in the first, second, third, fourth and fifth of the said groups shall hold office for one, two, three, four or five years respectively.

(*3*) Fellows who have vacated their office under this section shall be eligible for re-election, and re-nomination.

[2][(*4*) Nothing contained in sub-sections (*1*), (*2*) and (*3*) shall apply or shall be deemed to have applied in the case of Fellows elected by the [3][Bombay Legislative Assembly] under entry (*vii*) under the heading II-Ordinary (A) in sub-section (*1*) of section 13.]

Elected members of the Syndicate to retire by rotation.

46. (*1*) The Vice-Chancellor shall, after the Syndicate is constituted under this Act, divide the members of the Syndicate elected under clauses (*d*) and (*e*) of sub-section (*1*) of section 20 into three equal groups, as far as possible under each of the heads, the order of the groups being also determined by lot.

(*2*) Subject to the other provisions of this Act, the members of the Syndicate in the first, second and third of the said groups shall hold office for one, two or three years respectively.

(*3*) Members of the Syndicate who have vacated their office under this section shall be eligible for re-election.

CHAPTER XV.—GENERAL.

Interpretation in case of doubt.

47. (*1*) If any question arises regarding the interpretation of any provision of this Act or of any statute, ordinance or regulation, or as to whether any person has been duly elected or appointed as, or is entitled to be a member of any authority or other body of the University, the matter may be referred to the Chancellor, and shall be so referred if ten fellows so require. The Chancellor shall, after taking such advice as he deems necessary, decide the question, and his decision shall be final.

(*2*) Nothing in this section shall be deemed to affect in any way the existing jurisdiction of the High Court of Bombay.

Elections to be by proportional representation.

48. Every election to any authority of the University under this Act shall be made according to the system of proportional representation by means of the single transferable vote in such manner as may be prescribed by Statutes.

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[1]The words "the Central Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2]This sub-section was inserted by Bom. 15 of 1930, s. 7.

[3]The words "Bombay Legislative Assembly" were substituted for the words "Legislative Council of the Governor of Bombay" by the Adaptation of Indian Laws Order in Council.

Proceedings not invalidated by vacancy.

49. No act or proceeding of any authority or other body of the University shall be invalid by reason only of any vacancy in the body doing or passing it or by reason of any want of qualification by or invalidity in the election or appointment of any *de facto* member of the body whether present or absent.

Pension or Provident Fund.

50. The University shall establish for the benefit of its officers, teachers and other servants such pension or provident fund as it may deem fit in such manner and subject to such conditions as may be prescribed by the Senate by Statutes.

Passing of property and rights to the University as reconstituted.

51. All property, all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by, or vested in, or held in trust by, or for the University of Bombay as constituted under the Acts repealed by this Act as well as all liabilities legally subsisting against the said University shall pass to the University as constituted under this Act.

Repeal.

52. The enactments specified in the Schedule shall be repealed to the extent specified in the fourth column thereof:

Provided that—

(*a*) this repeal shall not affect the validity of anything already done under any enactment hereby repealed; and

(*b*) the appointments of the Registrar and all other officers and servants of the University, and of Examiners, validly made under the Acts hereby repealed and subsisting on the date on which this Act comes into operation, shall be deemed to have been validly made under and for the purposes of this Act, and the Registrar and such officers, servants and examiners shall continue to hold office and to act, subject to the conditions governing the tenure of their office or employment, except in so far as such conditions may be altered by competent authority.

SCHEDULE.

ENACTMENTS REPEALED.

(Section 52.)

Acts of the Governor General in Council.

Year.	Number.	Short title.	Extent of repeal.
1857 ..	XXII	The Bombay University Act, 1857.	So much as has not already been repealed.
1904 ..	VIII	The Indian Universities Act, 1904.	[1]The whole Act.

[1] These words were substituted by Bom. 20 of 1930, s. 4.

THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1929.

CONTENTS.

PREAMBLE.

Sections.

1. Short title.
2. [*Omitted.*]
3. Amendment of section 13 of Act XVI of 1908.
4. Amendment of section 21 of Act XVI of 1908.
5. Amendment of section 22 of Act XVI of 1908.
6. Amendment of section 36 of Act XVI of 1908.
7. Amendment of section 51 of Act XVI of 1908.
8. Amendment of section 54 of Act XVI of 1908.
9. Amendment of section 55 of Act XVI of 1908.
10. Amendment of section 57 of Act XVI of 1908.
11. Amendment of section 69 of Act XVI of 1908.
12. Amendment of section 89 of Act XVI of 1908.

BOMBAY ACT No. V OF 1929.[1]

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1929]

[*22nd May, 1929*]

Adapted and modified by the Adaptation of Indian Laws Supplementary Order in Council.

An Act further to amend the Indian Registration Act, 1908, in its application to the Presidency of Bombay.

XVI of 1908. WHEREAS it is expedient further to amend the [2]Indian Registration Act, 1908, in its application to the Presidency of Bombay in manner hereinafter appearing; and whereas the previous sanction of the 5 & 6 Geo. V, c. 61. Governor General required by section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

1. This Act may be called the Indian Registration (Bombay Amendment) Act, 1929. Short title.

2. [3]* * *.

3. In section 13 of the said Act, Amendment of section 13 of Act XVI of 1908.

(*1*) sub-sections (*1*) and (*2*) shall be repealed; and

(*2*) after the word "Sub-Registrars" the words "and Inspectors of Registration offices" shall be inserted.

4. To sub-section (*2*) of section 21 of the said Act the following shall be added, namely:— Amendment of section 21 of Act XVI of 1908.

"In all city surveyed areas in the Bombay Presidency, houses and lands shall also be described by their cadastral survey numbers as in the city survey maps and records."

5. In sub-section (*2*) of section 22 of the said Act for the word "Save" the words "Except in the case of city surveyed areas in the Bombay Presidency and except" shall be inserted. Amendment of section 22 of Act XVI of 1908.

6. In section 36 of the said Act for the words "may in his discretion" the words "in his discretion, may, upon receipt of the prescribed fee, issue, or may" shall be substituted; and after the word "issue" a comma shall be inserted. Amendment of section 36 of Act XVI of 1908.

7. In sub-section (*2*) of section 51 of the said Act after the figures "89" the words and figures "sub-sections (*2*) and (*4*)" shall be inserted. Amendment of section 51 of Act XVI of 1908.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1929, Part V, p. 8; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1929, Vol. XXV.

[2] Central Acts.

[3] The proviso which added to section 8 of the Indian Registration Act, 1908, by this Act was omitted by the Adaptation of Indian Laws Supplementary Order in Council.

Amendment of section 54 of Act XVI of 1908.

8. In section 54 of the said Act after the word "books" where it occurs for the second time the words "and there shall also be prepared current indexes of the contents of the copies filed under sub-sections (*1*) and (*3*) of section 89" shall be inserted.

Amendment of section 55 of Act XVI of 1908.

9. In section 55 of the said Act,

(*a*) for sub-section (*1*) the following shall be substituted, namely :—

"(*1*) six such indexes shall be made in all registration offices and shall be named, respectively, Index No. I, Index No. I-A, Index No. II, Index No. II-A, Index No. III and Index No. IV ;"

(*b*) after sub-section (*2*) the following sub-section shall be inserted, namely :—

"(*2A*) Index No. I-A shall contain the names including the father's name, or, in the case of persons usually described by their mother's name, the mother's name and the places of residence of all persons executing, and of all persons claiming under, the documents of which copies are filed under sub-section (*1*) or (*3*) of section 89 ;"

(*c*) after sub-section (*3*) the following sub-section shall be inserted, namely :—

"(*3A*) Index No. II-A shall contain such particulars mentioned in section 21 as the Inspector-General may, from time to time, prescribe in this behalf in regard to every copy filed under sub-section (*1*) or (*3*) of section 89 ;"

(*d*) for the words "and additions" wherever they occur the words "including the father's name, or, in the case of persons usually described by their mother's name, the mother's name, and the places of residence" shall be substituted.

Amendment of section 57 of Act XVI of 1908.

10. In sub-section (*1*) of section 57 of the said Act after the words and figure "Book No. I" the following words and figures shall be inserted, namely :—

"and, so long as they are preserved, the copies filed under sub-sections (*1*) and (*3*) of section 89 and the indexes relating to such copies."

Amendment of section 69 of Act XVI of 1908.

11. In clause (*h*) of sub-section (*1*) of section 69 of the said Act, after the figures "I" and "II" the figures "I-A" and "II-A" respectively shall be inserted.

Amendment of section 89 of Act XVI of 1908.

12. In sub-sections (*1*) and (*3*) of section 89 of the said Act for the words and figure "Book No. I" the word "office" shall be substituted.

THE BOMBAY MATERNITY BENEFIT ACT, 1929.

CONTENTS.

PREAMBLE.

Sections.

1. Short title.
2. Extent and operation.
3. Definitions.
4. Employment of or work by women in factories prohibited during certain period.
5. Right to payment of maternity benefit.
6. Procedure regarding payment of maternity benefit.
7. Payment of maternity benefit in case of a woman's death.
8. No notice of dismissal to be given to a woman during period of maternity benefit.
9. Forfeiture of maternity benefit.
10. Penalty for contravention of the Act by an employer.
11. Penalty for contravention of the Act by a woman.
12. Cognisance of offences.
13. Limitation of prosecutions.
14. Rules.
15. Copies of this Act and rules thereunder to be exhibited.

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BOMBAY ACT No. VII OF 1929.[1]

[THE BOMBAY MATERNITY BENEFIT ACT, 1929]

[*23rd May, 1929*]

Amended by Bom. Act 5 of 1934.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to regulate the employment of women in factories some time before and some time after confinement and to provide for the payment of maternity benefit to them.

WHEREAS it is expedient to regulate the employment of women in factories some time before and some time after confinement and to provide for the payment of maternity benefit to them in the manner hereinafter provided; and Whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the Government of India Act and the previous sanction of the Governor required by section 80-C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

1. This Act may be called the Bombay Maternity Benefit Act, 1929. Short title.

2. (*1*) This Act shall apply in the first instance to the Bombay Suburban District and the cities of Bombay, Ahmedabad, Viramgam, Surat, Broach, Jalgaon, Sholapur, Belgaum, Amalner and Karachi. [2][The Provincial Government] may, from time to time, by notification in the [3][*Official Gazette*] extend* this Act to such other places as it thinks fit. Extent and operation.

(*2*) It shall come into operation on the first day of July 1929.

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

(*a*) "Employer" includes an occupier of a factory as defined in the [4]Indian Factories Act, 1911, and the manager of a factory.

XII of 1911.

(*b*) the expressions "employ", "employed", "factory", and "inspector of factories" shall have the same meanings as are respectively assigned to them under the [4]Indian Factories Act, 1911.

XII of 1911.

(*c*) "maternity benefit" means the amount of money payable under the provisions of this Act to a woman employed in a factory.

[5][(*d*) "wages" includes the money value of any earned grain concession, and any money paid to cover high cost of living but does

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1928, Part V, p. 15; for Report of the Select Committee, see *ibid*, 1928, Part V, p. 132; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1928, Vol. XXIII and 1929, Vol. XXV.

[2] The words "The Provincial Government" were substituted for the words "The Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid*.

[4] See now the Factories Act, 1934 (25 of 1934).

[5] Clause (*d*) was inserted by Bom. 5 of 1934, s. 2.

* This Act was extended to the Districts of East and West Khandesh, Sholapur, Dharwar, Thana and Kaira and to the City of Poona with effect from the 1st July 1931 (*Vide* Political Department, Notification No. 8178, dated the 26th May 1931 published in the *Bombay Government Gazette*, 1931, Part I, p. 1335).

not include a bonus given for regular attendance, or any deduction or payment made on account of fines.]

Employment of or work by women in factories prohibited during certain period.

4. After this Act comes into operation—

(*1*) no employer shall knowingly employ a woman in any factory during the four weeks immediately following the day of her delivery; and

(*2*) no woman shall work in any factory during the four weeks immediately following the day of her delivery.

Right to payment of maternity benefit.

5. (*1*) Subject to the provisions of this Act, every woman employed in a factory shall be entitled to the payment of maternity benefit at the rate of eight annas a day [1][in the cities of Bombay, Ahmedabad and Karachi, and elsewhere at the rate of her average daily wage calculated to the nearest quarter of an anna on the total wages earned during a period of three months immediately preceding the date on which she gives notice under sub-section (*1*) of section 6, or at the rate of eight annas a day, whichever is less] for the actual days of her absence for the period immediately preceding her confinement and for the four weeks immediately following her confinement as mentioned in sub-section (*2*):

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the factory of the employer from whom she claims maternity benefit for a period of not less than [2][nine] months immediately preceding the date on which she [3][gives notice] under sub-section (*1*) of section 6.

(*2*) The maximum period for which any woman shall be entitled to the payment of maternity benefit shall be [4][eight] weeks, that is to say, [4][four] weeks up to and including the day of her delivery and four weeks immediately following that day. If a woman dies during this period the maternity benefit shall be payable only for the days up to and including the day of her death.

Procedure regarding payment of maternity benefit.

6. (*1*) Any woman employed in a factory and entitled to maternity benefit under the provisions of this Act, who is pregnant may, on any day, give notice in writing to her employer stating that she expects to be confined within one month next following, that her maternity benefit may be paid to her, and that she will not work in any employment during the period for which she receives maternity benefit.

(*2*) The employer shall thereupon permit such woman to absent herself from the factory from the following day until four weeks after the day of her delivery.

[5](*3*) Maternity benefit shall be paid by the employer to the woman entitled thereto after taking her wishes into consideration in any one of the following three ways, namely:—

(*i*) for four weeks—within forty-eight hours of the production of a certificate signed by a registered medical practitioner certifying that

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[1] These words, figures and brackets were inserted by Bom. 5 of 1934, s. 3.

[2] The word "nine" was substituted for the word "six" by *ibid*, s. 3.

[3] The words "gives notice" were substituted for the words "notifies her intention" by *ibid*.

[4] The words "eight" and "four" were substituted for the words "seven" and "three" by *ibid*.

[5] This sub-section was substituted for the original sub-section (*3*) by *ibid*, s. 4.

the woman is expected to be confined within one month next following, and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (*2*) of section 5—within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child; or

(*ii*) for the period up to and including the day of delivery—within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child, and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (*2*) of section 5—punctually four weeks after the production of such certified extract from a birth register; or

(*iii*) for the entire period for which the woman is entitled to maternity benefit under sub-section (*2*) of section 5—within forty-eight hours of the production within six weeks of her delivery of a certified extract from a birth register stating that she has given birth to a child;

Provided that no woman shall be entitled to any maternity benefit or any part thereof the payment of which is dependent upon the production of a certified extract from a birth register under the provisions of this sub-section unless such extract has been produced within six months of the day of her delivery.

Payment of maternity benefit in case of a woman's death.

7. If a woman entitled to maternity benefit under this Act dies during the period for which she is entitled to maternity benefit the employer shall pay the amount of maternity benefit due, if the newly born child survives her, to the person who undertakes the care of the child; and if the child does not survive her to her legal representative.

No notice of dismissal to be given to a woman during period of maternity benefit.

8. When a woman absents herself from work in accordance with the provisions of this Act it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

Forfeiture of maternity benefit.

9. If a woman works in any factory after she has been permitted by her employer to absent herself under the provisions of section 6 she shall forfeit her claim to the payment of the maternity benefit to which she is entitled.

Penalty for contravention of the Act by an employer.

10. If any employer contravenes the provisions of this Act he shall, on conviction, be liable to a fine which may extend to five hundred rupees.

Penalty for contravention of the Act by a woman.

11. If any woman works in any factory within four weeks of the date of her delivery she shall be liable, on conviction, to a fine not exceeding ten rupees.

Cognisance of offences.

12. (*1*) No prosecution under this Act shall be instituted except by or with the previous sanction of the inspector of factories.

(*2*) No court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try any offence against this Act or any rules thereunder.

Limitation of prosecutions.

13. No Court shall take cognisance of any offence against this Act or any rule thereunder unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

Rules.

14. (*1*) The [1][Provincial Government] may make [2]rules for the purpose of carrying into effect the provisions of this Act.

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

[3](*a*) the preparation and maintenance of a muster roll or register or a combined muster roll and register and the particulars to be entered in such muster roll, register or combined muster roll and register or in the register kept or deemed to have been kept under section 35 of the [4]Indian Factories Act, 1911; XII of 1911.

(*b*) the inspection of factories for the purposes of this Act by inspectors of factories;

(*c*) the exercise of powers and the performance of duties by inspectors of factories for the purposes of this Act;

(*d*) the method of payment of maternity benefit in so far as provision has not been made in this Act; and

(*e*) any other matter for which no provision has been made in this Act and for which provision is, in the opinion of the [1][Provincial Government], necessary.

(*3*) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] For Rules under this section, *see* Government Notification in the G. D. No. 1066, dated the 2nd August 1929, published in the *Bombay Government Gazette*, 1929, Part I, pp. 1703-1705.

For amendments in the above Rules, *see*

Political and Reforms Department Notification No. 9699-II, dated the 1st June 1933, published in the *Bombay Government Gazette*, 1933, Part I, p. 1340.

Political and Reforms Department Notification No. 9721, dated the 7th December 1933, published in the *Bombay Government Gazette*, 1933, Part I, p. 2876.

Political and Reforms Department Notification No. 9721, dated the 29th January 1934, published in the *Bombay Government Gazette*, 1934, Part I, p. 245.

Political and Reforms Department Notification No. 8574-II, dated the 20th September 1934, published in the *Bombay Government Gazette*, 1934, Part I, p. 2096 *see* also Bombay Local Rules and Orders Vol. IV where the notifications have been reprinted.

[3] Clause (*a*) was substituted for the original clause (*a*) by Bom. 5 of 1934, s. 5.

[4] *See* now the Factories Act, 1934 (25 of 1934).

(*4*) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [1][before each Chamber of the Provincial Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [2][by a Resolution in which both the Chambers concur]. If any rule is modified the [3][Provincial Government] may accept the modification and reissue the rule accordingly or may rescind the rule.

Copies of this Act and rules thereunder to be exhibited.

15. [4][An abstract] of the provisions of this Act and the rules thereunder in the local vernacular shall be exhibited in a conspicuous [5][manner] by the employer in every [6][part of a] factory in which women are employed.

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[1] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by *ibid.*

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

[4] The words "An abstract" were substituted for the words "A copy" by Bom. 5 of 1934, s. 6.

[5] The word "manner" was substituted for the word "place" by *ibid.*

[6] The words "part of a" were inserted by *ibid.*

THE BOMBAY BORSTAL SCHOOLS ACT, 1929.

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BOMBAY ACT No. XVIII OF 1929.[1]

[THE BOMBAY BORSTAL SCHOOLS ACT, 1929]

[*25th November, 1929*]

Amended by Bom. Act 10 of 1932.
" " " " 3 of 1934.
" " " " 18 of 1935.
" " " " 2 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for the establishment of Borstal Schools in the Presidency of Bombay.

WHEREAS it is expedient to provide for the establishment of Borstal schools in the Presidency of Bombay; and whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

1. This Act may be called the Bombay Borstal Schools Act, 1929. Short title.

2. (*1*) This Act shall apply to the whole of the Presidency of Bombay. Extent and commencement.

*(*2*) It shall come into operation on such date as the [2][Provincial Government] may, by notification in the [3][*Official Gazette*], appoint in this behalf.

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

(*a*) "Borstal School" means a place in which young offenders, whilst detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime;

(*b*) "Inspector-General" means the Inspector-General of Prisons and includes any officer appointed by the [2][Provincial Government] to perform all or any of the duties imposed by this Act on the Inspector-General;

(*c*) "prescribed" means prescribed by rules made under this Act.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1929, Part V, p. 129; for Report of the Select Committee, *see ibid*, 1929, Part V, p. 143, and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1929, Vols. XXVI and XXVII.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid*.

*For Notification under this sub-section, *see* Home Department Notification No. 7311/IV (*a*), dated the 6th March 1931, published in the *Bombay Government Gazette*, 1931, Pt. I, p. 584, appointing the 1st April 1931 as the date of operation of the Act; and declaring Dharwar Juvenile Jail to be a Borstal School from 1st April 1931. *See* also Bombay Local Rules and Orders, Vol. IV.

Establishment of Borstal schools.

4. (*1*) For the purposes of this Act the [1][Provincial Government] may establish one or more Borstal schools.

(*2*) For every Borstal school, a visiting committee shall be appointed in such manner as may be prescribed.

Application of the Prisons Act, 1894, and the Prisoners Act, 1900.

5. Subject to any alterations, adaptations and exceptions made by this Act and the rules framed under it, the [2] Prisons Act, 1894, and the [2] Prisoners Act, 1900, and the rules framed thereunder shall apply in the case of every Borstal school established under this Act as if it were a prison and the inmates prisoners. IX of 1894. III of 1900.

Court may pass order for detention in a Borstal school.

6. When an offender is found guilty of an offence for which he is liable to be sentenced to transportation or imprisonment, or is liable to imprisonment for failure to furnish security under Chapter VIII of the Code of Criminal Procedure, 1898, whether any previous conviction is proved against him or not, and it appears to the Court— V of 1898.

(*a*) that the offender is not less than sixteen or, in any district or place in which the Bombay Children Act, 1924, is not in operation less than fifteen, nor more than twenty-one years of age; and Bom. XIII of 1924.

(*b*) that by reason of his criminal habits or tendencies or association with persons of bad character it is expedient that he should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation,

it shall be lawful for the Court, if empowered in this behalf, to pass, in lieu of a sentence of transportation or imprisonment, or of an order of imprisonment under section 123 of the Code of Criminal Procedure, 1898, an order for the detention of the offender in a Borstal school [3][established under this Act or subject to the provisions of section 13A, in a Borstal school in any other province in British India] for such term, not being less than [4][three] years nor more than five years, as the Court subject to rules made under this Act, thinks fit: V of 1898.

Provided that before passing such an order the Court shall give an opportunity to the parents or guardians of the said offender to be heard and shall consider any report or representation which may be made to it as to the suitability of the case for treatment in [5][such Borstal school], and shall be satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case, are such that the offender is likely to profit by such instruction and discipline as aforesaid.

Power of Provincial Government to exempt.

7. The [1][Provincial Government] may, by rules made under this Act, direct that any class or classes of persons specified in such rules shall not be ordered to be detained in a Bortsal school.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] Central Acts.

[3] These words, figures and letter were inserted by Bom. 2 of 1936, s. 2 (*1*).

[4] The word "three" was substituted for the word "two" by Bom. 17 of 1935, s. 2.

[5] The words "such Borstal school" were substituted for the words "a Borstal school" by Bom. 2 of 1936, s. 2 (*2*).

Courts empowered to pass order for detention.

8. The powers conferred on Courts by this Act shall be exercised only by the High Court, a Court of Session, a District Magistrate, a sub-divisional Magistrate, a salaried Presidency Magistrate, or a Magistrate of the first class and may be exercised by such Courts whether the case comes before them originally, or on appeal, or in revision.

Procedure when Magistrate is not empowered to pass an order under this Act.

9. (*1*) When any Magistrate not empowered to pass an order for detention under this Act is of the opinion that an offender who has been found guilty by him or who has failed to furnish the security which the Magistrate has ordered him to furnish under Chapter VIII of the Code of Criminal Procedure, 1898, is a proper person to be detained in a Borstal school, he may, without passing any order, record such opinion and submit his proceedings and forward the offender to the District Magistrate or the Chief Presidency Magistrate, as the case may be, to whom he is subordinate.

V of 1898.

(*2*) The District Magistrate or Chief Presidency Magistrate to whom the proceedings are so submitted may transfer the proceedings to any Magistrate subordinate to him competent to pass an order under this Act, or, as the case may be, to a salaried Presidency Magistrate.

(*3*) The District Magistrate or Chief Presidency Magistrate to whom the proceedings are so submitted or any Magistrate to whom the proceedings are so transferred may make such further enquiry (if any) as he may think fit and may pass such order for the detention of the offender in a Borstal school, or such other sentence or order, as he might have passed if such offender had originally been brought before or tried by him.

Limitation on powers conferred by section 6.

10. Any offender detained in a Borstal school for failure to furnish security when ordered to do so under section 106 or section 118 of the Code of Criminal Procedure, 1898, shall be released on furnishing such security or on the passing of an order under section 124 of the said Code.

V of 1898.

Transfer from prison to Borstal school.

[1]**11.** (*1*) If the Inspector-General is satisfied that a person undergoing transportation or imprisonment in consequence of a sentence passed either before or after the commencement of this Act, being within the limits of age within which persons may be ordered to be detained in a Borstal school, by reason of his criminal habits or tendencies, or association with persons of bad character, might with advantage be detained in a Borstal school, the Inspector-General may by order in writing direct such person to be transferred from prison to a Borstal school [2][established under this Act or subject to the provisions of section 13A, to a Borstal school in any other province in British India] and to be detained in such school, in lieu of the unexpired residue of his sentence, for such period as together with the period of transportation or imprisonment already undergone will not exceed the maximum period for which such person could have been ordered to be detained by a Court under section 6:

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[1] This section was substituted for the original s. 11 by Bom. 3 of 1934, s. 2.

[2] These words, figures and letter were inserted by Bom. 2 of 1936, s. 3.

Provided that the Inspector-General shall not, without the previous sanction of [1][the Provincial Government], direct such person to be detained in a Borstal school for a period which including the period of imprisonment or transportation undergone exceeds the period of imprisonment or transportation to which such person has been sentenced.

(*2*) A person transferred to a Borstal school under sub-section (*1*) shall upon transfer to such school be deemed to be an offender ordered to be detained by a Court under the provisions of section 6 and the provisions of the Act shall apply to such person accordingly.

Transfer of incorrigibles, etc., to prison.

12. (*1*) Where an offender detained in a Borstal school escapes, or is reported to the [2][Provincial Government] by the Inspector-General to be incorrigible or to exercise a bad influence on the other inmates of the school, [3][or to be more than twenty years of age], the [2][Provincial Government] may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the [2][Provincial Government] may determine, but in no case exceeding the shorter of the following two periods :—

(*a*) the unexpired residue of the term of detention, or

(*b*) the maximum period of imprisonment provided by law for the offence of which the offender was found guilty or the failure to give security, as the case may be, in consequence of which the offender was ordered to be detained in a Borstal school [4][or ordered to be transferred to and detained in such school by the Inspector-General].

(*2*) Such offender may be confined in any prison within the Bombay Presidency by warrant under the hand of a Secretary to [2][the Provincial Government] and effect shall be given to such warrant and the sentence of imprisonment passed upon such offender shall be executed in the same manner as if such person had been sentenced by a competent court of criminal jurisdiction.

Provincial Government to determine the Borstal school in which a person shall be detained and may order removal.

13. (*1*) Every offender ordered to be detained in a Borstal school shall be detained in such Borstal school as the [4][Provincial Government] may, by general or special order, or in the prescribed manner, appoint for the reception of persons so ordered to be detained :

Provided that, if accommodation in a Borstal school is not immediately available for such offender, he may be detained in a special ward, or such other suitable part of a prison as the [4][Provincial Government] may direct until he can be sent to a Borstal school. The period of detention so undergone shall be treated as detention in a Borstal school.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

[3] The words "or to be more than twenty years of age", were inserted by Bom. 10 of 1932, s. 2.

[4] These words were added by Bom. 3 of 1934, s. 3.

(*2*) The [1][Provincial Government] may order the removal of any offender from any one Borstal school to any other Borstal school, [2][established under this Act or to a Borstal school in any other province in British India] provided that the whole period of his detention in a Borstal school shall not be increased by such removal.

Power to order detention in, or removal of offenders to, a Borstal school in another province.

[3][**13A.** (*1*) No order for the detention in or transfer or removal to a Borstal school in any other province in British India shall be passed except with the previous concurrence of the officer in charge of such Borstal school and unless the [4][Provincial Government] of the said province, under any law in force therein or by general or special order, has consented, or is empowered, to receive such offender for detention in such Borstal school;

Power to accept transfers of offenders from another province to a Borstal school in the Presidency.

(*2*) The officer in charge of a Borstal school established under this Act may, subject to the rules made in this behalf, give effect to any order for the detention therein of any person passed by any authority under any enactment in force in any other province in British India. A person detained in such Borstal school under this provision shall be deemed to be an offender ordered to be detained under the provisions of section 6 and the provisions of this Act shall apply to such person accordingly.

Power to release on licence.

14. (*1*) Subject to the prescribed conditions, the Inspector-General may on the recommendation of the Visiting Committee, at any time after the expiration of six months from the commencement of the detention of an offender in a Borstal school, if he is satisfied that there is a reasonable probability that the offender will abstain from crime and lead a useful and industrious life, discharge him from the Borstal school and grant him a written licence in the prescribed form and on the prescribed conditions permitting him to live under the supervision and authority of such—

(*a*) [5][servant of the Crown].

(*b*) secular institution,

(*c*) religious society, or

(*d*) responsible person, as may be approved by the Inspector-General and willing to take charge of the offender.

(*2*) A licence under this section shall be in force until the expiry of the term for which the offender was ordered to be detained in a Borstal school, unless sooner revoked.

(*3*) The period during which an offender is absent from a Borstal school during the continuance of a licence granted to him under this section shall, for the purposes of computing his term of detention in such school be deemed to be part of that detention.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 2 of 1936, s. 4.

[3] Section 13A was inserted by *ibid*, s. 5.

[4] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[5] The words "servant of the Crown" were substituted for the words "officer of Government" by *ibid*.

Revocation of licence.

15. (*1*) Subject to the prescribed conditions, the Inspector-General may at any time, and shall, at the request of the institution, society or person under whose supervision and authority the offender has by licence been permitted to live, revoke a licence granted under section 14, and upon such revocation the offender shall be detained in a Borstal school until the expiry of the term for which he was ordered to be detained in such school.

(*2*) If an offender removes himself from the supervision of the institution, society or person under which he was by licence permitted to live, his licence shall be deemed to have been revoked from the date on which he has so removed himself.

Subsequent supervision.

16. (*1*) When the Inspector-General and the Visiting Committee report that the conduct of any offender detained in a Borstal school has been such that it is expedient that he shall remain under supervision for a further period after the end of the term of detention, the [1][Provincial Government] may direct that he shall, on the expiration of the term of his detention, remain for a further period not exceeding one year under the supervision of such authority, society or person as the Inspector-General, subject to rules made under this Act, may direct.

Discharge from Borstal school.

(*2*) The [1][Provincial Government] may also direct that any offender who is under supervision in accordance with sub-section (*1*) shall again be detained in a Borstal school for such period as [2][it] may think fit, provided that the total period of detention under this section shall not exceed one year.

Period of detention.

17. No person shall be detained in a Borstal school after he has, in the opinion of the [1][Provincial Government], attained the age of twenty-three years, or, if in any particular case the [1][Provincial Government] so directs, after he has attained the age of twenty-five years.

Discharge from Borstal school.

[3]**[17A.** The [1][Provincial Government] may at any time order any person detained in a Borstal school to be disharged from such school, either absolutely or on such conditions as may be imposed.]

Arrest of offender escaping from Borstal school, or escaping from supervision.

18. Any offender who, in contravention of the provisions of this Act, has escaped from a Borstal school, or has escaped from the supervision of any authority, institution, society or person under whose supervision he has been directed to remain, or has been permitted to live by licence under section 14, [4][or has committed a breach of any of the conditions imposed under section 17A] may be arrested by any officer of Police without warrant and without the order of a Magistrate and sent back

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "it" was substituted for the word "he" by *ibid*.

[3] Section 17A was inserted by Bom. 3 of 1934, s. 4.

[4] These words, figures and letter were inserted by *ibid*, s. 5.

to the Borstal school or to such authority, institution, society or person, as the case may be.

19. (*1*) The [1][Provincial Government] may make rules[2] for the regulation and management of any Borstal school and for the carrying into effect of the provision of this Act. Rules.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or determine—

(*a*) the control and management of Borstal schools established under this Act;

(*b*) the appointment, powers and duties of officials in such schools;

(*c*) the constitution, powers and duties of visiting committees;

(*d*) the classification, control, discipline, training, instruction and treatment of offenders ordered to be detained in a Borstal school and for the temporary detention of such offenders until arrangements can be made for sending them to such school;

(*e*) the regulation of visits to, and communication with, offenders detained in such school;

(*f*) the restriction or prohibition of the supply to, or possession by, offenders detained in such school of any specified articles or kinds of articles;

(*g*) the period for which offenders or any class or classes of offenders may, within the limits fixed by this Act, be ordered to be detained in such school;

(*h*) the class or classes (if any) of offenders who shall not be ordered to be detained in such school;

[3][(*hh*) the removal of offenders to Borstal schools in other provinces in British India and the reception and detention in a Borstal school established under this Act of offenders transferred from other provinces.]

(*i*) the form and conditions of licences granted under section 14;

(*j*) the supervision of offenders after the expiration of the term of their detention;

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] For Rules for the control and management of the Borstal school at Dharwar, *see* Government Notification in the Home Department, No. 6130/2, dated the 25th November 1930, published in the *Bombay Government Gazette*, 1930, Part I, pp. 2901-2904.

For amendments to the above rules, *see* Home Department Notification, No. 6130/2/II, dated the 30th October 1931, published in the *Bombay Government Gazette*, 1931, Pt. I, p. 2466; and No. P. 98 (c), dated the 31st May 1933, published in the *Bombay Government Gazette*, 1933, Pt. I, p. 341. *See* also Bombay Local Rules and Orders, Vol. IV.

[3] Clause (*hh*) was inserted by Bom. 2 of 1936, s. 6.

(*k*) the transfer of incorrigible offenders from a Borstal school to prison ;

[1][(*l*) the conditions on which an offender may be discharged under section 17A.]

(*3*) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [2][before each Chamber of the Provincial Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [3][by a resolution in which both Chambers concur]. If any rule is modified the [4][Provincial Government] may accept the modification and reissue the rule accordingly or may rescind the rule.

Removal of disqualification.

20. The [4][Provincial Government] may, on the recommendation of the Inspector-General and the Visiting Committee, or otherwise remove any disqualification incurred by an offender ordered to be detained in a Borstal school on account of such detention.

Appeal or revision.

21. For the purposes of appeal and revision under the Code of Criminal Procedure, 1898, an order of detention under section 6 of this Act shall be deemed to be a sentence of imprisonment for the same period : V of 1898.

Provided that nothing contained in the Code of Criminal Procedure, 1898, shall be construed to authorise any Court or Magistrate to alter or reverse in appeal or revision any order passed with respect to the age of an offender or the substitution of an order for detention in a Borstal school for transportation or imprisonment. V of 1898.

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[1] Clause (*l*) was added by Bom. 3 of 1934, s. 6.

[2] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[3] These words were inserted by *ibid.*

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

BOMBAY ACT No. VI OF 1930.[1]

[THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1930]

[*9th May, 1930*]

An Act further to amend the Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay.

WHEREAS it is expedient further to amend the [2]Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay, in manner hereinafter appearing; It is hereby enacted as follows:—

IX of 1887.

Short title.

1. This Act may be called the Provincial Small Cause Courts (Bombay Amendment) Act, 1930.

Amendment of section 12 of Act IX of 1887.

2. In sub-section (*3*) of section 12 of the [2]Provincial Small Cause Courts Act, 1887, hereinafter called "the said Act" for the word "twenty" the word "fifty" shall be substituted.

IX of 1887.

Amendment of the Second Schedule to Act IX of 1887.

3. In the Second Schedule to the said Act the following amendments shall be made, namely:—

(*1*) to clause (4) after the words "such property" the following shall be added, namely:—

"but not including a suit for ejectment where—

(*a*) The property has been let under a lease made by a written instrument, and

(*b*) The Court of Small Causes would be competent to take cognizance of a suit for the rent of the property, and

(*c*) The only substantial issue arising for decision is as to whether the lease has determined by efflux of the time limited thereby or has been determined by a notice in accordance with clause (*h*) of section 111 of the Transfer of Property Act, 1882."

VI of 1882.

(*2*) in clause (18) for the words "relating to a trust" the words "to enforce a trust" shall be substituted;

(*3*) to clause (20) after the words "Code of Civil Procedure" the words "in respect of any immoveable property" shall be added;

(*4*) to clause (21) after the word "attachment" the words "of any immoveable property" and after the word "transfer" the words "of any such property" shall, respectively, be added; and

(*5*) in clause (31) for the words "and a suit for the profits on immoveable property belonging to the Plaintiff which have been wrongfully received by the Defendant" the words "but not including a suit for mesne profits" shall be substituted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1930, Part V, pp. 35-38; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1930, Vol. XXVIII.

[2] Central Acts.

BOMBAY ACT No. XVII OF 1930.[1]

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1930]

[*4th September, 1930*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act further to amend the Indian Registration Act, 1908, in its application to the Presidency of Bombay.

XVI of 1908. WHEREAS it is expedient further to amend the [2]Indian Registration Act, 1908, in its application to the Presidency of Bombay, in manner hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the 5 & 6 Geo. V, c. 61. Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Registration (Bombay Amendment) Act, 1930.

Amendment of section 69 of Act XVI of 1908. **2.** After clause (*g*) of sub-section (*1*) of section 69 of the [2]Indian XVI of 1908. Registration Act, 1908, hereinafter called the said Act, the following clause shall be inserted, namely:—

"(*gg*) regulating the procedure for transmitting documents for being photographed and the serial numbering, binding and preservation of the photographic prints and negatives."

Insertion of new Part XI-A in Act XVI of 1908. **3.** After Part XI of the said Act, the following shall be inserted, namely:—

"PART XI-A.

OF THE COPYING OF DOCUMENTS BY MEANS OF PHOTOGRAPHY.

Application of this part. 70-A. This part shall apply to the areas only in respect of which a notification is issued by the [3][Provincial Government] under section 70-C.

Definition. 70-B. For the purposes of this Part 'Photo-Registrar' means any person appointed by the [3][Provincial Government] to perform the duties of Photo-Registrar under this Part:

[4]* * * * *

Documents may be photographed in areas notified by Provincial Government. 70-C. (*1*) The [3][Provincial Government] may, by notification in the [5][*Official Gazette*], direct that in any district or sub-district specified in the notification copies of documents admitted to registration under this Act shall be made by means of photography.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1930, Pt. V, p. 180; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1930, Vol. XXIX.

[2] Central Acts.

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[4] The proviso was omitted by the Adaptation of Indian Laws Supplementary Order in Council.

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

BOMBAY ACT No. XVII OF 1930.[1]

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1930]

[*4th September, 1930*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act further to amend the Indian Registration Act, 1908, in its application to the Presidency of Bombay.

XVI of 1908. WHEREAS it is expedient further to amend the [2]Indian Registration Act, 1908, in its application to the Presidency of Bombay, in manner hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the 5 & 6 Geo. V, c. 61. Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Registration (Bombay Amendment) Act, 1930.

Amendment of section 69 of Act XVI of 1908. **2.** After clause (*g*) of sub-section (*1*) of section 69 of the [2]Indian XVI of 1908. Registration Act, 1908, hereinafter called the said Act, the following clause shall be inserted, namely:—

"(*gg*) regulating the procedure for transmitting documents for being photographed and the serial numbering, binding and preservation of the photographic prints and negatives."

Insertion of new Part XI-A in Act XVI of 1908. **3.** After Part XI of the said Act, the following shall be inserted, namely:—

"PART XI-A.

OF THE COPYING OF DOCUMENTS BY MEANS OF PHOTOGRAPHY.

Application of this part. 70-A. This part shall apply to the areas only in respect of which a notification is issued by the [3][Provincial Government] under section 70-C.

Definition. 70-B. For the purposes of this Part 'Photo-Registrar' means any person appointed by the [3][Provincial Government] to perform the duties of Photo-Registrar under this Part:

[4]* * * * *

Documents may be photographed in areas notified by Provincial Government. 70-C. (*1*) The [3][Provincial Government] may, by notification in the [5][*Official Gazette*], direct that in any district or sub-district specified in the notification copies of documents admitted to registration under this Act shall be made by means of photography.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1930, Pt. V, p. 180; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1930, Vol. XXIX.

[2] Central Acts.

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[4] The proviso was omitted by the Adaptation of Indian Laws Supplementary Order in Council.

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(2) On the issue of such notification it shall be translated into the vernacular of the district and shall be posted in a conspicuous place at the Registration offices affected by the notification.

Application of Act to areas notified under section 70-C.

70-D. In any district or sub-district in respect of which a notification has been issued under section 70-C the provisions of this Act shall, for the purposes of this Part, be subject to the following modifications, namely :—

(1) (*a*) every document admitted to registration under section 35 or section 41 shall be carefully marked with an identification stamp and the serial number of the document on every page.

(*b*) It shall then be transmitted by the registering officer to the Photo-Registrar, who shall cause, each side of each page of such document together with all stamps, endorsements, seals, signatures, thumb-impressions and certificates appearing thereon to be photographed without substraction or alteration. He may for this purpose cut or untie, without breaking any seals, the thread or ribbon wherewith the pages of the document are sewn together in order to separate the pages of the document, and, as soon as the document has been photographed, he shall rebind the document exactly as before and if he has cut the thread or ribbon shall seal it over the joint with his seal :

Provided that before transmission of the document to the Photo-Registrar the party presenting the document may require the registering officer to have it copied by hand under section 52 on payment of an additional copying fee.

(*c*) There shall then be prepared and preserved the negative and at least one photographic print and to each such negative and print the Photo-Registrar shall fix his signature and seal in token of the exact correspondence of the copy to the original document, as admitted for registration.

(*d*) One set of such prints arranged in the order of their serial numbers shall be made up into books and sewn or bound together. To each such book the Registrar or Sub-Registrar shall prefix a certificate of the serial numbers it contains, and the books shall then be preserved in the records of the Sub-Registrar. The negatives shall be preserved in such suitable place as the Inspector-General may prescribe.

(2) All words and expressions used in the Act with reference to the making of copies of documents by hand or the entering or filing of documents or memorandum in books provided under section 16 shall, so far as may be necessary, be construed as referring to the making of such copies by means of photography or the entering or filing of documents or memoranda in books made up of copies prepared by means of photography.

(3) Where this Part applies the sections mentioned below shall be deemed to be modified as follows :—

(*a*) In section 19 the words 'and also by a true copy' shall be omitted ;

(*b*) sub-section (*4*) of section 21 shall be omitted ;

(*c*) the words 'according to the order of its admission' occurring in clause (*c*) of sub-section (*1*) of section 52 shall be omitted ;

(*d*) section 53 shall be omitted ;

(*e*) in sub-section (*1*) of section 60 the words 'and page ' shall be omitted ;

(*f*) sub-section (*1*) of section 61 shall be omitted ;

(*g*) in sub-section (*1*) of section 62,—

(*i*) for the word 'transcribed' the word 'copied' shall be substituted ; and

(*ii*) for the words and figures 'copy referred to in section 19' the words 'photograph of the original' shall be substituted."

THE BOMBAY LOCAL FUND AUDIT ACT, 1930.

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BOMBAY ACT No. XXV OF 1930.[1]

[THE BOMBAY LOCAL FUND AUDIT ACT, 1930]

[*17th September, 1930*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for and regulate the audit of the local funds under the management or control of certain local authorities in the Bombay Presidency except the City of Bombay.

WHEREAS it is expedient to provide for and regulate the audit of the local funds under the management or control of certain local authorities in the Bombay Presidency except the City of Bombay in manner hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

1. This Act may be called the Bombay Local Fund Audit Act, 1930. Short title.

2. This Act extends to the whole of the Bombay Presidency except the City of Bombay. Extent.

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

(*a*) "Auditor" means the Examiner or any other person empowered by [2][the Provincial Government] to perform the functions of an auditor under this Act.

(*b*) "Examiner" means the Examiner of Local Fund Accounts and includes the Assistant Examiner of Local Fund Accounts.

(*c*) "Local authority" means a local authority as defined in clause (26) of section 3 of the Bombay General Clauses Act, 1904, and includes a school board constituted under the Bombay Primary Education Act, 1923.

(*d*) "Local Fund" means any fund to the control or management of which a local authority is legally entitled and includes the proceeds of any cess, rate, duty or tax which such authority is legally entitled to impose, and any property vested in such authority.

4. The accounts of any local authority whose accounts are declared by [3][the Provincial Government], by a notification in the [4][*Official Gazette*], to be subject to audit under this Act shall, notwithstanding anything contained in any enactment by which such local authority is constituted or in any rules made thereunder, be subject to audit in all respects in the manner provided by or under this Act. Liability of local authorities to submit their accounts for audit.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1930, Pt.V, pp. 45-49; for Report of Select Committee, *see ibid* 1930. Pt. V, pp. 116-121; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1930, Vols. XXVIII and XXIX.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "the Provincial Government" were substituted for the words "the Government" by *ibid*.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid*.

Accounts to be submitted for audit at such period or periods as may be required.

5. The president or chairman, as the case may be, of every local authority, whose accounts are declared under section 4 to be subject to audit under this Act, shall present or cause to be presented for audit all accounts of its local fund in the manner and form prescribed by rules under section 15 to the auditor yearly or at such period or periods as may be required by the Commissioner.

Power of auditor to require production of documents and attendance of persons concerned, etc.

6. (*1*) For the purpose of any audit under this Act, an auditor may—

(*a*) require in writing the production, at the head office of the local authority, of any document, the perusal or examination of which he believes to be necessary for the elucidation of the accounts;

(*b*) require in writing any salaried servant of the local authority accountable for, or having the custody or control of such document, or any person having directly or indirectly, by himself or his partner, any share or interest in any contract with or under the local authority, to appear in person before him at the head office of the local authority and answer any question;

(*c*) in the event of an explanation being required from the president, chairman or other honorary officer or member of a local authority, in writing invite such person to meet him at the head office of the local authority and shall in writing specify the point on which his explanation is required.

(*2*) The auditor may, in any requisition or invitation made under sub-section (*1*), fix a reasonable period, not being less than three days, within which the said requisition or invitation shall be complied with.

(*3*) The auditor shall give to the local authority not less than two weeks' notice in writing of the date on which he proposes to commence the audit.

Penalty for disobeying requisition under section 6.

7. (*1*) Any person who wilfully neglects or refuses to comply with any requisition lawfully made upon him under clause (*a*) or clause (*b*) of sub-section (*1*) of section 6 shall be liable, on conviction before a Magistrate, to a fine which may extend to one hundred rupees.

Provided that no proceedings under this section shall be instituted except on the written sanction of the Commissioner.

Provided further that before giving such sanction the Commissioner shall call upon the person against whom the proceedings are to be instituted to show cause why the sanction should not be given.

(*2*) No court inferior to that of a Magistrate of the first class shall try any offence against this Act.

Audit report to be sent to certain officers and bodies as Provincial Government may direct.

8. Within two months after the completion of the audit, the Examiner shall prepare a report on the accounts audited and examined and shall send such report to the local authority concerned and copies thereof to such officers and bodies as [1][the Provincial Government] may direct.

Audit report what to contain.

9. The Examiner shall include in his report a statement of—

(*a*) every payment which appears to him to be contrary to law,

(*b*) the amount of any deficiency or loss which appears to have been caused by the gross negligence or misconduct of any person,

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(*c*) the amount of any sum received which ought to have been but is not brought into account by any person, and

(*d*) any material impropriety or irregularity which he may observe in the accounts other than those mentioned in clauses (*a*), (*b*) and (*c*) above.

Local authority to remedy defects : Procedure to be followed after report of the Examiner under section 8.

10. (*1*) On receipt of a report under section 8 the president or chairman, as the case may be, shall either remedy any defects or irregularities which may have been pointed out in the report and send to the Examiner, within three months of the receipt of the report, intimation of his having done so, or, shall, within the said period, supply to the Examiner any further explanation in regard to such defects or irregularities as the president or chairman may wish to give.

(*2*) On receipt of such intimation or explanation the Examiner may, in respect of all or any of the matters discussed in his report,

(*a*) accept the intimation or explanation given by the president or chairman and withdraw the objection, or

(*b*) direct that the matter be re-investigated at the next audit or at any earlier date, or

(*c*) hold that the defects or irregularities pointed out in the report or any of them have not been removed or remedied.

(*3*) The Examiner shall send a report of his decision to the Commissioner within one month of the date of the receipt by him of the intimation or explanation of the president or chairman referred to in sub-section (*1*) or in the event of the president or chairman failing to give such intimation or explanation, on the expiry of the period of three months mentioned in the said sub-section and shall forward a copy of such report to the president or chairman, as the case may be, of the local authority. If the Examiner holds that any defects or irregularities have not been removed or remedied he shall state in the report whether, in his opinion, the defects or irregularities can be regularised and if so, by what method ; and if they do not admit of being regularised, whether they can be condoned and, if so, by what authority. He shall also state whether the amounts to which the defects or irregularities relate should, in his opinion, be surcharged or charged :

Provided that in the case of reports on the accounts of school boards and of such local authorities as are specially notified by [1][the Provincial Government] in this behalf the report referred to in this sub-section shall be submitted by the Examiner to such officer, being the head of a department, as [1][the Provincial Government] may direct. Such officer shall take such action as may be necessary regarding any defects or irregularities falling under clause (*c*) of sub-section (*2*) which may have been brought to notice in the report. If he is of the opinion that the amounts to which any such defects or irregularities relate should be surcharged or charged, he shall forward the report of the Commissioner together with his recommendation in that behalf.

(*4*) The local authority concerned shall publish in its next administration report, such portions of the report under section 8 as deal with

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

defects and irregularities falling under clause (*c*) of sub-section (*2*), together with the explanation thereof, if any, given under sub-section (*1*) and the final report of the Examiner thereon under sub-section (*3*). Such report of defects and irregularities, explanation and final report shall be open to the inspection of the public at the office of the local authority for a period of one month from the date of their receipt and shall also be published in the vernacular of the district in any newspaper circulating in the district selected by the local authority within one month of the receipt by it of the copy of the report sent to the Commissioner under sub-section (*3*).

(*5*) If the president or chairman of a local authority fails to give the intimation or explanation referred to in sub-section (*1*) within the period therein mentioned the Commissioner may, at the instance of the Examiner, publish in the vernacular of the district the whole of the Examiner's report under section 8, together with any observations which the Commissioner may make thereon, in any newspaper circulating in the district which the Commissioner may select and the cost of such publication shall be paid by [1][the Provincial Government].

(*6*) Nothing in this section or in section 9 shall preclude the Examiner at any time from bringing to the notice of the Commissioner, for such action as the Commissioner may consider necessary, any information which appears to the Examiner to support a presumption of criminal misappropriation or fraud.

Commissioner to surcharge or charge illegal payment or loss caused by gross negligence or misconduct.

11. (*1*) The Commissioner may, after considering the recommendation of the Examiner or of any head of a department under the proviso to sub-section (*3*) of section 10, as the case may be, and after taking the explanation of the person concerned, or making such further inquiry, as he may consider necessary, disallow any item which appears to him to be contrary to law and surcharge the same on the person making, or authorizing the making of, the illegal payment; and may charge against any person responsible therefor the amount of any defficiency or loss caused by the gross negligence or misconduct of that person, or, any sum received which ought to have been but is not brought into account by that person and shall, in every such case, certify the amount due from such person:

Provided that no order of surcharge or charge shall be made under this Act in respect of any item included, or, which ought to have been included in, but was omitted from, any accounts for any period prior to the 1st April 1930.

(*2*) The Commissioner shall state in writing the reasons for his decision in respect of every surcharge or charge and shall send by registered post a copy thereof to the person against whom it is made.

(*3*) If a person to whom a copy of the Commissioner's decision is sent under sub-section (2) refuses to take delivery thereof he shall be deemed to have duly received it on the day on which it was refused by him.

[1]The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Recovery of surcharges and charges how made.

12. (*1*) Every sum certified by the Commissioner to be due from any person under sub-section (*1*) of section 11 shall be paid by such person into the treasury or bank in which the funds of the local authority concerned are lodged, within one month from the receipt by him of the decision of the Commissioner, unless within that time such person has applied to the Court or to [1][the Provincial Government] as provided in section 13.

(*2*) The said sum, if not duly paid, or, if an application has been made to the Court or to [1][the Provincial Government] against the decision of the Commissioner as provided in sub-section (*1*) of section 13, such sum as the Court or [1][the Provincial Government] shall declare to be due, shall be recoverable, on an application made by the Collector to the Court, in the same way as an amount decreed by the Court in favour of the Collector.

Application against order of surcharge or charge.

13. (*1*) Any person aggrieved by any order of surcharge or charge made by the Commissioner under sub-section (*1*) of section 11 may, within one month from the receipt by him of the decision of the Commissioner, either—

(*a*) apply to the District Court to set aside such order ; and the Court, after taking such evidence as it thinks necessary, may confirm, modify or remit such surcharge or charge and make such orders as to costs as it thinks proper in the circumstances ; or

(*b*) in lieu of such application apply to [1][the Provincial Government] which shall pass such orders thereon as it thinks fit.

(*2*) Pending disposal of the application all proceedings on the certificate shall be stayed if the person aggrieved makes out a *prima facie* case for a stay order.

Expenses in respect of requisitions of auditors to be payable out of local fund.

14. All expenses incurred by a local authority in complying with any requisition of an auditor under sub-section (*1*) of section 6 shall be payable out of its local fund.

Rules.

15. (*1*) [1][The Provincial Government] may make rules, not inconsistent with this Act, for the purpose of carrying into effect the provisions 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 manner and form in which the accounts of a local authority, whose accounts are subject to audit under this Act, shall be kept and presented ;

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(*b*) the powers and duties of auditors and the procedure to be followed by them for conducting an audit and the times at which such audit may be conducted ; and

(*c*) the manner in which all matters required to be published under this Act shall be published.

(*3*) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [1][before each Chamber of the Provincial Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [2][by a Resolution in which both Chambers of the Legislature concur]. If any rule is modified, [3][the Provincial Government] may accept the modification and re-issue the rule accordingly, or, may rescind the rule.

16. [*Amendments made by Section 16 have been incorporated in the principal Acts.*]

[1] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by *ibid.*

[3] The words "the Provincial Government" were substituted for the word "Government" by *ibid.*

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(*b*) the powers and duties of auditors and the procedure to be followed by them for conducting an audit and the times at which such audit may be conducted ; and

(*c*) the manner in which all matters required to be published under this Act shall be published.

(*3*) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [1][before each Chamber of the Provincial Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [2][by a Resolution in which both Chambers of the Legislature concur]. If any rule is modified, [3][the Provincial Government] may accept the modification and re-issue the rule accordingly, or, may rescind the rule.

16. [*Amendments made by Section 16 have been incorporated in the principal Acts.*]

[1] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by *ibid.*

[3] The words "the Provincial Government" were substituted for the words "Government" by *ibid.*

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