

**THE
ACTS AND PROCLAMATIONS
OF
COCHIN**

**THE
ACTS AND PROCLAMATIONS
OF
COCHIN**

VOLUME VIII

(1115 M. E.)

(1939)

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 VOLUME VIII
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ACTS
AND
PROCLAMATIONS
VOLUME VIII
1115

THE COCHIN AGRICULTURISTS' RELIEF (AMENDMENT)
ACT
(I OF 1115)

*Promulgated by His Highness the Maharaja of
Cochin on the 1st day of Chingam 1115, corresponding
to the 17th day of August 1939*

WHEREAS it is expedient to amend the Cochin Preamble.
Agriculturists' Relief Act, XVIII of 1114; It is hereby
enacted as follows.—

1. This Act may be called the Cochin Agriculturists' Short
title and
commence-
ment.
Relief (Amendment) Act, I of 1115, and shall come into
force with effect from the first day of Chingam 1115.

2. In section 22 of the Cochin Agriculturists' Relief Amendment
to section 22.
Act—

- (a) between the words “of” and “arrears” the
words “debts scaled down under Chapter
II of the Act II or of” shall be inserted ;
- (b) after the word “sections” the figure “7,”
shall be inserted ; and
- (c) after the word “and” and before the words
“the landholder” the words “the creditor
or decree holder, or” shall be inserted,

**THE COCHIN INCOME-TAX (AMENDMENT) ACT
(II OF 1115)**

*Promulgated by His Highness the Maharaja of Cochin
on the 9th day of Chingam 1115, corresponding
to the 25th day of August 1939*

Preamble.

WHEREAS it is expedient further to amend the Cochin Income-tax Act, VIII of 1108; It is hereby enacted as follows.—

Short title and commencement.

1. This Act may be called the Cochin Income-tax (Amendment) Act, II of 1115 and shall be deemed to have had effect as from the 1st day of Chingam 1114.

Amendment to section 22.

2. In sub-section (5) of section 51 of the Cochin Income-tax Act, VIII of 1108, as amended up-to-date, substitute the words “subject of British India” for the words “British subject.”

**THE COCHIN PORTS (AMENDMENT) ACT
(III OF 1115)**

*Promulgated by His Highness the Maharaja of
Cochin on the 19th day of Chingam 1115, corresponding
to the 4th day of September 1939*

Preamble.

WHEREAS it is deemed expedient to amend the Cochin Ports Act, VI of 1113; it is hereby enacted as follows.—

Short title and commencement.

1. This Act may be called the Cochin Ports (Amendment) Act, III of 1115, and shall come into force at once.

Insertion of sections 66-A & 66-B.

2. After section 66 of the Cochin Ports Act, VI of 1113, the following sections shall be added as sections 66-A and 66-B,—

“66-A. Every authority exercising any powers or jurisdiction in, or relating to, any port to which this Act for the time being applies, shall, if so required by an officer authorised by general or special order of the Government in this behalf, co-operate in such manner, as such officer may direct, in carrying out any manoeuvres in connection with any scheme or preparations for the defence of the said port in time of war, and for this purpose shall, if so required, temporarily place at the disposal of such officer the services of any of its staff and the use of any of its vessels, property, equipment or other material:

Authorities exercising jurisdiction in ports to co-operate in manoeuvres for defence of port.

Provided, firstly, that if any vessels are placed at the disposal of such officer in accordance with this section, the Government shall, in respect of the period during which they are so at his disposal, bear the running expenses of such vessels, and be responsible for any damage thereto.

Explanation.—The expression “running expenses” in this proviso includes all outlay incurred in connection with the use of the vessels other than any charges for their hire, or for the wages of the officers and crews of such vessels:

Provided, secondly, that any officer making a requisition under this section shall exercise his powers in such way as to cause as little disturbance to the ordinary business of the port as is compatible with the exigencies of the efficient carrying out of the manoeuvres :

Provided, thirdly, that no suit or other legal proceeding shall lie against any authority for any default occurring by reason only of compliance with a requisition under this section.

66-B. Whenever the Government is of opinion that an emergency has arisen which renders it necessary that the duties imposed for the purposes specified in section 66-A on the authorities therein mentioned, or other duties of a like nature, should be imposed on such authorities

Duties of the said authorities in an emergency.

continuously during the existence of the emergency, it may by general or special order, authorise any officer to require the said authorities to perform such duties until the Government is of opinion that the emergency has passed, and the said authority shall comply accordingly, and the provisions of the said section shall apply subject to the following modification, namely.—

The Government shall pay any authority, on whom a requisition has been made, such compensation for any loss or damage attributable to such requisition, and for any services rendered or expenditure incurred in complying therewith as, in default of agreement, shall be decided to be just and reasonable, having regard to the circumstances of the case, by the arbitration of a person to be nominated in this behalf by the Government, and the decision of such person shall be final."

PROCLAMATION

(I OF 1115)

THE FOREIGNERS' PROCLAMATION

*Promulgated by His Highness the Maharaja of Cochin
on the 20th day of Chingam 1115, corresponding
to the 5th day of September 1939*

WHEREAS an emergency has arisen which makes it necessary to provide for the imposition of restrictions on the entry of foreigners into Cochin State, their presence therein and their departure therefrom :

WE are hereby pleased to command as follows.—

1. (1) This Proclamation may be called the Foreigners' Proclamation I of 1115.
- (2) It extends to the whole of Cochin State.
- (3) It shall come into force at once,

Definitions.

2. In this Proclamation.—

(a) “foreigner” has the meaning assigned to it in the Foreigners Act, III of 1864, except that it does not include—

(i) a ruler or subject of this or any other Indian State; or

(ii) any native of the tribal areas.

(b) “prescribed” means prescribed by orders made under this Proclamation;

(c) “specified” means specified by direction of a prescribed authority.

3. (1) The Government may, by order, make provision, either generally with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into Cochin State or their departure therefrom or their presence or continued presence therein;

**Power to
make orders.**

(2) In particular, and without prejudice to the generality of the foregoing power, orders made under this section may provide that the foreigner—

(a) shall not enter Cochin State, or shall enter Cochin State only at such times and by such route and at such port or place and subject to the observance of such conditions on arrival as may be prescribed;

(b) shall not depart from Cochin State, or shall depart only at such times and by such route and from such port or place and subject to the observance of such conditions on departure as may be prescribed;

- (c) shall not remain in Cochin State or in any prescribed area therein ;
- (d) shall remove himself to, and remain in, such area as may be prescribed ;
- (e) shall comply with such conditions as may be prescribed or specified—
 - (i) requiring him to reside in a particular place ;
 - (ii) imposing any restrictions on his movements ;
 - (iii) requiring him to furnish such proof of his identity and to report such particulars to such authority in such manner and at such time and place as may be prescribed or specified ;
 - (iv) requiring him to allow his photograph and finger impressions to be taken and to furnish specimens of his hand-writing and signature to such authority and at such time and place as may be prescribed or specified ;
 - (v) prohibiting him from association with persons of a prescribed or specified description ;
 - (vi) prohibiting him from engaging in activities of a prescribed or specified description ;

- (vii) prohibiting him from using or possessing prescribed or specified articles ; or
 - (viii) otherwise regulating his conduct in any such particular as may be prescribed or specified;
 - (f) shall enter into a bond with or without sureties for the due observance of, or as an alternative to the enforcement of, any or all prescribed or specified restrictions or conditions ; or
 - (g) shall be arrested and detained or confined ; and may make provision for such incidental and supplementary matters as may, in the opinion of the Government, be expedient or necessary for giving effect to this Proclamation.
4. (1) Any foreigner (hereinafter referred to as an **Internees.** internee) in respect of whom there is in force any order made under clause (g) of sub-section (2) of section 3, directing that he be detained or confined, shall be detained or confined in such place and manner and subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as Government may from time to time determine.
- (2) No person shall—
- (a) knowingly assist an internee to escape from custody or knowingly harbour an escaped internee ; or
 - (b) give an escaped internee any assistance with intent thereby to prevent, hinder or interfere with the apprehension of the internee.

- (3) The Government may by order provide for regulating access to, and the conduct of persons in, places in Cochin State where internees are detained and for prohibiting or regulating the despatch or conveyance from outside such places to or for internees therein of such articles as may be prescribed.
- (4) No proceedings shall be taken by virtue of sub-section (2) or sub-section (3) against any person in respect of any act done by him when he is himself an internee.

Change of
name.

- 5. (1) No foreigner who is in Cochin State on the date on which this Proclamation came into force shall, while in Cochin State after that date, assume or use or purport to assume or use for any purpose any name other than that by which he was ordinarily known immediately before the said date.
- (2) Where, after the date on which this Proclamation came into force, any foreigner carries on or purports to carry on (whether alone or in association with any other person) any trade or business under any name or style other than that under which that trade or business was being carried on immediately before the said date, he shall, for the purposes of sub-section (1) be deemed to be using a name other than that by which he was ordinarily known immediately before the said date.
- (3) In relation to any foreigner who, not having been in Cochin State on the date on which the Proclamation came into force, thereafter enters Cochin State, sub-sections (1) and (2) shall have effect as if for any reference in those sub-sections to the date on which this Proclamation came into force there were

substituted a reference to the date on which he first enters Cochin State thereafter.

(4) For the purposes of this section—

(a) the expression “name” includes a surname and

(b) a name shall be deemed to be changed if the spelling thereof is altered.

(5) Nothing in this section shall apply to the assumption or use—

(a) of any name in pursuance of a Royal licence; or

(b) by any married woman, of her husband's name.

6. The District Magistrate, the Police Commissioner and the Deputy Commissioner of Police, may, for any purpose connected with the enforcement of this Proclamation or any order made thereunder, enter with such assistance as he may think fit, any vessel or aircraft at any port or place in Cochin State and may—

Obligations
of masters
of vessels,
etc.

(a) direct the master of the vessel or the pilot of the aircraft, as the case may be,—

(i) before any passenger disembarks or before the vessel or aircraft leaves such port or place, as the case may be, to furnish a list in writing of the passengers who are on board or who have been carried on board at any time since the vessel or aircraft commenced its journey, or who have signified their intention of departing from Cochin State on board such vessel or aircraft, setting out the ports or places at which they embarked, the ports or places of their disembarkation or

intended disembarkation, and such other particulars as may be prescribed, and

(ii) to answer to the best of his ability any question relating to the passengers who are on board or who have disembarked in any part of Cochin State; and

() if any foreigner seeking to enter Cochin State on board such vessel or aircraft does not give satisfactory reasons for entering Cochin State, either—

(i) refuse to allow such foreigner to disembark from such vessel or aircraft, or

(ii) place him under such restraint as may be prescribed or specified.

Burden of proof.

7. If any question arises with reference to this Proclamation or any order made or direction given thereunder, whether any person is or is not a foreigner or is or is not a foreigner of a particular class or description, the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall notwithstanding anything contained in the Indian Evidence Act, 1872, as made applicable to Cochin State; lie upon such person.

Power to exempt from application of Proclamation.

8. The Government may, by order, declare that any or all of the provisions of this Proclamation or the orders made thereunder shall not apply, or shall apply only with such modifications or subject to such conditions as may be specified, to and in relation to any individual foreigner or any class or description of foreigner.

Power to give effect to orders, directions, etc.

9. (1) Any authority empowered by or under or in pursuance of the provisions of this Proclamation to give any direction or to exercise any other power, may, in addition to any other action expressly provided for in this

Proclamation, take, or cause to be taken, such steps and use or caused to be used, such force as may in its opinion be reasonably necessary for securing compliance with such direction or for preventing or rectifying any breach thereof, or for the effective exercise of such power, as the case may be.

- (2) Any police officer may take such steps and use such force as may, in his opinion, be reasonably necessary for securing compliance with any order made or direction given under or in pursuance of the provisions of this Proclamation or for preventing or rectifying any breach of such order or direction.
- (3) The power conferred by this section shall be deemed to confer upon any person acting in exercise thereof a right of access to any land or other property whatsoever.

10. Any authority upon which any power to make or give any direction, consent or permission or to do any other act is conferred by this Proclamation or by any order made thereunder may, unless express provision is made to the contrary, in writing authorise, conditionally or otherwise, any authority subordinate to it to exercise such power on its behalf, and thereupon the said subordinate authority shall, subject to such conditions as may be contained in the authorisation, be deemed to be the authority upon which such power is conferred by or under this Proclamation.

Power to
delegate
authority.

11. (1) Any person who attempts to contravene, or abets, or attempts to abet, or does any act, preparatory to, a contravention of, the provisions of this Proclamation or of any order made or direction given thereunder, or fails to comply with any direction given in pursuance of any such order, shall be deemed to

Attempts,
etc., to con-
travene the
provisions
of this Pro-
clamation,
etc.

have contravened the provisions of this Proclamation.

- (2) Any person who, knowing or having reasonable cause to believe that any other person has contravened the provisions of this Proclamation or of any order made or direction given thereunder, gives that other person any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest, trial or punishment for the said contravention, shall be deemed to have abetted that contravention.
- (3) The master of any vessel or the pilot of any aircraft, as the case may be, by means of which any foreigner enters or leaves Cochin State in contravention of any order made under, or direction given in pursuance of, section 3 shall, unless he proves that he exercised all due diligence to prevent the said contravention, be deemed to have contravened this Proclamation.

Penalties.

12. If any person contravenes the provisions of this Proclamation or of any order made thereunder, or any direction given in pursuance of this Proclamation or such order, he shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine; and if such person has entered into a bond in pursuance of clause (f) of sub-section (2) of section 3, this bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid.

Protection to persons acting under this Proclamation.

Application of other laws not barred.

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

14. The provisions of this Proclamation shall be in addition to, and not in derogation of, the provisions of the Registration of Foreigners Act, XV of 1114, and of any other law for the time being in force.

PROCLAMATION**(II OF 1115)**

*Promulgated by His Highness the Maharaja of Cochin
on the 20th day of Chingam 1115, corresponding
to the 5th day of September 1939*

WHEREAS an emergency has arisen which makes it necessary to provide for the treatment of enemy merchantships and their cargoes in Cochin State; We are pleased to command as follows.—

1. *Short title, Extent, Commencement and Duration.*—

- (i) This Proclamation may be called the Detention of Shipping Proclamation.
- (ii) It extends to the whole of Cochin State, and shall come into force at once.
- (iii) It shall continue to be in force until such date as our Government may by notification in the Cochin Government Gazette withdraw this Proclamation.

2. *Interpretation.*—In this Proclamation “Contraband of War” means any articles declared to be contraband of war under any provision of law for the time being in force.

3. *Detention of Shipping.*—

- (i) No enemy ship shall, after the commencement of this Proclamation, be allowed to depart from any Port in Cochin State except in accordance with the provisions of the Proclamation.
- (ii) All neutral cargo other than contraband of war on board any enemy merchantship detained under this Proclamation shall be released.

4. *Conditions for application of clauses 5 to 8.*—If the Government is satisfied that the treatment accorded to merchantships registered in British India and their cargoes, which on the date of the outbreak of hostilities

were in enemy Ports, is not less favourable than the treatment accorded to enemy merchantships and their cargoes under clauses 5 to 8 inclusive of this Proclamation the Government shall, by notification in the Cochin Government Gazette, give notice to this effect and the provisions of clauses 5 to 8 shall thereupon but not otherwise have effect in respect of enemy merchantships in Ports in Cochin State.

5. *Allowance of days of grace.*—An enemy merchantship in any Port in Cochin State at the outbreak of hostilities shall be allowed such time as may be fixed in this behalf by the Government by notification in the Cochin Government Gazette for loading and unloading its cargo and for departing from the Port:

Provided that no such vessel shall be allowed to ship any article being contraband of war, and any such article already shipped in such vessel shall be discharged.

6. *Requisition of cargo.*—The Government may at any time requisition on payment of compensation enemy cargo on board any vessel to which clause 5 applies.

7. *Ships to which clause 5 does not apply.*—(i) The provisions of clause 5 shall not apply to ships which by the entries in Lloyds Register are shown to be, or which otherwise are found to be, cable ships, sea-going ships, designed to transport oil fuel, ships whose tonnage exceeds four thousand nine hundred and ninety-nine tons gross or ships whose speed is fourteen knots or over, nor to merchantships which show by their build that they are intended for conversion into war ships.

(ii) All ships excepted by this clause from the purview of clause 5 shall be brought before the Prize Court forthwith for adjudication.

8. *Departure passage for ships.*—An enemy merchantship allowed to depart under clause 5 shall be provided with a pass indicating the Port to which it is to proceed

and the route which it shall follow, and, if such ship fails to proceed to such Port or to follow such route, it shall be liable to capture.

9. *Procedure when days of grace are not allowed.*—

If no notification is issued by the Government under clause 4, every merchantship, which at outbreak of hostilities was in any Port in Cochin State, shall, together with the cargo on board thereof, be brought before the Prize Court forthwith for adjudication.

PROCLAMATION

(III OF 1115)

*Promulgated by His Highness the Maharaja of Cochin
on the 20th day of Chingam 1115, corresponding
to the 5th day of September 1939*

WHEREAS it is expedient to apply the provisions *mutatis mutandis* in Cochin State of the Defence of India Ordinance, 1939, and the Rules issued thereunder, We are hereby pleased to command as follows.—

1. (1) The Defence of India Ordinance, 1939, hereinafter referred to as the Ordinance, and the Defence of India Rules issued under the Ordinance shall be in force in Cochin State with effect from the 19th day of Chingam 1115 corresponding to the 4th day of September 1939.
- (2) The Ordinance and the aforesaid Rules shall continue in force until such time as Government may by notification in the Cochin

Government Gazette withdraw this Proclamation.

2. A reference in the Ordinance or in the Rules issued under the Ordinance to an enactment or provision thereof or to any rule or notification issued thereunder in force in British India shall, where there is a parallel enactment, rule or notification in Our State be construed as a reference to the latter enactment and to the corresponding provision, rule or notification thereunder.

3. The enactments in force in British India referred to in the Ordinance or the Rules under the Ordinance for which there is no corresponding legislation in Our State and the rules and notifications issued thereunder for the purpose and to the extent of giving effect to the Ordinance and the Rules as made applicable to Cochin by this Proclamation be deemed to be in force in Our State *mutatis mutandis* and the reference in the Ordinance or the rules issued thereunder to these enactments, rules and notifications shall be construed as references to these enactments, rules and notifications as made applicable to Our State by this Proclamation:

Provided that this clause shall not apply to the enactments mentioned in the Schedule.

SCHEDULE

1. The Army Act, 44 and 45 Victoria.
 2. The Geneva Convention Act, 1911 (1 and 2 Geo. 5, C. 20).
 3. The British Nationality and Status of Aliens Act, 1914.
 4. The Indian Army Act, 1911.
 5. The Indian Air Force Act, 1932.
 6. The Indian Navy (Discipline) Act, 1934.
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DEFENCE OF INDIA ORDINANCE

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ORDINANCE No. V OF 1939

AN
ORDINANCE
TO

Provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences.

WHEREAS an emergency has arisen which renders it necessary to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences ;

AND WHEREAS the Governor-General in his discretion has declared by Proclamation under sub-section (1) of section 102 of the Government of India Act, 1935, that a grave emergency exists whereby the security of India is threatend by war ;

NOW THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set forth in the Ninth Schedule to the Government of India Act, 1935, the Governor-General is pleased to make and promulgate the following Ordinance.—

CHAPTER I

Preliminary

Short title,
extent and
commence-
ment.

1. (1) This Ordinance may be called the Defence of India Ordinance, 1939.
- (2) It extends to the whole of British India, and it applies also—
 - (a) to British subjects and servants of the Crown in any part of India ;
 - (b) to British subjects who are domiciled in any part of India wherever they may be ;
 - (c) in respect of the regulation and discipline of any naval, military or air force raised in British India, to members of, and persons attached to, employed with, or following that force, wherever they may be ; and
 - (d) to, and to persons on, ships and aircraft registered in British India wherever they may be.
- (3) It shall come into force at once.

CHAPTER II

Emergency Powers

Power to
make rules.

2. (1) The Central Government may, by notification in the Official Gazette, make such rules as appear to it to be

necessary or expedient for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the rules may provide for, or may empower any authority or person to make orders providing for, all or any of the following matters, namely. —

- (i) ensuring the safety and welfare of His Majesty's forces, ships and aircraft, and preventing the prosecution of any purpose likely to prejudice the operations of His Majesty's forces or the forces of His Majesty's allies ;
- (ii) prohibiting anything likely to prejudice the training, discipline or health of His Majesty's forces ;
- (iii) preventing any attempt to tamper with the loyalty of persons in, or to dissuade persons from entering, the service of His Majesty ;
- (iv) preventing anything likely to assist the enemy or to prejudice the successful conduct of war, including—
 - (a) communications with the enemy or agents of the enemy,
 - (b) acquisition, possession and publication of information likely to assist the enemy,
 - (c) contribution to, participation in, or assistance in, the floating of loans raised by or on behalf of the enemy, and
 - (d) advance of money to, or contracts or commercial dealings with, the enemy, enemy subjects or persons residing, carrying on business, or being, in enemy territory ;
- (v) preventing the spread of false reports or the prosecution of any purpose likely to cause disaffection or alarm, or to prejudice His Majesty's relations with foreign powers, or to promote feelings of enmity and hatred between different classes of His Majesty's subjects ;
- (vi) requiring the publication of news and information ;

- (vii) regulating the conduct of persons in respect of areas the control of which is considered necessary or expedient, and the removal of persons from such areas ;
- (viii) requiring any person or class of persons to comply with a scheme of defence ;
- (ix) ensuring the safety of ports, dockyards, light-houses, lightships, aerodromes, railways, telegraphs, post offices, signalling apparatus and all other means of communication, sources of water-supply, works for the supply of water, gas or electricity and any other place or thing the protection of which is necessary for the defence of British India ;
- (x) the apprehension and detention in custody of any person reasonably suspected of being of hostile origin or association, or having acted, acting or being about to act, in a manner prejudicial to the public safety or interest or to the defence of British India, the prohibition of such person from entering or residing or remaining in any area, and the compelling of such person to reside and remain in any area, or to do, or abstain from doing, anything ;
- (xi) the control of persons entering, departing from, or travelling in, British India, and of foreigners residing or being in British India ;
- (xii) prohibiting or regulating traffic, and the use of vessels, buoys, lights and signals, in ports and territorial, tidal and inland waters ;
- (xiii) restricting the charter of foreign vessels ;
- (xiv) regulating the structure and equipment of vessels used or likely to be used by the Central Government, for the purpose of ensuring the safety thereof and of persons therein ;
- (xv) regulating work in dockyards and shipyards in respect of the construction and repairs of vessels ;
- (xvi) prohibiting or regulating the sailings of vessels from ports, traffic at aerodromes and the movement of aircraft, and traffic on railways, tramways and roads, and reserving, and requiring to be adapted, for the use of the

Central Government, all or any accommodation in vessels, aircraft, railways, tramways or road vehicles for the carriage of persons, animals or goods;

- (xvii) impressment of vessels, aircraft, vehicles and animals for transport;
- (xviii) prohibiting or regulating the use of postal, telegraph or telephonic services, including the taking possession of such services and the delaying, seizing, intercepting or interrupting of postal articles or telegraphic or telephonic messages;
- (xix) regulating the delivery otherwise than by postal or telegraphic service of postal articles and telegrams;
- (xx) the control of any trade or industry for the purpose of regulating or increasing the supply of, and the obtaining of information with regard to, anything which can be used in connection with the conduct of war;
- (xxi) ensuring the ownership and control of mines by British subjects;
- (xxii) controlling the use or disposal of, or dealings in, coin, bullion, securities or foreign exchange;
- (xxiii) the control of any road or pathway, water-way, ferry or bridge, river, canal or other source of water-supply;
- (xxiv) the requisitioning of any property, movable or immovable, including the taking possession thereof and the issue of any orders in respect thereof;
- (xxv) prohibiting or regulating the possession, use or disposal of—
 - (a) explosives, inflammable substances, arms and ammunitions of war,
 - (b) vessels,
 - (c) wireless telegraphic apparatus,
 - (d) aircraft, and
 - (e) photographic and signalling apparatus and any means of recording information;

VIII of 1878.

- (xxvi) applying the provisions of the Sea Customs Act, 1878, and in particular section 19 thereof, to the prohibition or restriction of the import or export of goods to a particular person or a particular class of persons;
 - (xxvii) prohibiting or regulating the bringing into, or taking out of, British India and the possession, use or transmission of ciphers and other secret means of communicating information;
 - (xxviii) prohibiting or regulating the publication of inventions and designs;
 - (xxix) preventing the disclosure of official secrets;
 - (xxx) prohibiting or regulating meetings, assemblies, fairs and processions;
 - (xxxi) preventing or controlling the use of uniforms, flags and insignia and of anything similar thereto;
 - (xxxii) ensuring the accuracy of any report or declaration legally required of any person;
 - (xxxiii) preventing the unauthorised change of names;
 - (xxxiv) preventing anything likely to cause misapprehension in respect of the identity of any official person, official document or official property or in respect of the identity of any person, document or property purporting to be, or resembling, an official person, official document or official property; and
 - (xxv) entry into, and search of, any place reasonably suspected of being used for any purpose prejudicial to the public safety or interest, to the defence of British India or to the efficient prosecution of war, and for the seizure and disposal of anything found there and reasonably suspected of being used for such purpose.
- (3) The rules made under sub-section (1) may further—
- (i) provide for the arrest and trial of persons contravening, or reasonably suspected of contravening, any of the rules;
 - (ii) provide that any contravention of, or any attempt to contravene, and any abetment of, or attempt to abet, the contravention of any of the provisions of the rules, or any order issued under any such provision, shall be punishable with

imprisonment for a term which may extend to seven years or with fine or with both ;

(iii) provide for the seizure, detention and forfeiture of any property in respect of which such contravention, attempt or abetment as is referred to in the preceding clause has been committed ;

(iv) confer power and impose duties—

(a) upon the Central Government or officers and authorities of the Central Government as respects any matter, notwithstanding that that matter is one in respect of which the Provincial Legislature also has power to make laws, and

(b) upon any Provincial Government or officers and authorities of any Provincial Government as respects any matter notwithstanding that that matter is one in respect of which the Provincial Legislature has no power to make laws ;

(v) prescribe the duties and powers of public servants and other persons as regards preventing the contravention of, or securing the observance of, the rules ;

(vi) provide for preventing obstruction, and deception of, and disobedience to, any person acting, and interference with any notice issued, in pursuance of the rules ;

(vii) prohibit attempts to screen from punishment any person contravening any of the rules ;

(viii) empower or direct any authority or person to take such action as may be specified in the rules or as may seem necessary to such authority or person for the purpose of ensuring the public safety or interest or the defence of British India ; and

(ix) provide for charging fees in respect of the grant or issue of any license, permit, certificate or other document for the purposes of the rules.

(4) The Central Government may by order direct that any power or duty which by rule under sub-section (1) is conferred or imposed upon the Central Government shall

in such circumstances and under such conditions, if any, as may be specified in the direction be exercised or discharged—

- (a) by any officer or authority subordinate to the Central Government, or
- (b) whether or not the power or duty relates to a matter with respect to which a Provincial Legislature has power to make laws, by any Provincial Government or by any officer or authority subordinate to such Government.

(5) A Provincial Government may by order direct that any power or duty which by rule made under sub-section (1) is conferred or imposed on the Provincial Government, or which, being by such rule conferred or imposed on the Central Government, has been directed under sub-section (4) to be exercised or discharged by the Provincial Government, shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer or authority subordinate to the Provincial Government.

Effect of rules, etc., inconsistent with other enactments.

3. Any rule made under section 2, and any order made under any such rule, shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance or in any instrument having effect by virtue of any enactment other than this Ordinance.

Special powers to control civilian personnel employed in connection with His Majesty's forces.

4. The Central Government may, by notification in the official Gazette, direct by general or special order that any persons who, not being members of His Majesty's forces, are attached to, or employed with, or following, those forces, shall be subject to naval, military or air force law, and thereupon such persons shall be subject to discipline, and liable to punishment for offences, under the Indian Navy (Discipline) Act, 1934, the Indian Army Act, 1911, or the Indian Air Force Act, 1932, as the case may require, as if they were included in such class of persons subject to any of those Acts as may be specified in the notification.

Enhanced penalties.

5. (1) If any person, with intent to wage war against His Majesty or to assist any State at war with His Majesty, contravenes any provision of the rules made under section 2 or any order issued under any such rule, he shall be punishable with death; or transportation for life, or imprisonment for a term which may extend to ten years; and shall also be liable to fine.

(2) If any person—

XXII of 1934. (a) contravenes any such provision of, or any such rule or order made under, the Indian Aircraft Act, 1934, as may be notified in this behalf by the Central Government, or

XI of 1878. IV of 1884. VI of 1908. (b) in any area notified in this behalf by a Provincial Government, contravenes, any such provision of, or any such rule made under, the Indian Arms Act, 1878, the Indian Explosives Act 1884, or the Explosive Substances Act, 1908 as may be notified in this behalf by the Provincial Government,

he shall, notwithstanding anything contained in any of the aforesaid Acts or rules made thereunder, be punishable with imprisonment for a term which may extend to five years, or, if his intention is to assist any State at war with His Majesty or to wage war against His Majesty, with death, transportation for life or imprisonment for a term which may extend to ten years, and shall in either case also be liable to fine.

(3) For the purposes of this section, any person who attempts to contravene, or abets or attempts to abet, or does any act preparatory to, a contravention of, a provision of any law, rule or order, shall be deemed to have contravened that provision.

6. During the continuance of this Ordinance,—

I and 2 Geo. 5, c. 20. (1) section 1 of the Geneva Convention Act, 1911, shall have effect in British India as if, in sub-section (1) thereof, for the words “shall be liable on summary conviction to a fine not exceeding ten pounds,” the words “shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to a fine” had been substituted;

XIX of 1923. (2) section 5 of the Indian Official Secrets Act, 1923, shall have effect as if—

(a) in sub-section (1) thereof, after the words “in his possession or control” the words “any information likely to assist the enemy, as defined in the rules made under the Defence of India Ordinance, 1939, or” had been inserted, and after the words “in such a place” the words “or which relates to, or is used in a protected area, as defined in the rules made under the Defence of India Ordinance, 1939, or relates to anything in such an area,” had been inserted; and

(b) for sub-section (4) thereof, the following sub-section had been substituted, namely.—

“(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to five years, or, if such offence is committed with intent to assist any State at war with His Majesty, or to wage war against His Majesty, with death, or transportation for life, or imprisonment for a term which may extend to ten years, and shall in either case also be liable to fine.”;

(3) the Indian Press (Emergency Powers) Act, 1931, shall have effect as if in sub-section (4) of section 4 thereof after clause (b), the following word and clause had been inserted, namely.—

XXIII of 1931

“or

(bb) directly or indirectly convey any ‘confidential information’, any ‘information likely to assist the enemy’ or any ‘prejudicial report’, as defined in the rules made under the Defence of India Ordinance, 1939, or are calculated to instigate the contravention of any of those rules,”;

(4) the Indian Aircraft Act, 1934, shall have effect as if—

XXII of 1934.

(a) at the end of clause (r) of sub-section (2) of section 5 the following words had been inserted, namely.—

“including the taking of steps necessary to secure compliance with, or to prevent contravention of, the rules regulating such matters, or, where any such rule has been contravened, to rectify, or to enable proceedings to be taken in respect of, such contravention”;

(b) in clause (b) of sub-section (1) section for the words, brackets, letters and figures “clause (h) or clause (i) of sub-section (2) of section 5”, the words, brackets, letters and figures “clauses (d), (e), (h), (i), (k) or (l) of sub-section (2) of section 5, or the commission of an offence punishable under section 11,” had been substituted;

(c) in section 11, after the words “in the air” the words “or in such a manner as to interfere with

any of His Majesty's forces, ships or aircraft' had been inserted;

(d) in section 13 for the words, brackets, figures and letters "clause (i) or clause (l) of sub-section (2) of section 5" the words, brackets, figures and letters "clauses (c), (d), (e), (h), (i), (j), (k) or (l) of sub-section (2) of section 5, or punishable under section 11" had been substituted; and

(e) section 14 had been omitted; and

(5) the Indian Navy (Discipline) Act, 1934, shall have effect as if for section 90 of the Naval Discipline Act as set forth
XXXIV of 1934. in the First Schedule to the first named Act the following section had been substituted, namely.—

"90. (1) If any person who would not otherwise be subject to this Act enters into an engagement with the Central Government to serve His Majesty—

(a) in a particular ship, or

(b) in such particular ship or in such ships as the Officer Commanding the Indian Navy, or any officer empowered in this behalf by the Officer Commanding the Indian Navy, may from time to time determine,

and agrees to become subject to this Act upon entering into the engagement, that person shall, so long as the engagement remains in force, and notwithstanding that for the time being he may not be serving in any ship, be subject to this Act, and the provisions of this Act shall apply in relation to that person, as if, while subject to this Act, he belonged to His Majesty's Navy and were borne on the books of one of His Majesty's ships in commission.

(2) The Central Government may by order direct that, subject to such exceptions as may in particular cases be made by or on behalf of the Officer Commanding the Indian Navy, persons of any such class as may be specified in the order shall, while subject to this Act by virtue of this section, be deemed to be officers or petty officers, as the case may be, for the purposes of this Act or of such provisions of this Act as

may be so specified; and any such order may be varied or revoked by a subsequent order."

Saving and temporary amendment of Act VIII of 1938.

VIII of 1938.

7. (1) Notwithstanding anything contained in the Indian Tea Control Act, 1938, the Central Government may appoint any person to be an additional member of, and to act as Chairman of, the Indian Tea Licensing Committee during the continuance of this Ordinance, and on such appointment being made and until this Ordinance ceases to be in force, the Chairman of the said Committee elected under section 6 of that Act, shall cease to exercise the functions of Chairman.

(2) If in pursuance of any scheme for the control of import of Indian Tea into the United Kingdom, the Central Government considers it necessary or expedient so to do, it may by order direct the Indian Tea Licensing Committee to apportion the requirement of the United Kingdom among the tea estates in accordance with such principles as may be laid down in the order, and the said Committee shall comply with such order.

(3) If at any time during the continuance of this Ordinance, the agreement referred to in the preamble to the Indian Tea Control Act, 1938, is determined or otherwise ceases to be valid as between the parties thereto, the provisions of that Act shall, notwithstanding the said determination or invalidity of the agreement, continue in force:

VIII of 1938.

Provided that nothing in this sub-section shall be construed as continuing the said Act in force after the 31st day of March, 1943.

CHAPTER III

Special Tribunals

Constitution of Special Tribunals.

8. (1) The Provincial Government may for the whole or any part of the Province constitute Special Tribunals which shall consist of three members appointed by the Provincial Government.

(2) No person shall be appointed as a member of a Special Tribunal unless he—

(a) is qualified under sub-section (3) of section 220 of the Government of India Act, 1935, for appointment as a Judge of a High Court; or

(b) has for a total period of not less than three years exercised, whether continuously or not, the powers under the Code of Criminal Procedure, 1898 (hereafter in this Chapter referred to as the Code) of any one or more of the following, namely.—

26 Geo. 5, c. 2.

V of 1898.

- (i) Sessions Judge, Additional Sessions Judge, Chief Presidency Magistrate, Additional Chief Presidency Magistrate,
 - (ii) District Magistrate, Additional District Magistrate.
- (3) At least two members of a Special Tribunal shall be persons who are qualified for appointment thereto—
 - (a) under clause (a) of sub-section (2), or
 - (b) under clause (b) of that sub-section by virtue of having exercised powers exclusive of those specified in sub-clause (ii) of that clause.

9. The Provincial Government may, by general or special order, direct that a Special Tribunal shall try any offence, whether committed before or after the commencement of this Ordinance, or any class of offences, triable under the provisions of Chapter XV of the Code by any Court having jurisdiction within the local limits of the jurisdiction of the Special Tribunal, and may in any such order direct the transfer to the Special Tribunal of any particular case from any other Special Tribunal or any other Criminal Court not being a High Court.

**Jurisdiction
of Special
Tribunals.**

10. (1) A Special Tribunal may take cognizance of offences without the accused being committed to it for trial.

**Procedure of
Special
Tribunals.**

- (2) In trials before a Special Tribunal it shall not be necessary to take down the evidence at length in writing, but the Special Tribunal shall cause a memorandum of the substance of what each witness deposes to be taken down in the English language, and such memorandum shall be signed by a member of the Special Tribunal, and shall form part of the record.
- (3) A Special Tribunal shall not be bound to adjourn any trial for any purpose unless such adjournment is, in its opinion, necessary in the interests of justice.
- (4) A Special Tribunal shall not merely by reason of a change in its members, be bound to recall and rehear any witness who has given evidence, and it may act on the evidence, already recorded by or produced before it.
- (5) A Special Tribunal may try an accused person in his absence if, in its opinion, his absence has been brought about by the accused himself for the purpose of impeding the course of justice, or if the behaviour of the accused in Court has been such as, in the opinion of the Special Tribunal, to impede the course of justice.

- (6) In the event of any difference of opinion among the members of a Special Tribunal, the opinion of the majority shall prevail.
- (7) The Provincial Government may, by notification in the official Gazette, make rules providing for—
- (i) the times and places at which Special Tribunals may sit;
 - (ii) the procedure to be adopted in the event of any member of a Special Tribunal being prevented from attending throughout the trial of any accused person; and
 - (iii) the procedure generally to be followed by Special Tribunals, where no procedure is prescribed by this Ordinance.
- (8) A Special Tribunal shall, in all matters in respect to which no procedure has been prescribed by this Ordinance or by rules made thereunder, follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates.

Exclusion of public from proceedings of Special Tribunals.

11. In addition, and without prejudice, to any powers which a Special Tribunal may possess by virtue of any law for the time being in force to order the exclusion of the public from any proceedings, if at any stage in the course of a trial of any person before a Special Tribunal application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the trial would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Special Tribunal may make an order to that effect, but the passing of sentence shall in any case take place in public.

Powers of Special Tribunals.

12. A Special Tribunal shall have all the powers conferred by the Code on a Court of Sessions exercising original jurisdiction.

Sentences of Special Tribunal.

13. (1) A Special Tribunal may pass any sentence authorised by law.
- (2) Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence of a Special Tribunal and no Court shall have authority to revise such order or sentence, or to transfer any case from a Special Tribunal, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of a Special Tribunal, and no sentence of a Special Tribunal shall be subject to confirmation.

- (3) The powers conferred upon the Provincial Government and the Governor-General by Chapter XXIX of the Code shall apply in respect of a person sentenced by a Special Tribunal.

CHAPTER IV

Supplemental

14. Save as otherwise expressly provided by or under this Ordinance, the ordinary criminal and civil Courts shall continue to exercise jurisdiction. **Jurisdiction of ordinary Courts.**
15. Any authority or person acting in pursuance of this Ordinance shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the purpose of ensuring the public safety and interest and the defence of British India. **Ordinary avocations of life to be interfered with as little as possible.**
16. (1) No order made in exercise of any power conferred by or under this Ordinance shall be called in question in any Court. **Savings as to orders.**
- I of 1872. (2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Ordinance, a Court shall, within the meaning of the Indian Evidence Act, 1872, presume that such order was so made by that authority.
17. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rules made thereunder. **Protection of action taken under the Ordinance.**
- (2) Save as otherwise expressly provided under this Ordinance, no suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything done or intended to be done in pursuance of this Ordinance or any rules made thereunder.
- 26 Geo. 5, ch. 2. 18. (1) Where by or under any rule made under this Ordinance any action is taken of the nature described in sub-section (2) of section 299 of the Government of India Act, 1935, there shall be paid compensation, the amount of which shall be determined in the manner, and in accordance with the principles, hereinafter set out, that is to say.— **Compensation to be paid in accordance with certain principles for compulsory acquisition of immovable property, etc.**
- (a) Where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement.
- (b) Where no such agreement can be reached, the Central Government shall appoint as arbitrator

a person qualified under sub-section (3) of section 220 of the above-mentioned Act or appointment as a Judge of a High Court.

- (c) The Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property acquired, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose.
 - (d) At the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation.
 - (e) The arbitrator in making his award shall have regard to—
 - (i) the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as the same can be made applicable; and
 - (ii) whether the acquisition is of a permanent or temporary character.
 - (f) An appeal shall lie to the High Court against an award of an arbitrator except in cases where the amount thereof does not exceed an amount prescribed in this behalf by rule made by the Central Government.
 - (g) Save as provided in this section and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this section.
- (2) The Central Government may make rules for the purpose of carrying into effect the provisions of this section.
- (3) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—
- (a) the procedure to be followed in arbitrations under this section;
 - (b) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal;
 - (c) the maximum amount of an award against which no appeal shall lie.

19. In this Ordinance, unless there is anything repugnant in the subject or context, the expression "Provincial Government" means, in relation to a Chief Commissioner's Province, the Chief Commissioner.

Simla,
The 3rd September 1939.

LINLITHGOW
Governor-General

PROCLAMATION (IV OF 1115)

*Promulgated by His Highness the Maharaja of Cochin
on the 24th day of Chingam 1115 corresponding
to the 9th day of September 1939*

WHEREAS it is deemed expedient to apply the provisions in Cochin State of the Requisitioning of Vessels Ordinance, 1939, We are hereby pleased to command that the said Ordinance shall be in force *mutatis mutandis* in Cochin State until such time as Government may by notification in the Cochin Government Gazette withdraw this Proclamation.

THE REQUISITIONING OF VESSELS
ORDINANCE, 1939.

DEFENCE CO-ORDINATION DEPARTMENT

Simla, the 30th August 1939
ORDINANCE No. III of 1939

AN
ORDINANCE
TO

Provide for the requisitioning of vessels for the service of His Majesty.

WHEREAS an emergency has arisen which makes it necessary to provide for the requisitioning of vessels for the service of His Majesty;

NOW, THEREFORE, in exercise of the power conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor-General is pleased to make and promulgate the following Ordinance.—

**Short title,
extent and
commence-
ment.**

1. (1) This Ordinance may be called the Requisitioning of Vessels Ordinance, 1939.

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

(3) It shall come into force at once.

Definition.

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

(a) “owner” of a vessel includes the agent of any such owner in any port in which the vessel may be; and

(b) “vessel” means any British or Indian ship or vessel registered in British India wherever such vessel may be, and includes all tackle, appliances, coal, stores and other movable property of any description on, or appertaining to, such vessel, except cargo and the personal effects of passengers and the officers and crew.

**Power to re-
quisition
vessels for
His Majesty's
service.**

3. The Central Government may, by notification in the official Gazette, empower the Flag Officer Commanding or any commissioned Officer of the Royal Indian Navy or such other officers as may be considered necessary to requisition vessels temporarily for the service of His Majesty.

**Requisition
upon owners
and masters
of vessels re-
quired for
such service.**

4. (1) Any officer empowered under section 3 may issue a requisition in writing to the owner of any vessel or in the absence of such owner or if the name and address of such owner cannot after reasonable inquiry be ascertained, to the master of such vessel, to furnish the same for the service of His Majesty at the time and place to be specified in the requisition.

(2) An officer making a requisition under sub-section (1) shall state therein, if possible, the approximate period for which the vessel will be required.

(3) Any such officer may, at the time of making the requisition or subsequently, exempt therefrom any tackle, appliances, coal, stores or other movable property on, or appertaining to, the vessel requisitioned.

**Payment of
compensa-
tion for ves-
sels requis-
itioned and
assessment
thereof.**

5. (1) Compensation shall be paid by the Central Government to the owner of any vessel requisitioned under this Ordinance.

(2) Such compensation shall be assessed by agreement between the officer making the requisition and the owner of the vessel requisitioned, or failing such agreement, in such manner as may be prescribed by the Central Government by rules in this behalf.

6. (1) If the owner or master of any vessel requisitioned for the service of His Majesty under this Ordinance fails to furnish such vessel in accordance with the terms of the requisition, the officer by whom the requisition was made may, whether the compensation payable in respect of the requisition of such vessel has been assessed or not, seize, retain and use such vessel for the service of His Majesty, and for such purposes may use such force as may be required.

Powers of requisitioning officer in case of failure of owner, etc., to furnish vessel.

(2) All Magistrates and police officers shall be bound to render such assistance as the requisitioning officer may reasonably demand in seizing and detaining a vessel under subsection (1).

7. If any person contravenes the provisions of this Ordinance, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

Penalty.

8. No requisition made under this Ordinance shall be called in question in any court, and save as herein provided no liability, civil or criminal, shall be incurred by any officer of Government by reason of anything done or purporting to be done in accordance with the provisions of this Ordinance.

Bar of jurisdiction of Courts.

9. Nothing in this Ordinance shall be deemed—

(a) to affect, or derogate from, any power of seizure or requisition exercised in pursuance of any Proclamation or Order in Council of His Majesty; or

(b) to authorise any seizure or requisition in contravention of any such Proclamation or Order in Council.

Saving of powers conferred by Proclamation or Orders in Council of His Majesty.

Simla,
The 30th August 1939. }

LINLITHGOW
Governor-General

A. Dec. WILLIAMS
Secretary to the Government of India

PROCLAMATION

(V OF 1115)

*Promulgated by His Highness the Maharaja of Cochin
on the 25th day of Chingam 1115 corresponding
to the 10th day of September 1939*

WHEREAS it is deemed expedient to apply the provisions in Cochin State of the Transfer of Aircraft and Vessels Restriction Ordinance, 1939, We are hereby pleased to command that the said Ordinance, shall be in force *mutatis mutandis* in Cochin State until such time as Government may by notification in the Cochin Government Gazette withdraw this Proclamation.

TRANSFER OF AIRCRAFT AND VESSELS RESTRICTION ORDINANCE, 1939

Simla, the 1st September 1939

ORDINANCE No. IV OF 1939

AN
ORDINANCE
TO

restrict the transfer or acquisition of any interest in aircraft and sea-going vessels, registered in British India.

WHEREAS an emergency has arisen which renders it necessary to restrict the transfer or acquisition of any interest in aircraft and sea-going vessels, registered in British India ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor-General is pleased to make and promulgate the following Ordinance.—

Short title,
extent and
commence-
ment.

1. (1) This Ordinance may be called the Transfer of Aircraft and Vessels Restriction Ordinance, 1939.

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

(3) It shall come into force at once.

Definition.

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

(a) “aircraft” has the meaning assigned to it in section 2 of the Indian Aircraft Act, 1934 ;

(b) “registered” means in relation to any vessel registered in India, under the Indian Registration of Ships Act, 1841

1115: Procl. VI] *Transfer of Aircraft and Vessels Restriction* 37

or under the Merchant Shipping Act, 1894, and in relation to any aircraft registered under the Indian Aircraft Act, 1934.

3. (1) No person shall, without the previous consent in writing of the Central Government, transfer or acquire any interest in—
- (a) any registered sea-going vessel or any share in such vessel ; or
 - (b) any registered aircraft or any aircraft which having been previously registered, is not for the time being registered in India or elsewhere.

Restriction on transfer and acquisition of interest in aircraft or vessels.

- (2) If any person contravenes, or attempts to contravene, any of the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.
- (3) Any transaction effected in contravention of any of the provisions of sub-section (1) shall notwithstanding anything contained in any other law or in any contract, be void and unenforceable.

4. Notwithstanding anything contained in section 53 of the Merchant Shipping Act, 1894, an application made whether before or after the commencement of this Ordinance, for the transfer of the registry of a registered sea-going vessel from one port to another, shall not be granted except with the approval of the Central Government.

Transfer of Registry of vessels from one port to another to be subject to approval of the Central Government.

Simla, }
31st August 1939.

LINLITHGOW
Viceroy and Governor-General

PROCLAMATION**(VI OF 1115)**

*Promulgated by His Highness the Maharaja of Cochin
on the 25th day of Kanni 1115 corresponding
to the 11th day of October 1939.*

WHEREAS it is deemed expedient to apply the provisions in Cochin State of the Detention of Enemy Shipping Ordinance, 1939, We are hereby pleased to command that the said Ordinance shall be in force *mutatis mutandis* in Cochin State until such time as Government may by notification in the Cochin Government Gazette withdraw this Proclamation.

THE COCHIN OFFICIAL SECRETS ACT**(IV OF 1115)**

*Promulgated by His Highness the Maharaja of Cochin
on the 14th day of Thulam 1115 corresponding
to the 31st day of October 1939.*

WHEREAS it is necessary and expedient to regulate by legislation matters relating to Official Secrets; It is hereby enacted as follows:—

1. (1) This Act may be called the Cochin Official Secrets Act, 1115.

(2) It extends to the whole of Cochin State.

(3) It shall come into force at once.

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

(1) any reference to a place belonging to Government or to His Majesty includes a place occupied by any Department of Government or of the Government established by law in British India, whether the place is or is not actually vested in Government or in His Majesty, as the case may be;

(2) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect or description thereof only be communicated or received; expressions referring to obtaining or retaining any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note or document; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document;

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

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

(5) "munitions of war" includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or mine intended or adopted for use in war, and any other article, material, or device, whether actual or proposed, intended for such use;

(6) "Officer under Government" or "Officer under His Majesty" includes any office or employment in or under any Department of Government or of the Government established by law in British India or of the Government of the United Kingdom or of any British possession, as the case may be;

(7) "photograph" includes an undeveloped film or plate;

(8) "prohibited place" means.—

(a) any work of defence, arsenal, military establishment or station, mine, minefield, camp, ship or aircraft belonging to or occupied by Government or on behalf of Government or any work of defence, arsenal, naval, military, or airforce establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of His Majesty, any military telegraph or telephone so belonging to or occupied as hereinbefore stated, any

wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any munitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war ;

(b) any place not belonging to Government or to His Majesty where any munitions of war or any sketches, models, plans, or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of Government or on behalf of His Majesty or otherwise on behalf of Government or His Majesty ;

(c) any place belonging to Government or to His Majesty or used for the purpose of Government or for the purpose of His Majesty which is for the time being declared by Government, by a notification in the Cochin Government Gazette, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in Malayalam ;

(d) any railway, road, or canal or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purpose of a public character, or any place where any munitions of war or any sketches, models, plans, or documents relating thereto, are being made, repaired, or stored otherwise than on behalf of Government or on behalf of His Majesty which is for the time being declared by Government, by notification in the Cochin Government Gazette, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and

to which a copy of the notification in respect thereof has been affixed in English and Malayalam ;

(9) "sketch" includes any photograph or other mode of representing any place or thing ; and

(10) "Assistant Superintendent of Police" includes any Police officer of a like or superior rank, and any person upon whom the powers of an Assistant Superintendent of Police are for the purposes of this Act conferred by Government.

3 (1) If any person for any purpose prejudicial to the safety or interests of the State— **Penalties for spying.**

(a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place ; or

(b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy ; or

(c) obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be directly or indirectly, useful to an enemy ;

he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or airforce establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to naval, military or airforce affairs or in relation to any secret official code, to fourteen years and in other cases to three years.

(2) On a prosecution for an offence punishable under this section with imprisonment for a term which may extend to fourteen years, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such

act is proved against him, he may be convicted, if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or pass word is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; such sketch, plan, model, article, note, document or information shall be presumed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State.

Communica-
tions with
foreign
agents to
be evidence
of commis-
sion of
certain
offences.

4. (1) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with a foreign agent, whether within or without Cochin State, shall be relevant for the purpose of proving that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be, or is intended to be, directly or indirectly useful to an enemy.

(2) For the purpose of this section, but without prejudice to the generality of the foregoing provisions.—

(a) a person may be presumed to have been in communication with a foreign agent, if—

(i) he has, either within or without Cochin State, visited the address of a foreign agent, consorted or associated with a foreign agent, or

(ii) either within or without Cochin State, the name or address of, or any other information regarding, a foreign agent has been found in his possession, or has been obtained by him from any other person;

(b) the expression “foreign agent” includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him of being or having been employed by a foreign power, either directly or indirectly, for the purpose of committing an act either within or without Cochin State prejudicial to the safety or interests of the State or who has or is reasonably suspected of having, either within or without Cochin State committed or attempted to commit, such an act in the interests of a foreign power ;

(c) any address, whether within or without Cochin State, in respect of which it appears that there are reasonable grounds, for suspecting it of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, may be presumed to be the address of a foreign agent, and communications addressed to such an address to be communications with a foreign agent.

5. (1) If any person having in his possession or control any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to, or is used in a prohibited place or relates to any thing in such a place or which has been made or obtained in contravention of this Act, or which has been entrusted or knowledge whereof has been imparted to him in any manner by any person holding office under Government or under His Majesty or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under Government or under His Majesty or as a person who holds or has held a contract made on behalf of Government or on behalf of His Majesty or as a person who is or has been employed under a person who holds or has held such an office or contract—

Wrongful
communica-
tion, etc.,
of informa-
tion.

(a) wilfully communicates the code or pass word, sketch, plan, model, article, note, document or information to any person other than a person to whom he is

authorised to communicate it, or a court of law or a person to whom it is, in the interests of the State his duty to communicate it; or

(b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the State; or

(c) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or

(d) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code or pass word or information;

he shall be guilty of an offence under this section.

(2) If any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code, pass word, sketch, plan, model, article, note, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this section.

(3) If any person having in his possession or control any sketch, plan, model, article, note, document or information, which relates to munitions of war, communicates it directly or indirectly, to any foreign power or in any other manner prejudicial to the safety or interests of the State, he shall be guilty of an offence under this section.

(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine or with both.

6. (1) If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety of the State—

Unauthorised use of uniforms, falsification of reports, forgery, personation, and false documents.

(a) uses or wears, without lawful authority, any naval, military, airforce, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform; or

(b) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission; or

(c) forges, alters, or tampers with any pass port or any naval, military, airforce, police, or official pass, permit, certificate, license or other document of a similar character (hereinafter in this section referred to as an official document), or knowingly uses or has in his possession any such forged, altered, or irregular official document; or

(d) personates, or falsely represents himself to be, a person holding, or in the employment of a person holding, office under Government or under His Majesty or to be or not to be a person to whom an official document or secret official code or pass word, has been duly issued or communicated, or with intent to obtain an official document, secret official code or pass word, whether for himself or any other person knowingly makes any false statement; or

(e) uses, or has in his possession or under his control, without the authority of the department of Government or any department of the Government established by law in British India, as the case may be, or the authority concerned, any die, seal or stamp of or belonging to, or used, made or provided by, any department of Government or the Government established by law in British India, as the case

may be, or by any diplomatic, naval, military, or airforce authority appointed by or acting under the authority of Government or of the Government of His Majesty or any die, seal or stamp so nearly resembling any such die, seal or stamp, as to be calculated to deceive, or counterfeits any such die, seal or stamp, or knowingly uses, or has in his possession or under his control, any such counterfeited die, seal or stamp ;

he shall be guilty of an offence under this section.

(2) If any person for any purpose prejudicial to the safety of the State—

(a) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with any directions issued by any department of Government or any person authorised by such department with regard to the return or disposal thereof; or

(b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code or pass word issued for the use of some person other than himself, or on obtaining possession of any official document by finding or otherwise, wilfully fails to restore it to the person or authority by whom or for whose use it was issued, or to a Police officer ; or

(c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid ;

he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(4) The provisions of sub-section (2) of section 3 shall apply, for the purpose of proving a purpose prejudicial to the safety of the State, to any prosecution for an offence

under this section relating to the military affairs of Government or to the naval, military or airforce affairs of His Majesty or to any secret official code in like manner as they apply, for the purpose of proving a purpose prejudicial to the safety or interests of the State, to prosecutions for offences punishable under that section with imprisonment for a term which may extend to fourteen years.

7. (1) No person in the vicinity of any prohibited place, shall obstruct, knowingly mislead or otherwise interfere with or impede, any Police officer, or any member of the State forces or the forces of His Majesty engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place.

Interfering
with officers
of the police
or members
of forces,
etc.

(2) If any person acts in contravention of the provisions of this section, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

8. (1) It shall be the duty of every person to give on demand to an Assistant Superintendent of Police, or other Police officer not below the rank of Inspector, empowered by the Commissioner of Police in this behalf, or to any member of the State forces or the forces of His Majesty engaged on guard, sentry, patrol, or other similar duty, any information in his power relating to an offence or suspected offence under section 3, or under section 3 read with section 9 and, if so required, and upon tender of his reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information.

Duty of
giving infor-
mation as to
commission
of offences.

(2) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

9. Any person who attempts to commit or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to be proceeded

Attempts,
incitements,
etc.

against in the same manner as if he had committed such offence.

Penalty for
harbouring
spies.

10. (1) If any person knowingly harbours any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or who has committed an offence under section 3 or under section 3 read with section 9 or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, he shall be guilty of an offence under this section.

(2) It shall be the duty of every person having harboured any such person as aforesaid or permitted to meet or assemble in any premises in his occupation or under his control any such persons as aforesaid, to give on demand to an Assistant Superintendent of Police or other Police officer not below the rank of Inspector empowered by the Commissioner of Police in this behalf, any information in his power relating to any such person or persons, and if any person fails to give any such information, he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Search war-
rant.

11. (1) If a District Magistrate or a Magistrate of the First Class is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search warrant authorising any Police officer named therein, not being below the rank of an officer-in-charge of a police station, to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an

offence under this Act has been or is about to be committed.

(2) Where it appears to a Police officer, not being below the rank of an Assistant Superintendent, that the case is one of great emergency, and that in the interest of the State immediate action is necessary, he may by a written order under his hand give to any Police officer the like authority as may be given by the warrant of a Magistrate under this section.

(3) Where action has been taken by a Police officer under sub-section (2) he shall, as soon as may be, report such action to the District Magistrate or to the nearest First Class Magistrate.

12. Notwithstanding anything in the Code of Criminal Procedure, II of 1086.— Power to arrest.

(a) an offence punishable under section 3 or under section 3 read with section 9 with imprisonment for a term which may extend to fourteen years shall be a cognizable and non-bailable offence ;

(b) an offence under clause (a) of sub-section (1) of section 6 shall be a cognizable and bailable offence ; and

(c) every other offence under this Act shall be a non-cognizable and bailable offence, in respect of which a warrant of arrest shall ordinarily issue in the first instance.

13. (1) No Court (other than that of a Magistrate of the First Class specially empowered in this behalf by Government) which is inferior to that of a District Magistrate shall try any offence under this Act. Restriction on trial of offences.

(2) If any person under trial before a Magistrate for an offence under this Act at any time before a charge

is framed claims to be tried by the Court of Session, the Magistrate shall, if he does not discharge the accused, commit the case for trial by that Court, notwithstanding that it is not a case exclusively triable by that Court.

(3) No Court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from Government:

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that such complaint has not been made, but no further or other proceedings shall be taken until such complaint has been made.

(4) For the purposes of the trial of a person for an offence under this Act, the offence may be deemed to have been committed either at the place in which the same actually was committed or at any place in Cochin State in which the offender may be found.

Exclusion of
public from
proceedings.

14. In addition and without prejudice to any powers which a Court may possess to order the exclusion of the public from any proceedings, if, in the course of proceedings before a Court against any person for an offence under this Act or the proceedings on appeal, or in the course of the trial of a person, under this Act, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Court may make an order to that effect, but the passing of sentence shall in any case take place in public.

Offences by
companies
etc.

15. Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation, with whose knowledge and consent the offence was committed shall be guilty of the like offence.

16. During the period in which the Defence of India Ordinance, 1939, as made applicable to Cochin State, by Proclamation, III of 1115, is in force, section 5 of this Act shall have effect as if

Temporary
amendment
to section 5.

(a) in sub-section (1) thereof, after the words "in his possession or control" the words "any information likely to assist the enemy, as defined in the Defence of India Rules as made applicable to Cochin State, or" had been inserted and after the words "in such a place" the words "or which relates to, or is used in, a protected area as defined in the Defence of India Rules as made applicable to Cochin State, or relates to anything in such an area", had been inserted, and

(b) for sub-section (4) thereof the following sub-section had been substituted:—

"(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to five years, or, if such offence is committed with intent to assist any State at war with His Majesty, or to wage war against His Majesty, with death, or imprisonment for a term which may extend to ten years, and shall in either case also be liable to fine."

PROCLAMATION VII OF 1115

*Promulgated by His Highness Sir Sree Rama Varma,
G. C. I. E., Maharaja of Cochin, on the 14th day
of Vrischigam 1115, corresponding to
the 30th day of November 1939*

WHEREAS for the efficient and prompt collection of *pattam*, *michavaram*, renewal fees and other dues, due to the Palliara Muthalpidi Estate it is deemed necessary to apply the provisions of the Cochin Revenue Recovery Act, We are hereby pleased to command as follows.—

1. All dues whether accrued due or accruing due in future to the Palliara Muthalpidi Estate, hereinafter referred to in this Proclamation as the Estate, shall be recovered as an arrear of revenue due to Government under the Cochin Revenue Recovery Act, IV of 1083, and the said Act shall apply *mutatis mutandis* to the collection of such dues and to all proceedings connected therewith.

2. Our Government may, from time to time, by rules, prescribe the procedure to be adopted for the recovery of the dues owing to the Estate and generally for giving effect to this Proclamation. Such rules, when framed and published in the Cochin Government Gazette, shall be deemed to be part of this Proclamation and their validity shall not be questioned in a court of law on the ground that they are *ultra vires* or on any other ground.

THE GOVERNMENT TRADING TAXATION ACT

(ACT V OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 27th day of Dhanu 1115, corresponding to the
11th day of January 1940.*

WHEREAS it is expedient to determine the liability to taxation for the time being in force in Cochin of foreign Governments in respect of any trade or business carried on by or on behalf of such Governments ; It is hereby enacted as follows.—

1. (1) This Act may be called the Government Trading Taxation Act, V of 1115.

Short title
and com-
mencement,

- (2) It shall come into force on such date as Government may, by notification in the Cochin Government Gazette, appoint.

2. (1) Where a trade or business of any kind is carried on by or on behalf of any Government other than the Government of Cochin, that Government shall, in respect of the trade or business and of all operations connected therewith, all property occupied in Cochin State and all goods owned in Cochin State for the purposes thereof, and all income arising in connection therewith, be liable—

Liability of
foreign
Governments
to taxation
in respect of
trading
operations.

- (a) to taxation under the Cochin Income-tax Act (VIII of 1108), in the same manner and to the same extent as in the like case a company would be liable ;

- (b) to all other taxation for the time being in force in Cochin State in the same manner as in the like case any other person would be liable.

- (2) For the purposes of the levy and collection of income-tax under the Cochin Income-tax Act (VIII of 1108), in accordance with the provisions of sub-section (1), any Government to which that sub-section applies shall be deemed to be a company within the meaning of that Act and the provisions of that Act shall apply accordingly.

**THE COCHIN TENANCY (AMENDMENT) ACT
(ACT VI OF 1115)**

*Passed by His Highness the Maharaja of Cochin
on the 27th day of Dhanu 1115, corresponding
to the 11th day of January 1940.*

Preamble.

WHEREAS it is expedient to further amend the Cochin Tenancy Act, XV of 1113, for the purposes hereinafter appearing; It is hereby enacted as follows.—

Short title.

1. This Act may be called the Cochin Tenancy (Amendment) Act, VI of 1115.

Commencement.

2. It shall come into force at once and shall also apply to all pending suits, including appeals.

3. In section 2, clause (d) of the Cochin Tenancy Act, XV of 1113—

Amendment to section 2 (d).

Number the existing Explanation as Explanation I and add as Explanation II the following.—

“Explanation II.—

- (i) A transaction called “*panayam*” in the document evidencing it and possessing the incidents mentioned in sub-clauses (1) and (2) of this clause shall, until the contrary is proved, be presumed to be a *kanam* within the meaning of this section, if it is a renewal of a previous document or if in respect of it a counter-part has been executed by the *panayam* tenant or there is a provision

for renewal or for the payment of *puravaka* dues:

Provided that nothing in this Explanation shall apply to a document expressly described as *karipanayam*, *kui-vasapanayam*, *kozhuverukkapanyam* or *nadappupanyam*.

- (ii) A provision in any document of the kind referred to in clause (i) providing for surrender of the holding on demand to the landlord shall not, by itself, give rise to any presumption contrary to that provided for in clause (i) of this Explanation."

THE COCHIN TRANSFER OF PROPERTY (AMENDMENT) ACT

(ACT VII OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 27th day of Dhanu 1115, corresponding to the
11th day of January 1940.*

WHEREAS it is deemed expedient further to amend the Cochin Transfer of Property Act, XVII of 1111; It is hereby enacted as follows.—

Preamble.

1. This Act may be called the Cochin Transfer of Property (Amendment) Act, VII of 1115, and shall come into force at once.

Short title and commencement.

2. In clause (f) of section 59 of the Cochin Transfer of Property Act, XVII of 1111, for the words "Mattancheri, the Municipal areas of Ernakulam, Trichur and Chittur-Tattamangalam", the following words shall be substituted, *viz.*—

Amendment of section 59 (f).

"the Municipal areas of Mattancheri, Ernakulam and Trichur,".

THE COCHIN MUNICIPAL (AMENDMENT) ACT
(ACT VIII OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 27th day of Dhanu 1115, corresponding to the
11th day of January 1940.*

Preamble.

WHEREAS it is expedient to further amend the Cochin Municipal Act, XVIII of 1113; It is hereby enacted as follows.—

**Short title
and
commence-
ment.**

1. This Act may be called the Cochin Municipal (Amendment) Act, VIII of 1115, and shall come into force at once.

**Insertion of
a new
section, 147A.**

2. After section 147 and before section 148 of the Cochin Municipal Act, XVIII of 1113, hereinafter referred to as “the Act”, insert the following as section 147 A.—

**Cleansing of
private
latrines, etc.**

“147 A. Where the property tax levied in a Municipality does not comprise a scavenging tax as referred to in clause (c) of sub-section (1) of section 74, the executive authority may contract with the owner or occupier of any premises to remove rubbish or filth or any particular kind of rubbish or filth, from such premises or any place belonging thereto on such terms as to times and periods of removal and other matters as may seem suitable to the executive authority, and on payment of fees at such rate calculated to cover the cost of the service as the Council may have laid down with the approval of the Government.”

**Amendment
to section
373.**

3. In clause (b) of section 373 of the Act substitute for the figure, word and brackets “(Chapter VIII)” the following.—

“(sections 139, 140, 141 and 142 of Chapter VII and Chapter VIII)”.

THE GOVERNMENT LAND GRANTS ACT

(ACT IX OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 3rd day of Makaram 1115, corresponding
to the 16th day of January 1940.*

WHEREAS it is deemed expedient to remove all doubts as to the power of Government to impose limitations and restrictions upon grants and other transfers of land made by them or under their authority ; It is hereby enacted as follows.— Preamble.

1. (1) This Act may be called the Government Land Grants Act, IX of 1115 ; Short title,
extent and
commence-
ment.
- (2) It extends to the whole of Cochin State and shall come into force at once.

2. Nothing contained in the Cochin Transfer of Property Act, XVII of 1111 or in the Cochin Tenancy Act, XV of 1113, shall apply or be deemed ever to have applied to any grant or other transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of Government to, or in favour of, any person whomsoever ; but every such grant and transfer shall be construed and take effect as if the said Acts had not been passed. Transfer of
Property Act
and Tenancy
Act not to
apply to Gov-
ernment
grants.

3. All provisions, restrictions, conditions and limitations over contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor, any rule of law, statute or enactment to the contrary notwithstanding. Grants to
take effect
according to
their tenor.

THE COCHIN COURT FEES (AMENDMENT) ACT

(ACT X OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 3rd day of Makaram 1115, corresponding
to the 16th day of January 1940.*

Preamble.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto ; And Whereas it is deemed necessary to further amend the Cochin Court Fees Act, II of 1080, for this purpose ; It is hereby enacted as follows.—

Short title
and com-
mencement.

1. (1) This Act may be called the Cochin Court Fees (Amendment) Act, X of 1115.

(2) It shall come into force at once.

Insertion of a
new Chapter
IV A.

2. Insert the following as Chapter IVA in the Cochin Court Fees Act, II of 1080.—

“ CHAPTER IV A

Suits relating to Land

Power to
Government
to make rules
determining
value of land
for purposes
of jurisdic-
tion.

28 A. (1) Government may make rules, for determining the value of lands for purposes of jurisdiction in the suits mentioned in section 4, paragraphs (v) and (vi) and paragraph (x), clause (e).

(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area and may prescribe different values for different places within the same local area.

Valuation of
relief in cer-
tain suits re-
lating to land
not to exceed
the value of
the land.

28 B. Where a suit mentioned in section 4, paragraph (iv), or article 7 of Schedule II, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules.

28. C. (1) Government shall, before making rules under section 28 A, consult the High Court with respect thereto.

Making and enforcement of rules.

(2) Rules under section 28 A shall not take effect till the expiration of one month after they have been published in the Cochin Government Gazette.

28 D. On and from the date on which rules under section 28 A take effect, section 15 of the Cochin Civil Courts Act, III of 1076, shall stand repealed.

Repeal of section 15 of the Cochin Civil Courts Act.

Other Suits

28 E. Where in suits other than those referred to in section 4, paragraphs (v), (vi) and (ix), and clause (e) of paragraph (x), court-fees are payable *ad valorem* under this Act, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same.

Court-fee value and jurisdictional value to be the same in certain suits.

28 F. When the subject-matter of suits of any class other than suits mentioned in section 4, paragraphs (v) and (vi) and clause (e) of paragraph (x), is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of Government, direct that suits of that class shall, for the purposes of jurisdiction, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf.

Determination of value of certain suits by High Court.

28 G. On and from the date on which the High Court directs under the last preceding section that particular classes of suits shall, for the purposes of this Act, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in that behalf, the first proviso to section 10 of the Cochin Civil Courts Act, III of 1076, as amended up-to-date, will stand repealed so far as it relates to the class of suits in connection with which the High Court has specified the value.

Repeal of the first proviso to section 10 of the Cochin Civil Courts Act, III of 1076.

Procedure where objection is taken on appeal or revision that a suit or appeal was not properly valued for jurisdictional purposes.

Supplemental Provisions

28 H. (1) Notwithstanding anything in section 84 of the Cochin Code of Civil Procedure, Act XXIX of 1111, an objection that by reason of the over-valuation or under-valuation of a suit or appeal a Court of first instance or lower appellate Court which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

(a) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum of appeal to that Court, or

(b) the appellate Court is satisfied for reasons to be recorded by it in writing that the suit or appeal was over-valued or under-valued and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

(2) If the objection was taken in the manner mentioned in clause (a) of sub-section (1), but the appellate Court is not satisfied as to both the matters mentioned in clause (b) of that sub-section and has before it the materials necessary for the determination of other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of first instance or lower appellate Court.

(3) If the objection was taken in that manner and the appellate Court is satisfied as to both

those matters and has not those materials before it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals; but if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

- (4) The provisions of this section with respect to an appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under section 95 of the Cochin Code of Civil Procedure Act, XXIX of 1111, or other enactment for the time being in force.

28 I. Nothing in sections 28A, 28B, 28C and 28D shall be construed to affect the jurisdiction of any Court—

Pending Proceedings.

(a) with respect to any suit instituted before the rules under sections 28A, 28B, 28C and 28D applicable to the valuation of the suit take effect, or

(b) with respect to any appeal arising out of any such suit."

THE COCHIN BAR COUNCIL (AMENDMENT) ACT

(ACT XI OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 3rd day of Makaram 1115, corresponding
to the 16th day of January 1940.*

WHEREAS it is expedient to amend the Cochin Bar Council Act, XXI of 1113; It is hereby enacted as follows.—

Preamble.

1. This Act may be called the Cochin Bar Council (Amendment) Act, XI of 1115, and it shall come into force at once,

Short title and commencement.

Amendment
to section 4.

2. In sub-section (2) of section 4 of the Cochin Bar Council Act, XXI of 1113, substitute a comma for the full-stop and add the following.—

“or in both the courts together.”

THE COCHIN NAYAR (AMENDMENT) ACT

(ACT XII OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 3rd day of Makaram 1115, corresponding
to the 16th day of January 1940.*

Preamble.

WHEREAS it is expedient to amend the Cochin Nayar Act, XXIX of 1113, for the purpose hereinafter appearing; It is hereby enacted as follows.—

Short title
and com-
mencement.

1. This Act may be called the Cochin Nayar (Amendment) Act, XII of 1115 and shall come into force at once.

Amendment
to section 9.

2. In section 9 of the Cochin Nayar Act, XXIX of 1113, after the figure “8” add the following.—

“and except upon a complaint in writing made to such court by the Tahsildar or Deputy Tahsildar of the Taluk in which the offence under any of these sections has been committed.”

THE COCHIN CODE OF CIVIL PROCEDURE
(AMENDMENT) ACT

(ACT XIII OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 3rd day of Makaram 1115, corresponding
to the 16th day of January 1940.*

WHEREAS it is deemed expedient to further amend Preamble.
the Code of Civil Procedure, XXIX of 1111, to exempt
from attachment compassionate gratuities allowed to the
families of deceased Government servants; It is hereby
enacted as follows.—

1. This Act may be called the Cochin Code of Civil Short title
and com-
mencement.
Procedure (Amendment) Act, XIII of 1115 and it shall
come into force at once.

2. In clause (g) of sub-section (1) of section 52 of the Amendment
to section 52.
Cochin Code of Civil Procedure, 1111, between the words
“Government” and “and” insert a comma and the
following words.—

“compassionate gratuities allowed to the families of
deceased Government servants under the Cochin Service
Regulations”.

THE COCHIN PATENTS AND DESIGNS
(AMENDMENT) ACT

(ACT XIV OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 27th day of Makaram 1115, corresponding
to the 9th day of February 1940.*

Preamble. WHEREAS it is expedient to amend the law relating to the protection of Inventions and Designs; It is hereby enacted as follows.—

Short title and commencement. 1. This Act may be called the Cochin Patents and Designs (Amendment) Act, XIV of 1115, and shall come into force at once.

Amendment of section 2. 2. Clause (6) of section 2 of the Cochin Patents and Designs Act, XI of 1112, hereinafter referred to as the Act shall be deleted.

Amendment of section 5. 3. In section 5 of the Act—

(a) in sub-section (1)—

(i) in clause (c) after the words “the title” the words “of the specification” shall be inserted;

(ii) in clause (e) after the words “not a ” the words “manner of” shall be inserted;

(iii) for clause (f) the following clauses shall be substituted, namely.—

(f) the specification relates to more than one invention, or

(g) in the case of an application claiming priority under section 84, the specification describes and claims an invention substantially larger than or substantially different from the invention disclosed in the specification filed with the application made outside Cochin by virtue of which priority is claimed, or

(h) in the case of an application for a patent of addition under section 15, the invention described and claimed in the specification is not an improvement or

modification of that described and claimed in the original specification,";

(b) after sub-section (1) the following sub-section shall be inserted, namely.—

“(1-A). If the Controller considers, at any time before the acceptance of an application, that the invention claimed therein has been wholly or in part claimed in a specification published on or after the date which the patent applied for would bear if granted, appertaining to an application for a patent which if granted will be of prior date to the patent applied for, he may require that the applicant's specification be amended by the insertion of a reference to such other specification, by way of notice to the public;”.

(c) in sub-section (2), after the word “amendment” the words “or the insertion of a reference” shall be inserted; and

(d) in sub-section (4).—

(i) for the words “become void ” the words “be deemed to have been refused” shall be substituted;

(ii) in the proviso the words “by any period not exceeding three months” shall be omitted; and for the words “or revived, as the case may be, during, but not beyond the period of extension so requested” the words “for any period so requested not exceeding in all three months from the expiration of the said period of twelve months” shall be substituted.

4. In clause (b) of the proviso to sub-section (3) of section 9 of the Act after the word “patent” where it occurs for the first time, the words “or by any proceedings taken for obtaining a direction of the Controller under the provisions of sub-section (2)” shall be inserted.

**Amendment
of section 9.**

5. In section 13 of the said Act,—

**Amendment
of section 13.**

(a) in sub-section (3), for the words “may determine” the words “may, on application made in this behalf, determine” shall be substituted;

(b) in the proviso to sub-section (4).—

(i) the words “by any period not exceeding 3 months” shall be omitted; and

(ii) for the words “during, but not beyond, the period of extension applied for” the words “for any period so applied for not exceeding in all three months from the expiration of the time for payment” shall be substituted.

Amendment
of section 14.

6. In section 14 of the Act, for sub-sections (5) and (6) the following sub-sections shall be substituted, namely.—

“(5) The Government or the High Court when a petition is referred to it shall in considering the petition have regard to the nature and merits of the invention in relation to the public, to the profits made on the patent and to all the circumstances of the case.

(6) If it appears to the Government or to the High Court when the petition is referred to it, that the patent has not been sufficiently remunerative, the Government or the High Court, as the case may be, may by order extend the term of the patent for a further term not exceeding five or in exceptional cases ten years or may order the grant of a new patent for such term not exceeding ten years as may be specified in the order and subject to any restriction, conditions and provisions which the Government or the High Court, as the case may be, may think fit.”

Amendment
of section 28.

7. For sub-section (1) of section 28 of the Act, the following sub-section shall be substituted, namely.—

“(1) Revocation of a patent in whole or in part may be obtained on petition to or on a counter claim in a suit for infringement before the High Court on all or any of the following grounds, namely.—

(a) that the invention has been the subject of a valid prior grant of a patent in Cochin;

(b) that the true and first inventor or his legal representative or assign was not the applicant or one of the applicants for the patent;

(c) that the patent was obtained in fraud of the rights of the person applying for the revocation or of any person under or through whom he claims;

(d) that the invention was not, at the date of the patent, a manner of new manufacture or improvement;

(e) that the invention does not involve any inventive step, having regard to what was known or used prior to the date of the patent;

(f) that the invention is of no utility;

(g) that the specification does not sufficiently and fairly describe and ascertain the nature of the invention and the manner in which the invention is to be performed;

(h) that the specification does not sufficiently and clearly ascertain the scope of the invention claimed;

(i) that the patent was obtained on a false suggestion or representation;

(j) that the primary or intended use or exercise of the invention is contrary to law;

(k) that the patentee has contravened, or has not complied with, the conditions contained in the patent;

(l) that the specification does not disclose the best method of performance of the invention known to the applicant for the patent at the time when the specification was left at the Patent Office;

(m) that prior to the date of the patent, the patentee or other persons (not being authorities administering any department of the service of His Highness the Maharaja, or the agents or contractors of, or any other persons authorised in that behalf by the Government) secretly worked the invention on a commercial scale (and not merely by way of reasonable trial or experiment) in Cochin, and thereby made direct or indirect profits in excess of such amount as the Court may in consideration of all the circumstances of the case deem reasonable:

Provided that this sub-section shall have effect in relation to the ground of revocation specified—

(i) in clause (b), subject to the provisions of section 84, or

(ii) in clause (d), subject to the provisions of sub-section (1) of section 12, sub-section (2) of section 21, section 40 and section 42.”

8. (a) To sub-section (1) of section 31 of the Act, the following proviso shall be added, namely.—

Amendment
of section

“Provided that where a counter claim for revocation of the patent is made by the defendant, the suit along with the counter claim, shall be transferred to the High Court for decision.”

(b) In sub-section (2) of section 31 of the Act, for the words "this Act" the word and figure "section 28" shall be substituted.

Substitution
of new sec-
tion for sec-
tion 40.

9. For section 40 of the Act the following section shall be substituted, namely.—

Public use
or knowledge
of invention.

"40. The Public use or knowledge of an invention in Cochin before the date of the application for a patent thereon shall not invalidate the patent granted thereon if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or his legal representative or assign or has been communicated to the public in fraud of such inventor or his legal representative or assign or in breach of confidence :

Provided that such inventor or his legal representative or assign has not acquiesced in the public use of his invention, and that he applies for a patent within six months after the commencement of such use."

Substitution
of section 42.

10. For section 42 of the Act the following section shall be substituted, namely.—

Provisions as
to exhibitions
and readings
before
learned
societies.

"42. The exhibition of an invention at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the Cochin Government Gazette, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention or the publication of any description thereof, during or after the period of the holding of the exhibition, by any person elsewhere without the privity or consent of the inventor or the reading of a paper by an inventor before a learned society, or the publication of that paper in the society's transactions shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention, or the validity of any patent granted on the application :

Provided that—

(a) the exhibitor exhibiting the invention or the inventor reading the paper or authorising the publication thereof, as the case may be, gives to the Controller previous notice in the prescribed form; and

(b) the application for a patent is made before or within six months from the date of first exhibiting the invention or of the reading of the paper, as the case may be, or when it has not been so read, of the said publication."

11. In sub-sections (2) and (3) of section 49 of the Act, the words "within the prescribed time" shall be omitted. Amendment of section 49.

12. For section 56 of the Act, the following section shall be substituted, namely.— Substitution of section 56.

"56. The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the Cochin Government Gazette, or the publication of a description of the design, during the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding of the exhibition, without the privity or consent of the proprietor shall not prevent the design from being registered or invalidate the registration thereof: Provisions as to exhibitions.

Provided that—

(a) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form; and

(b) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design."

13. In sub-section (1) of section 57 of the Act.— Amendment of section 57.

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

"(aa) to import for the purposes of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof; or";

(b) in sub-clause (b), after the words "applied to any article" the words "in any class of goods in which the design is registered" shall be inserted.

Insertion of
new section
63-A.

Information
relating to
patents.

14. After section 63 of the Act the following section shall be inserted, namely.—

“63-A. A person making a request to the Controller in the prescribed manner as respects any patent specified in the request or as respects any application for a patent so specified, for information to be furnished to him by the Controller of any such matters as may be prescribed affecting that patent or application, shall be entitled, subject to the payment of the prescribed fee, to have information supplied to him accordingly.”

Amendment
of section 69.

15. In section 69 of the Act, the word “and”, in the first three places where it occurs, shall be omitted, and for the words “compelling the production of documents and awarding costs” the words “compelling the discovery and production of documents, issuing commissions for the examining of witnesses and awarding costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court” shall be substituted.

Insertion of
new section
74-A.

16. After the heading “Evidence, etc.,” and before section 75 of the Act the following section shall be inserted, namely.—

Evidence
before the
Controller.

“74-A. Subject to any rules made under section 82, in any proceeding under this Act before the Controller, the evidence shall be given by affidavit, in the absence of directions by the Controller to the contrary; but in any case in which the Controller thinks it right so to do he may take evidence *viva voce* in lieu of or in addition to evidence by affidavit or may allow any party to be cross-examined on the contents of his affidavit.”

Insertion of
new section
75-A.

17. After section 75 of the Act, the following section shall be inserted, namely.—

Evidence of
documents in
Patent
Office.

“75-A. Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the Patent Office of or from patents, specifications and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all Courts in Cochin, and in all proceedings, without further proof or production of the originals:

Provided that a Court may, if it has reason to doubt the accuracy or authenticity of the copies tendered in

evidence, require the production of the originals or such further proof as it considers necessary."

18. For section 76 of the Act, the following section shall be substituted.— **Substitution of section 76.**

"76. Copies of all such specifications, drawings and amendments left at the Patent Office, as become open to public inspection under the provisions of this Act, shall be transmitted, as soon as may be, after the printed copies thereof are available, to such authorities as the Government may appoint in this behalf, and shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities and approved by the Government." **Transmission of copies of specifications, etc., and inspection thereof.**

19. In sub-section (1) of section 84 of the Act for the words "shall be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants; and the patent or registration shall have" the words "shall, either alone or jointly with any other person, be entitled to claim that the patent that may be granted to him under this Act, for the said invention or the registration of the said design under this Act, shall be in priority to other applicants and shall have" shall be substituted. **Amendment of section 84.**

20. In the schedule to the Act, for the words "Before the expiration of" where they occur in the penultimate entry, the words "In respect of" shall be substituted. **Amendment of schedule.**

21. In section 17 of the Cochin Sea Customs Act, XII of 1109, after clause (e) the following shall be inserted, namely.— **Amendment of section 17 of Act XII of 1109.**

"(ee) goods made or produced beyond the limits of Cochin and intended for sale, and having applied thereto, a design in which copyright exists under the Cochin Patents and Designs Act, XI of 1112, in respect of the class to which the goods belong or any fraudulent or obvious imitation of such design except when the application of such design has been made with the license or written consent of the registered proprietor of the design;"

PROCLAMATION VIII OF 1115

*Promulgated by His Highness Sir Sree Rama Varma,
G. C. I. E., Maharaja of Cochin,*

*on the 6th day of Kumbham 1115 corresponding
to the 18th day of February 1940.*

WHEREAS it is expedient that the provisions of the Defence of India Act, XXXV of 1939, and the rules thereunder should be brought into force in Cochin State; We are hereby pleased to command as follows.—

1. (1) The Defence of India Act, XXXV of 1939, hereinafter referred to as the Act, and the rules with all the amendments to the Act and the rules, hitherto made or hereafter to be made, shall be in force *mutatis mutandis* in Cochin State.

(2) The Act and the aforesaid rules shall continue in force until such time as Government may, by notification in the Cochin Government Gazette, determine.

2. A reference in the Act or in the rules to an enactment or provision thereof or to any rule or notification issued under such enactment or provision in force in British India shall, where there is a parallel enactment, rule or notification in Cochin State, be construed as a reference to the latter enactment or to the corresponding provision, rule or notification thereunder.

3. The enactments in force in British India referred to in the Act or the rules for which there are no corresponding enactments in Cochin State and the rules and notifications issued thereunder shall, for the purpose and to the extent of giving effect to the Act and the rules as made applicable to Cochin State by this Proclamation, be deemed to be in force in Cochin State *mutatis mutandis*

and any reference in the Act or the rules to these enactments, rules and notifications shall be construed as references to these enactments, rules and notifications as made applicable to Cochin State by this clause:

Provided that this clause shall not apply to the enactments mentioned in the Schedule.

4. Notwithstanding the withdrawal of Proclamation III of 1115, any rules made or applied, anything done, and any action taken, in exercise of any power conferred by or under the said Proclamation shall be deemed to have been made, done or taken in exercise of the powers conferred by or under this Proclamation as if this Proclamation had effect from the 20th day of Chingam 1115, corresponding to the 5th day of September 1939.

SCHEDULE

1. The Army Act, 44 and 45 Victoria.
2. The Geneva Convention Act, 1911 (1 and 2 Geo. 5, C. 20).
3. The British Nationality and Status of Aliens Act, 1914.
4. The Indian Army Act, 1911.
5. The Indian Air Force Act, 1932.
6. The Indian Navy (Discipline) Act, 1934.

ACT No. XXXV OF 1939

PASSED BY THE INDIAN LEGISLATURE

*Received the assent of the Governor General on the
29th September, 1939*

**An Act to provide for special measures to ensure the
public safety and interest and the defence of
British India and for the trial of certain
offences**

WHEREAS an emergency has arisen which renders it necessary to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences ;

26 Geo. 5,
C. 2

AND WHEREAS the Governor General in his discretion has declared by Proclamation under sub-section (1) of section 102 of the Government of India Act, 1935, that a grave emergency exists whereby the security of India is threatened by war ;

It is hereby enacted as follows.—

CHAPTER I

Preliminary

Short title,
extent,
commence-
ment and
duration.

1. (1) This Act may be called the Defence of India Act, 1939.
- (2) It extends to the whole of British India, and it applies also—
 - (a) to British subjects and servants of the Crown in any part of India ;
 - (b) to British subjects who are domiciled in any part of India wherever they may be ;
 - (c) in respect of the regulation and discipline of any naval, military or air force raised in British India, to members of, and persons attached to, employed with, or following, that force, wherever they may be ; and
 - (d) to, and to persons on, ships and aircraft registered in British India wherever they may be.
- (3) This section shall come into force at once, and the remaining provisions of this Act shall come into force in such areas and on such date or dates as the Central Government may, by notification in the official Gazette, appoint.
- (4) It shall be in force during the continuance of the present war and for a period of six months thereafter.

CHAPTER II

Emergency Powers

Powers to
make rules.

2. (1) The Central Government may, by notification in the official Gazette, make such rules as appear to it to be necessary or expedient for securing the defence of British India, the

public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community.

- (2) Without prejudice to the generality of the powers conferred by sub-section (1), the rules may provide for, or may empower any authority to make orders providing for, all or any of the following matters, namely.—

Powers to make rules.

- (i) ensuring the safety and welfare of His Majesty's forces, ships and aircraft, and preventing the prosecution of any purpose likely to prejudice the operations of His Majesty's forces or the forces of His Majesty's allies ;
- (ii) prohibiting anything likely to prejudice the training, discipline or health of His Majesty's forces ;
- (iii) preventing any attempt to tamper with the loyalty of persons in or to dissuade (otherwise than with advice given in good faith to the person dissuaded for his benefit or that of any member of his family or any of his dependents) persons from entering, the service of His Majesty ;
- (iv) preventing anything likely to assist the enemy or to prejudice the successful conduct of war, including—
 - (a) communications with the enemy or agents of the enemy,
 - (b) acquisition, possession without lawful authority or excuse and publication of information likely to assist the enemy ;
 - (c) contribution to participation in, or assistance in, the floating of loans raised by or on behalf of the enemy, and
 - (d) advance of money to, or contracts or commercial dealings with, the enemy, enemy subjects or persons residing, carrying on business, or being, in enemy territory ;

- (v) preventing the spreading without lawful authority or excuse of false reports or the prosecution of any purpose likely to cause disaffection or alarm, or to prejudice His Majesty's relations with foreign powers, or to promote feelings of enmity and hatred between different classes of His Majesty's subjects ;

Explanation.—To point out, without [malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of His Majesty's subjects does not amount to promoting such feelings within the meaning of this clause.

- (vi) requiring the publication of news and information ;
- (vii) regulating the conduct of persons in respect of areas the control of which is considered necessary or expedient, and the removal of persons from such areas ;
- (viii) requiring any person or class of persons to comply with a scheme of defence ;
- (ix) ensuring the safety of ports, dockyards, lighthouses, lightships, aerodromes, railways, telegraphs, post offices, signalling apparatus and all other means of communication, sources of water-supply, works for the supply of water gas or electricity and any other place or thing the protection of which is necessary for the defence of British India ;
- (x) the apprehension and detention in custody of any person reasonably suspected of being of hostile origin or of having acted, acting or being about to act, in a manner prejudicial to the public safety or interest or to the defence of British India, the prohibition of such person from entering or residing or remaining in any area, and the compelling of such person to reside and remain in any area, or to do, or abstain from doing, anything ;
- (xi) the control of persons entering, departing from, or travelling in, British India, and of foreigners residing or being in British India ;

- (xii) prohibiting or regulating traffic, and the use of vessels, buoys, lights and signals, in ports and territorial, tidal and inland waters ;
- (xiii) restricting the charter of foreign vessels ;
- (xiv) regulating the structure and equipment of vessels used or likely to be used by the Central Government, for the purpose of ensuring the safety thereof and of persons therein ;
- (xv) regulating work in dockyards and shipyards in respect of the construction and repairs of vessels ;
- (xvi) prohibiting or regulating the sailings of vessels from ports, traffic at aerodromes and the movement of aircraft, and traffic on railways tramways and roads, and reserving, and requiring to be adapted, for the use of the Central Government, all or any accommodation in vessels, aircraft, railways, tramways or road vehicles for the carriage of persons, animals or goods ;
- (xvii) impressment of vessels, aircraft, vehicles and animals for transport ;
- (xviii) prohibiting or regulating the use of postal, telegraph or telephonic services, including the taking possession of such services and the delaying, seizing, intercepting or interrupting of postal articles or telegraphic or telephonic messages ;
- (xix) regulating the delivery otherwise than by postal or telegraphic service of postal articles and telegrams ;
- (xx) the control of any trade or industry for the purpose of regulating or increasing the supply of, and the obtaining of information with regard to, articles or things of any description whatsoever which can be used in connection with the conduct of war or for maintaining supplies and services essential to the life of the community ;
- (xxi) ensuring the ownership and control of mines by British subjects ;
- (xxii) controlling the use or disposal of, or dealings in, coin, bullion, securities or foreign exchange

- (xxiii) the control of any road or pathway, water-way, ferry or bridge, river, canal or other source of water-supply;
- (xxiv) the requisitioning of any property, movable or immovable, including the taking possession thereof and the issue of any orders in respect thereof ;
- (xxv) prohibiting or regulating the possession, use or disposal of—
 - (a) explosives, inflammable substances arms and ammunitions of war,
 - (b) vessels,
 - (c) wireless telegraphic apparatus,
 - (d) aircraft, and
 - (e) photographic and signalling apparatus and any means of recording information ;
- (xxvi) applying the provisions of the Sea Customs Act, 1878, and in particular section 19 VIII of 1878 thereof, to the prohibition or restriction of the import or export of goods to a particular person or a particular class of persons ;
- (xxvii) prohibiting or regulating the bringing into, or taking out of, British India and the possession, use or transmission of ciphers and other secret means of communicating information ;
- (xxviii) prohibiting or regulating the publication of inventions and designs ;
- (xxix) preventing the disclosure of official secrets ;
- (xxx) prohibiting or regulating meetings, assemblies, fairs and processions ;
- (xxxi) preventing or controlling any use, calculated to prejudice the public safety, the maintenance of public order, the defence of British India or the prosecution of war, of uniforms, flags and insignia and of anything similar thereto ;
- (xxxii) ensuring the accuracy of any report or declaration legally required of any person ;
- (xxxiii) preventing the unauthorised change of names ;
- (xxxiv) preventing anything likely to cause misapprehension in respect of the identity of any official person, official document or official property or in respect of the identity of any person,

document or property purporting to be, or resembling, an official person, official document or official property ;

(xxxv) entry into, and search of, any place reasonably suspected of being used for any purpose prejudicial to the public safety or interest, to the defence of British India or to the efficient prosecution of war, and for the seizure and disposal of anything found there and reasonably suspected of being used for such purpose.

(3) The rules made under sub-section (1) may further—

- (i) provide for the arrest and trial of persons contravening any of the rules ;
- (ii) provide that any contravention of, or any attempt to contravene, and any abetment of, or attempt to abet, the contravention of any of the provisions of the rules, or any order issued under any such provision, shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both ;
- (iii) provide for the seizure, detention and forfeiture of any property in respect of which such contravention, attempt or abetment as is referred to in the preceding clause has been committed ;
- (iv) confer power and impose duties—
 - (a) upon the Central Government or officers and authorities of the Central Government as respects any matter, notwithstanding that that matter is one in respect of which the Provincial Legislature also has power to make laws, and
 - (b) upon any Provincial Government or officers and authorities of any Provincial Government as respects any matter notwithstanding that that matter is one in respect of which the Provincial Legislature has no power to make laws ;

- (v) prescribe the duties and powers of public servants and other persons as regards preventing the contravention of, or securing the observance of the rules ;
 - (vi) provide for preventing obstruction and deception of, and disobedience to, any person acting, and interference with any notice issued, in pursuance of the rules ;
 - (vii) prohibit attempts by any person to screen from punishment any one, other than the husband or wife of such person, contravening any of the rules ;
 - (viii) empower or direct any authority to take such action as may be specified in the rules or as may seem necessary to such authority for the purpose of ensuring the public safety or interest or the defence of British India ;
 - (ix) provide for charging fees in respect of the grant or issue of any licence, permit, certificate or other document for the purposes of the rules.
- (4) The Central Government may by order direct that any power or duty which by rule under sub-section (1) is conferred or imposed upon the Central Government shall in such circumstances and under such conditions, if any, as may be specified in the direction be exercised or discharged—
- (a) by any officer or authority subordinate to the Central Government, or
 - (b) whether or not the power or duty relates to a matter with respect to which a Provincial Legislature has power to make laws, by any Provincial Government or by any officer or authority subordinate to such Government, or
 - (c) by any other authority.
- (5) A Provincial Government, may by order direct that any power or duty which by rule made under sub-section (1) is conferred or imposed on the Provincial Government, or which, being by such rule conferred or imposed on the Central Government, has been directed under sub-section (4) to be exercised or discharged by the Provincial Government, shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer or authority,

not being an officer or authority subordinate to the Central Government.

3. Any rule made under section 2, and any order made under any such rule, shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

Effect of rules, etc., inconsistent with other enactments.

4. The Central Government may, by notification in the official Gazette, direct by general or special order that any persons who, not being members of His Majesty's forces, are attached to, or employed with, or following, those forces, shall be subject to naval, military or air force law, and thereupon such persons shall be subject to discipline, and liable to punishment for offences, under the Indian Navy (Discipline Act, 1934, the Indian Army Act, 1911, or the Indian Air Force Act, 1932, as the case may require, as if they were included in such class of persons subject to any of those Acts as may be specified in the notification.

Special powers to control civilian personnel employed in connexion with His Majesty's forces.

5. (1) If any person, with intent to wage war against His Majesty or to assist any State at war with His Majesty, contravenes any provision of the rules made under section 2 or any order issued under any such rule, he shall be punishable with death, or transportation for life, or imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Enhanced penalties.

(2) If any person—

(a) contravenes any such provision of, or any such rule or order made under, the Indian Aircraft Act, 1934, as may be notified in this behalf by the Central Government, or

XXII of 1934.

(b) in any area notified in this behalf by a Provincial Government, contravenes any such provision of, or any such rule made under, the Indian Arms Act, 1878, the Indian Explosives Act, 1884, or the Explosive substances Act, 1908, as may be notified in this behalf by the Provincial Government,

XI of 1878.
IV of 1884.
VI of 1908.

he shall, notwithstanding anything contained in any of the aforesaid Acts or rules made thereunder, be punishable with imprisonment for a term which may extend to five years, or, if his intention is to assist any State at war with His Majesty or to wage war against His Majesty, with death, transportation for life, or imprisonment for a term which may extend to ten years. and shall in either case also be liable to fine.

- (3) For the purposes of this section, any person who attempts to contravene, or abets or attempts to abet, or does any act preparatory to, a contravention of, a provision of any law, rule or order, shall be deemed to have contravened that provision.

**Temporary
Amendments
of Acts.**

6. During the continuance of this Act,—

**1 & 2 Geo. 5,
c. 20.**

- (1) section 1 of the Geneva Convention Act, 1911, shall have effect in British India as if, in sub-section (1) thereof, for the words "shall be liable on summary conviction to a fine not exceeding ten pounds", the words "shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to a fine" had been substituted;

- (2) section 5 [of the Indian Official Secrets Act, 1923, shall have effect as if—

XIX of 1923.

- (a) in sub-section (1) thereof, after the words "in his possession or control" the words "any information likely to assist the enemy, as defined in the rules made under the Defence of India Act, 1939, or" had been inserted, and after the words "in such a place" the words "or which relates to or is used in, a protected area, as defined in the rules made under the Defence of India Act, 1939, or relates to anything in such an area," had been inserted; and

- (b) for sub-section (4) thereof, the following sub-section had been substituted, namely.—

"(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to five years, or, if such offence is committed with intent to assist any State at war with His Majesty, or to wage war against His Majesty, with death, or transportation for life, or imprisonment for a term which may extend to ten years, and shall in either case also be liable to fine."

- (3) the Indian Press (Emergency Powers) Act, 1931, shall have effect as if in sub-section (1) of section 4 thereof, after clause (b), the following word and clause had been inserted, namely.—

XXIII of 1931.

"or

- (bb) directly or indirectly convey any 'confidential information', any 'information likely to assist the enemy' or any 'prejudicial report', as

defined in the rules made under the Defence of India Act, 1939, or are calculated to instigate the contravention of any of those rules.”;

(4) the Indian Aircraft Act, 1934, shall have effect as if—

XXII of 1934.

(a) at the end of clause (r) of sub-section (2) of section 5, the following words had been inserted, namely.—

“including the taking of steps necessary to secure compliance with, or to prevent contravention of, the rules regulating such matters, or, where any such rule has been contravened, to rectify, or to enable proceedings to be taken in respect of, such contravention”;

(b) in clause (b) of sub-section (1) of section 8, for the words, brackets, letters and figures “clause (h) or clause (i) of sub-section (2) of section 5”, the words, brackets, letters and figures “clauses (d), (e), (h), (i), (k) or (l) of sub-section (2) of section 5, or the commission of an offence punishable under section 11,” had been substituted;

(c) in section 11, after the words “in the air” the words “or in such a manner as to interfere with any of His Majesty’s forces, ships or aircraft” had been inserted;

(d) in section 13, for the words, brackets, figures and letters “clause (i) or clause (l) of sub-section (2) of section 5” the words, brackets, figures and letters “clauses (c), (d), (e), (h), (i), (j), (k) or (l) of sub-section (2) of section 5, or punishable under section 11” had been substituted; and

(e) section 14 had been omitted; and

(5) The Indian Navy (Discipline) Act, 1934, shall have effect
XXXIV of 1934. as if for section 90 of the Naval Discipline Act as set forth in the First Schedule to the first named Act the following section had been substituted, namely.—

“90. (1) If any person who would not otherwise be subject to this Act enters into an engagement with the Central Government to serve His Majesty—

(a) in a particular ship, or

(b) in such particular ship or in such ships as the Officer Commanding the Indian Navy, or any officer empowered in this behalf by the Officer

Commanding the Indian Navy, may from time to time determine,

and agrees to become subject to this Act upon entering into the engagement, that person shall, so long as the engagement remains in force, and notwithstanding that for the time being he may not be serving in any ship, be subject to this Act, and the provisions of this Act shall apply in relation to that person, as if, while subject to this Act, he belonged to His Majesty's navy and were borne on the books of one of His Majesty's ships in commission.

- (2) The Central Government may by order direct that, subject to such exceptions as may in particular cases be made by or on behalf of the Officer Commanding the Indian Navy, persons of any such class as may be specified in the order shall, while subject to this Act by virtue of this section, be deemed to be officers or petty officers, as the case may be, for the purposes of this Act or of such provisions of this Act as may be so specified; and any such order may be varied or revoked by a subsequent order."

Saving and temporary amendment of Act VIII of 1938.

7. (1) Notwithstanding anything contained in the Indian Tea Control Act, 1938, the Central Government may appoint any person to be an additional member of, and to act as Chairman of, the Indian Tea Licensing Committee during the continuance of this Act, and on such appointment being made and until this Act ceases to be in force, the Chairman of the said Committee elected under section 5 of that Act shall cease to exercise the functions of Chairman.

- (2) If in pursuance of any scheme for the control of import of Indian tea into the United Kingdom, the Central Government considers it necessary or expedient so to do, it may by order direct the Indian Tea Licensing Committee to apportion the requirement of the United Kingdom among the tea estates in accordance with such principles as may be laid down in the order, and the said Committee shall comply with such order.

- (3) If at any time during the continuance of this Act, the agreement referred to in the preamble to the Indian Tea Control Act, 1938, is determined or otherwise ceases to be valid as between the parties thereto, the provisions of that Act shall, notwithstanding the said determination or invalidity of the agreement, continue in force:

Provided that nothing in this sub-section shall be construed as continuing the Indian Tea Control Act, 1938 in force after the 31st day of March, 1943.

CHAPTER III

Special Tribunals

8. (1) The Provincial Government may for the whole or any part of the Province constitute special Tribunals which shall consist of three members appointed by the Provincial Government. **Constitution of Special Tribunals.**

- (2) No person shall be appointed as a member of a special Tribunal unless he—

(a) is qualified under sub-section (3) of section 220 of the Government of India Act, 1935, for appointment as a Judge of a High Court; or

26 Geo. 5, c. 2

(b) has for a total period of not less than three years exercised, whether continuously or not, the powers under the Code of Criminal Procedure, 1898 (hereafter in this Chapter referred to as the Code) of any one or more of the following, namely.

V of 1898.

(i) Sessions Judge, Additional Sessions Judge, Chief Presidency Magistrate, Additional Chief Presidency Magistrate.

(ii) District Magistrate, Additional District Magistrate.

- (3) At least one member of a Special Tribunal shall be qualified for appointment thereto under clause (a) of sub-section (2), and where only one member is so qualified under that clause, at least one other member shall be qualified for appointment under clause (b) of that sub-section by virtue of having exercised powers exclusive of those specified in sub-clause (ii) of the said clause (b).

9. The Provincial Government may, by general or special order, direct that a Special Tribunal shall try any offence— **Jurisdiction of Special Tribunals.**

(a) under any rule made under section 2, or

(b) punishable with death, transportation or imprisonment for a term which may extend to seven years,—

triable by any Court having jurisdiction within the local limits of the jurisdiction of the Special Tribunal, and may in any such order direct the transfer to the Special Tribunal of any particular case from any other Special Tribunal or any other Criminal Court not being a High Court.

**Procedure
of Special
Tribunals.**

10. (1) A Special Tribunal may take cognizance of offences without the accused being committed to it for trial.
- (2) Save in cases of trials of offences punishable with death or transportation for life, it shall not be necessary in any trial for a special Tribunal to take down the evidence at length in writing, but the Special Tribunal shall cause a memorandum of the substance of what each witness deposes to be taken down in the English language, and such memorandum shall be signed by a member of the Special Tribunal and shall form part of the record.
- (3) A special Tribunal shall not be bound to adjourn any trial for any purpose unless such adjournment is, in its opinion, necessary in the interests of justice.
- (4) A special Tribunal shall not, merely by reason of a change in its members, be bound to recall and rehear any witness who has given evidence, and it may act on the evidence already recorded by or produced before it.
- (5) After an accused person has once appeared before it, a Special Tribunal may try him in his absence if, in its opinion, his absence has been brought about by the accused himself for the purpose of impeding the course of justice, or if the behaviour of the accused in Court has been such as, in the opinion of the Special Tribunal, to impede the course of justice.
- (6) In the event of any difference of opinion among the members of a special Tribunal, the opinion of the majority shall prevail.
- (7) The provincial Government may, by notification in the official Gazette, make rules providing for—
- (i) the times and places at which Special Tribunals may sit; and
 - (ii) the procedure to be adopted in the event of any member of a Special Tribunal being prevented from attending throughout the trial of any accused person.
- (8) A Special Tribunal shall, in all matters in respect to which no procedure has been prescribed by this Act or by rules made thereunder, follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates.

**Exclusion of
public from
proceedings
of Special
Tribunals.**

11. In addition, and without prejudice, to any powers which a Special Tribunal may possess by virtue of any law for the time being in force to order the exclusion of the public from any proceedings, if at any stage in the course of a trial of any person before a Special Tribunal application is made by the prosecution, on the ground that the publication of

any evidence to be given or of any statement to be made in the course of the trial would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Special Tribunal may make an order to that effect, but the passing of sentence shall in any case take place in public.

12. A special Tribunal shall have all the powers conferred by the Code on a Court of Session exercising original jurisdiction. **Powers of Special Tribunals.**
13. (1) A special Tribunal may pass any sentence authorised by law. **Sentences of Special Tribunals.**

(2) A person sentenced by a special Tribunal—

- (a) to death or transportation for life, or
- (b) to imprisonment for a term extending to ten
XIX of 1923. years under section 5 of this Act or under sub-
section (4) of section 5 of the Indian Official
Secrets Act, 1923, as amended by section 6 of
this Act—

shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed, but save as aforesaid and notwithstanding the provisions of the Code, or of any other law for the time being in force, or of any thing having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence of a special Tribunal, and no Court shall have authority to revise such order or sentence, or to transfer any case from a special Tribunal, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of a special Tribunal.

- (3) The powers conferred upon the Provincial Government and the Governor General by Chapter XXIX of the Code shall apply in respect of a person sentenced by a special Tribunal.

CHAPTER IV

Supplemental

14. Save as otherwise expressly provided by or under this Act, the ordinary Criminal and Civil Courts shall continue to exercise jurisdiction. **Jurisdiction of ordinary Courts.**
15. Any authority or person acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the purpose of ensuring the public safety and interest and the defence of British India. **Ordinary avocations of life to be interfered with as little as possible.**

Savings as to orders.

16. (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

(2) Where an order purports to have been made and signed by 1 of 1872. any authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Indian Evidence Act, 1872, presume that such order was so made by that authority.

Protection of action taken under the Act.

17. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Protection from prosecution, etc., of members of military and police forces of Indian States while serving His Majesty. Compensation to be paid in accordance with certain principles for compulsory acquisition of immovable property, etc.

18. Every provision of law for the time being in force which gives protection, whether specifically or otherwise, to members of His Majesty's military forces or of the police forces in British India from any prosecution or other legal proceedings or from any other liability shall apply also to members of the military or police forces respectively of any Indian State, while attached to, operating with or assisting any of His Majesty's military forces or any police force in British India.

19. (1) Where by or under any rule made under this Act any action is taken of the nature described in sub-section (2) of section 299 of the Government of India Act, 1935, there shall be paid compensation, the amount of which shall be determined in the manner, and in accordance with the principles, hereinafter set out, that is to say. —

26 Geo. 5, c. 2.

(a) Where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement.

(b) Where no such agreement can be reached, the Central Government shall appoint as arbitrator a person qualified under sub-section (3) of section 220 of the above-mentioned Act for appointment as a Judge of a High Court.

(c) The Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property acquired, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose.

- (d) At the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation.
- (e) The arbitrator in making his award shall have regard to—
- (i) the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as the same can be made applicable; and
 - (ii) whether the acquisition is of a permanent or temporary character.
- (f) An appeal shall lie to the High Court against an award of an arbitrator except in cases where the amount thereof does not exceed an amount prescribed in this behalf by rule made by the Central Government.
- (g) Save as provided in this section and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this section.
- (2) The Central Government may make rules for the purpose of carrying into effect the provisions of this section.
- (3) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—
- (a) the procedure to be followed in arbitrations under this section;
 - (b) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal;
 - (c) the maximum amount of an award against which no appeal shall lie.

20. In this Act, unless there is anything repugnant in the subject or context, the expression "Provincial Government" means, in relation to a Chief Commissioner's Province, the Chief Commissioner. **Definition.**

21. The Defence of India Ordinance, 1939 is hereby repealed; and any rules made, anything done and any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been made, done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 3rd day of September, 1939. **Repeal and saving.**

Ord. V of 1939.

THE COCHIN CENSUS ACT
(ACT XV OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 11th day of Kumbham 1115 corresponding
to the 23rd day of February 1940.*

Preamble.

WHEREAS it has been determined to take a Census of Cochin State during the year 1116, and whereas it is expedient to provide for certain matters in connection with the taking of such census; It is hereby enacted as follows.—

**Short title
and extent.**

1. (1) This Act may be called the Cochin Census Act, XV of 1115.
- (2) It extends to the whole of Cochin State.

**Appointment
of Census
staff.**

2. (1) Government may appoint persons as Census officers to take, or aid in, or supervise the taking of, the census.
- (2) Government may appoint a Census Commissioner to control census operations generally and they may delegate to such Commissioner the power of appointing Census officers conferred by sub-section (1).
- (3) A declaration in writing signed by any authority authorised by Government in this behalf that any person has been duly appointed a Census officer for any local area shall be conclusive proof of such appointment.

**Status of
Census au-
thorities as
public
servants.**

3. The Census Commissioner and all Census officers shall be deemed to be public servants within the meaning of the Cochin Penal Code.

**Discharge of
duties of
Census
officer in
certain cases.**

4. (1) (a) Every officer in command of any body of men belonging to His Majesty's naval, military or air forces or of any vessel of war,

(b) every person (except a pilot or harbour-master) having charge or control of a vessel,

- (c) every person in charge of a mental hospital, hospital, work-house, prison, reformatory or lock-up or of any public, charitable, religious or educational institution,
- (d) every keeper, secretary or manager of any hotel, boarding-house, lodging-house, emigration depot or club,
- (e) every manager or officer of a railway or any commercial or industrial establishment, and
- (f) every occupant of immovable property wherein at the time of the taking of the census persons are living,—

shall, if so required by the District Magistrate or by such authority as Government may appoint in this behalf, perform such of the duties of a Census officer in relation to the persons who at the time of the taking of the census are under his command or charge, or are inmates of his house, or are present on or in such immovable property, or are employed under him, as such Magistrate or authority may, by written order, direct.

- (2) All the provisions of this Act relating to Census officers shall apply, so far as may be to all persons while performing such duties under this section, and any person refusing or neglecting to perform any duty which under this section he is directed to perform shall be deemed to have committed an offence under section 173 of the Cochin Penal Code.

5. The District Magistrate, or such authority as Government may appoint in this behalf for any local area may, by written order which shall have effect throughout the State or of such local area, as the case may be, call upon—

Power to call upon certain persons to give assistance.

- (a) all owners and occupiers of land, tenure-holders, and farmers and assignees of land revenue, or their agents, and
- (b) all members of municipal, *panchayat* and other local authorities and officers and servants of such authorities,

to give such assistance as shall be specified in the order towards the taking of a census of the persons who are, at the time of the taking of the census, on the lands of such owners, occupiers, tenure-holders, farmers and assignees, or within the areas for which such local authorities are established, as the case may be, and the persons to whom an order under this section is directed shall be bound to obey it and shall, while acting in pursuance of such order, be deemed to be public servants within the meaning of the Cochin Penal Code.

Asking of questions and obligation to answer.

6. (1) A Census officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by Government and published in the Cochin Government Gazette, he may be directed to ask.
- (2) Every person of whom any question is asked under sub-section (1) shall be legally bound to answer such question to the best of his knowledge or belief:

Provided that no person shall be bound to state the name of any female member of his household, and no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention.

Occupier to permit access and affixing of numbers.

7. Every person occupying any house, enclosure, vessel or other place shall allow Census officers such access thereto as they may require for the purposes of the census and as, having regard to the customs of the country, may be reasonable, and shall allow them to paint on, or affix to, the place such letters, marks or numbers as may be necessary for the purposes of the census.

Occupier or manager to fill up schedule.

8. (1) Subject to such orders as Government may issue in this behalf, a Census officer may, within the local area for which he is appointed, leave or cause to be left a schedule at any dwelling-house or with the manager or any officer of any commercial or industrial establishment, for the purpose of its being filled up by the occupier of such house or of any specified part thereof or by such

manager or officer with such particulars as Government may direct regarding the inmates of such house or part thereof, or the persons employed under such manager or officer, as the case may be, at the time of the taking of the census.

- (2) When such schedule has been so left, the said occupier, manager or officer, as the case may be, shall fill it up or cause it to be filled up to the best of his knowledge or belief so far as regards the inmates of such house or part thereof or the persons employed under him, as the case may be, at the time aforesaid and shall sign his name thereto and, when so required, shall deliver the schedule so filled up and signed to the Census officer or to such person as the Census officer may direct.

- 9 (a) Any Census officer or any person lawfully required to give assistance towards the taking of a census who refuses or neglects to use reasonable diligence in performing any duty imposed upon him or in obeying any order issued to him in accordance with this Act or any rule made thereunder, or any person who hinders or obstructs another person in performing any such duty or in obeying any such order, or
- (b) any Census officer who intentionally puts any offensive or improper question or knowingly makes any false return or, without the previous sanction of Government discloses any information which he has received by means of, or for the purposes of, a census return, or
- (c) any person who intentionally gives a false answer to, or refuses to answer to the best of his knowledge or belief, any question asked of him by a Census officer which he is legally bound by section 6 to answer, or
- Penalties.

- (d) any person occupying any house, enclosure, vessel or other place who refuses to allow a Census officer such reasonable access thereto as he is required by section 7 to allow, or
- (e) any person who removes, obliterates, alters or damages before the 31st day of March 1941 any letters, marks or numbers which have been painted or affixed for the purposes of the census, or
- (f) any person who, having been required under section 8 to fill up a schedule, knowingly and without sufficient cause fails to comply with the provisions of that section, or makes any false return thereunder,—

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

**Sanction
required for
prosecutions.**

10. No prosecution under this Act shall be instituted except with the previous sanction of Government or of any authority authorised in this behalf by Government.

**Operation of
other laws
not barred.**

11. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Act:

Provided that no such prosecution shall be instituted except with the previous sanction referred to in section 10.

Jurisdiction.

12. No Court inferior to that of a Magistrate of the second class shall try, whether under this Act or under any other law, anything which constitutes an offence under this Act.

**Records of
census not
open to
inspection
nor admis-
sible in
evidence.**

13. No person shall have a right to inspect any book, register or record made by a Census officer in the discharge of his duty as such, or any schedule delivered under section 8 and notwithstanding anything to the contrary in the Indian Evidence Act as made applicable to Cochin State, no entry in any such book, register, record or

schedule shall be admissible as evidence in any civil proceeding whatsoever or in any criminal proceeding other than a prosecution under this Act or any other law for any act or omission which constitutes an offence under this Act.

14. (1) Government may make rules for carrying out the purposes of this Act. Power to make rules.

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

(a) for the appointment of Census officer and of persons to perform any of the duties of Census officers or to give assistance towards the taking of a census, and for the general instructions to be issued to such officers and persons;

(b) for the enumeration of persons employed on railways and their families and of other classes of the population for which it may be necessary or expedient to make special provision.

THE COCHIN POLICE (AMENDMENT) ACT**(ACT XVI OF 1115)**

*Passed by His Highness the Maharaja of Cochin
on the 11th day of Kumbham 1115 corresponding
to the 23rd day of February 1940.*

Preamble.

WHEREAS it is expedient further to amend the Cochin Police Act, I of 1058; It is hereby enacted as follows.—

**Short title,
extent, and
commence-
ment.**

1. (1) This Act may be called the Cochin Police (Amendment) Act, XVI of 1115.
- (2) It shall extend to the whole of Cochin State and shall come into force at once.

**Insertion of
a new
section.**

2. After section 24-A of the Cochin Police Act, I of 1058, the following section shall be inserted.—

**Penalty for
violation of
rules.**

“24-B. Any person who acts in contravention of any rule made under section 24-A shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees or to imprisonment not exceeding eight days and it shall be lawful for any Police officer to take into custody without warrant any person who within view commits breach of any such rule.”

THE COCHIN MAKKATHAYAM THIYYA ACT
(ACT XVII OF 1115)

*Passed by His Highness the Maharaja of Cochin on
the 18th day of Kumbham 1115, corresponding
to the 1st day of March 1940.*

WHEREAS it is expedient to define, regulate and amend the law of marriage, maintenance, guardianship, inheritance and succession of the Makkathayam Thiyyas; It is hereby enacted as follows.—

CHAPTER I.

1. This Act may be called the Cochin Makkathayam Thiyya Act, XVII of 1115, and it shall come into force at once.

**Short title
and com-
mencement.**

2. It shall apply to all Thiyyas domiciled in Cochin except the Chittur Taluk who follow Makkathayam and to such Thiyyas, whether so domiciled or not, as have or shall have marital relations with them.

Application.

3. Nothing in this Act shall confer any right on the parties to a marriage dissolved before this Act comes into force.

Saving.

4. Except as provided for by any other law for the time being in force, the rules herein contained shall constitute the law of Cochin applicable to all cases of intestate succession among Thiyyas.

**Act to con-
stitute law in
cases of
intestate
succession.**

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

Definitions.

(i) "Thiyya" includes Ezhuva, Chova, Billava, Marayan, Thandan and others recognised as such.

(ii) "Son," "daughter" or any word which expresses relationship denotes only a legitimate relative.

When owing to any physical defect or deformity, it is not possible to ascertain the sex of any of the heirs of an intestate, such heirs shall, for the purpose of this Act, be regarded as a female.

**Kindred or
consanguinity.**

(iii) Kindred or consanguinity is the connection or relation of persons descended from the same stock or ancestor.

Lineal consanguinity.

Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather or great-grandfather and so upwards in the direct ascending line; or between a man, his son, grandson, great-grandson, and so downwards in the direct descending line.

Every generation constitutes a degree, either ascending or descending. A man's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third.

**Collateral
consanguinity.**

Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other.

For the purposes of ascertaining in what degree of kindred any collateral relative stands to a person deceased, it is proper to reckon from the person deceased to the common stock, and then downwards to the collateral relative, allowing a degree for each person, both ascending and descending.

CHAPTER II.

MARRIAGE AND ITS DISSOLUTION.

Marriage.

6. The conjugal relation of a Thiyya male or female with a Thiyya female or male, subject to the restrictions of consanguinity and affinity recognised by the community, openly solemnised before the date on which this Act comes into force and subsisting on such date, or so solemnised after the date on which this Act comes into force shall be deemed to be a valid marriage for all legal purposes :

Provided that no conjugal union, solemnised after the date on which this Act comes into force, shall, in the case of a male who has not completed 18 years of age or of a female who has not completed 14 years of age, be deemed to be a legally valid marriage.

Conjugal union may be openly solemnised in any of the following ways.—

- (a) by the tying of the Mangalya Sutram,
- (b) by the presentation of cloth to the female by the male,
- (c) by exchange of rings,
- (d) by mutual garlanding, and
- (e) by mutual consent evidenced by a registered instrument attested by not less than two witnesses.

7. Whoever, being a male above 18 years of age, solemnises a marriage declared invalid under section 6 shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to Rs. 500 or with both.

Punishment for solemnisation of marriage declared invalid under section 6.

8. Where, after the date of this Act, a marriage declared invalid under section 6 is solemnised by a minor, any person having charge of such minor, whether as parent or guardian or in any other capacity, who does any act to promote the marriage or permits it to be solemnised shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to Rs. 500 or with both.

Punishment for permitting marriage invalid under section 6.

9. No court other than that of the District Magistrate shall take cognisance of or try any offence under sections 7 and 8.

District Magistrate to try offences under sections 7 and 8

10. No court shall take cognisance of any offence under sections 7 and 8, save upon a complaint made within one year of the commission of such offence.

Complaint to be filed within one year of the offence.

Subsequent
marriage
void.

11. The subsequent marriage of a male or female during the continuance of a prior marriage and performed after the commencement of this Act is void.

Illustrations.

(a) C, a male, marries B, who has married A during the continuance of A's marriage. B and C are liable to punishment for bigamy under section 474, Cochin Penal Code, and abetment thereof respectively.

(b) C, a male, who has married A, marries B during the continuance of A's marriage. C and B are liable to punishment for bigamy under section 474, Cochin Penal Code, and abetment thereof respectively.

Polyandrous
marriage
performed
after this
Act void.

12. A polyandrous marriage performed after this Act shall be void.

Dissolution
of marriage.

13. Marriage is dissolved only in one of the following ways.—

(i) by the death of either party,

(ii) by mutual consent evidenced by a registered instrument attested by not less than two witnesses, and

(iii) by a formal order of dissolution as hereinafter provided.

Petition for
dissolution of
marriage.

14. A husband or wife, but not any person as the next friend of a minor wife, may present a petition for dissolution of the marriage under section 13, clause (iii), in the Court of the District Munsiff, within the local limits of whose jurisdiction the respondent resides, carries on business, or personally works for gain or if the respondent resides, carries on business or personally works for gain in any place outside Cochin, in the Court of the District Munsiff within whose jurisdiction the petitioner resides or the marriage was solemnised; and where the petitioner is the husband, he shall be liable to pay reasonable compensation to the respondent.

15. What is reasonable compensation shall, in case of dispute, be determined by the Court after an enquiry into the position, means and circumstances of the parties, but without going into the grounds of the proposed dissolution, and it shall in no case exceed Rs. 2,000.

Reasonable compensation how determined.

16. A copy of such petition as aforesaid shall be served on the respondent at the expense of the petitioner and in the manner provided for the service of summons on a defendant in the Code of Civil Procedure.

Notice to be given to the respondent.

17. Six months after the service of the copy as aforesaid, if the petition is not withdrawn in the meantime, the Court shall declare, in writing, the marriage dissolved and then determine and decree the amount of compensation. The dissolution shall take effect from the date of the order declaring it.

When and how the order of dissolution passed.

The order decreeing compensation shall be tantamount to a decree and shall be executable as such and shall, subject to the payment of Court Fee on the amount in dispute, be appealable under the Code of Civil Procedure.

Decree awarding compensation executable and appealable.

18. No Court shall entertain a suit for restitution of conjugal rights or for judicial separation between parties.

Restitution and judicial separation not to be sued for.

CHAPTER III.

MAINTENANCE AND GUARDIANSHIP.

19. The wife and minor children, except married minor daughters under the guardianship of their husbands, shall be entitled to be maintained by the husband or the father as the case may be:

Maintenance of wife and minor children.

Provided that the wife shall not be entitled to maintenance if she refuses to live with the husband without just cause.

20. The husband shall be the legal guardian of his minor wife and the father of his minor children other than married daughters under the guardianship of their

Guardianship of minor wife and children.

husbands and of his grandchildren by his widowed minor daughters in respect of their person and property.

Guardian-
ship of
minor
children
by former
husbands.

21. Where the wife has minor children by a former husband, deceased, she shall be the legal guardian in respect of their person and property.

CHAPTER IV.

SUCCESSION.

Testament-
ary power.

22. A Thiyya of sound mind, not being a minor, may dispose of by will, in writing the whole of his or her property and may appoint an executor or executors to administer the will.

Succession to
a deceased
person's im-
movable and
movable pro-
perty respec-
tively.

23. Succession to immovable property situated in Cochin and belonging to a Thiyya is regulated by this Act wherever he may have had his domicile at the time of his death.

Succession to the movable property of a deceased Thiyya is regulated by the law of the country in which he had his domicile at the time of his death.

Succession to
movable pro-
perty in
Cochin in the
absence of
proof of
domicile.

24. If a Thiyya dies leaving movable property in Cochin, in the absence of proof of any domicile elsewhere, succession to the property is regulated by this Act.

No distinc-
tion between
those born
and those
conceived in
the life-time
of the deceas-
ed.

25. For the purpose of succession there is no distinction between those who were actually born in the life-time of a person deceased and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.

Property held
to be similar.

26. For the purpose of succession there is no distinction between the self-acquired property and the ancestral property or between the property of a male and that of a female except as otherwise provided by this Act.

OF INTESTACY.

27. A man is considered to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

As to what property deceased considered to have died intestate.

Illustrations.

(a) A has left no will. He has died intestate in respect of the whole of his property.

(b) A has left a will, whereby he has appointed B his executor, but the will contains no other provisions. A has died intestate in respect of the distribution of his property.

(c) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(d) A has bequeathed Rs. 1,000 to B and Rs. 1,000 to the eldest son of C and has made no other bequest and has died leaving the sum of Rs. 2,000 and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of Rs. 1,000.

28. Property in respect of which a Thiyya has died intestate devolves upon the wife or husband or upon those who are of the kindred of the deceased, in the order and according to the rules herein prescribed.

Devolution of intestate property.

29. Where the intestate has left more than one widow, the distribution of inheritance referred to in sections 30, 31, 32 and 33 shall be made as if there is only one widow, all the widows together taking equally only one widow's share.

Where there are more widows than one.

30. Where the intestate has left a widow, if he has also left a son, or lineal descendant of a son, a share equal to that of a son shall belong to the widow.

When widow and son or lineal descendant of son are left.

31. Where the intestate has left a widow, if he has also left lineal descendants, but no son or a lineal descendant of a son, a share equal to that of a daughter shall belong to her.

Where widow and daughter or daughter's lineal descendants are left.

Where no lineal descendants are left, widow's share.

32. If the intestate has left no lineal descendants but has left his father or mother or paternal grandfather or any lineal descendants of his father or paternal grandfather, one half of his property shall belong to the widow.

When widow gets entire property.

33. If he has left none of the kindred referred to in sections 31 and 32 the whole of his property shall belong to the widow.

Widower's rights same as widow's.

34. The husband surviving his wife has the same rights in respect of her property if she dies intestate, as the widow has in respect of her husband's property, if he dies intestate.

Where no widow but lineal descendants left.

35. Where the intestate has left no widow, his property devolve on his lineal descendants, or to those who are of kindred to him, not being lineal descendants, according to the rules hereinafter contained.

DISTRIBUTION OF INTESTATE'S PROPERTY.

(a) Where he has left lineal descendants.

Rules of distribution.

36. The rules for the distribution of the intestate's property (after deducting the widow's share if he has left any widow) among his lineal descendants are as follows.—

The nearer excludes the remote.

37. Every lineal descendant of the intestate who survives him excludes from inheritance his own descendants.

Where only one lineal descendant.

38. If the intestate has left surviving him only one lineal descendant not excluded by the operation of the preceding section, the property shall belong to him.

Where more than one lineal descendant.

39. If the intestate has left more than one such lineal descendant, they shall divide the inheritance as follows.—

(a) If all of them are the sons of the intestate, or if all of them are his daughters, equally.

(b) If some of them are his sons and others are his daughters, each daughter shall take a half of the share of a son if the intestate is a male, and if the intestate is a female all children shall take equally.

- (c) If some or all of them are related to him more remotely than in the first degree, the property shall be divided into such a number of shares as shall correspond with the number of his children who either survived the intestate or died before the intestate leaving lineal descendants surviving the intestate; the shares so allotted shall bear the same ratio to each other as if such children had all survived the intestate; the children of the intestate, if any, who survived him, shall take the shares so allotted to them; the share of each of the remaining children shall be divided among his or her lineal descendants per stirpes and in such manner that the share allotted to a female who either survived the intestate or died before him leaving lineal descendants surviving him, shall be equal to that of each of such her sisters and a half of each of such her brothers, if the intestate is a male, and equal to that of her brothers and sisters if the intestate is a female, and the share allotted to a male, who either survived the intestate or died before the intestate leaving lineal descendants surviving the intestate shall be equal to that of each of such his brothers, as either survived the intestate or died before the intestate, leaving lineal descendants surviving the intestate.

Illustration to (c).

A, a male, has three children, Govindan, Gopalan and Narayani. Govindan has two sons, Gopalan has two daughters and Narayani has three children Thilakan, Nalini and Leela, of whom Thilakan has two children, Sugathan and Sujatha. Gopalan, Narayani and Thilakan predecease A. The property of A shall be divided as follows.— $\frac{2}{5}$ to Govindan; Govindan's children are excluded; $\frac{1}{5}$ to each of the daughters of Gopalan; $\frac{1}{4}$

of $\frac{1}{5}$ to Nalini; $\frac{1}{4}$ of $\frac{1}{5}$ to Leela; $\frac{2}{3}$ of $\frac{1}{2}$ of $\frac{1}{5}$ to Sugathan and $\frac{1}{3}$ of $\frac{1}{2}$ of $\frac{1}{5}$ to Sujatha.

(b) Where the intestate has left no lineal descendants—

Where no
lineal
descendants
are left.

40. Where the intestate has left no lineal descendants the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) are as follows.—

Father's and
mother's
rights.

41. If the intestate's father and mother are living they shall take equal shares of the property. If one of them only is living, he or she shall take the whole.

Where
parents are
dead leaving
lineal
descendants
of father.

42. If the intestate's parents are dead, the property shall be inherited by the lineal descendants of the father in the same manner as it would if the father survived him and died intestate immediately after, leaving no widow.

Right of
paternal
grand-
parents.

43. If the intestate's parents are dead, and there are no lineal descendants of the father, the property shall go to the paternal grand-parents of the intestate in equal shares. If one of them only is living he or she shall take the whole.

Where
paternal
grand-
parents are
dead.

44. If the intestate's paternal grand-parents are dead, the property shall be inherited by the lineal descendants of the paternal grandfather in the same manner as if the paternal grandfather survived the intestate and died intestate immediately after, leaving no widow.

Where
intestate
left none of
the foregoing
kindred.

45. Where the intestate has left no widow nor any kindred capable of inheriting under the preceding rules, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

Illegitimate
children.

46. Notwithstanding anything herein contained to the contrary, illegitimate children or their lineal descendants are entitled to inherit the property of their mother, subject to the share which devolves on her husband if any as if they were legitimate.

**THE COCHIN TEA CULTIVATION RESTRICTION
(AMENDMENT) ACT
(ACT XVIII OF 1115)**

*Passed by His Highness the Maharaja of Cochin
on the 18th day of Kumbham 1115, corresponding
to the 1st day of March 1940.*

WHEREAS it is expedient to amend the Cochin Tea Cultivation Restriction Act, V of 1110; It is hereby enacted as follows.— Preamble.

1. This Act may be called the Cochin Tea Cultivation Restriction (Amendment) Act XVIII of 1115 and shall come into force at once. Short title and commencement.

2. For section 3 of the Cochin Tea Cultivation Restriction Act, V of 1110, hereinafter referred to as the Act, the following shall be substituted.— Substitution of a new section for section 3.

“3. So long as this Act remains in force, no one shall plant tea in any land which was not planted with tea on the 31st day of March 1938 save in pursuance of a written permission granted by or on behalf of Government or the Licensing Authority: Method of control of extension of tea cultivation.

Provided that this section shall apply to replacing of tea areas by planting new areas, but nothing in this section shall prohibit the infilling of or supplying of vacancies on land planted with tea at the 31st day of March 1933 or the replanting of tea upon—

(i) land planted with tea at the 31st day of March 1933 from which the original bushes have been uprooted, or

(ii) land planted with tea at the 31st day of March 1931 from which the original bushes have been uprooted.

3 A. (1) Subject to the provisions of section 3 C and section 3 D the total area of land in Cochin in respect of which the permissions referred to in section 3 may be granted shall not exceed one half of one per cent of the total area of the land planted with tea in Cochin on the 31st day of March 1938. Limitations to the extension of tea cultivation.

(2) The Government or the Licensing Authority shall determine the total area of land in Cochin in respect of which such permissions may be granted and shall publish

the same by a notification in the Cochin Government Gazette as soon as may be after the commencement of this Act.

(3) The Government or the Licensing Authority shall grant permission for planting new areas to the tea estates in accordance with rules to be prescribed up to the total area determined under sub-section (2), provided that permission shall be granted to extend an existing area planted with tea only to a tea estate of which the total existing area planted with tea does not exceed 300 acres where the estate is owned by a limited liability company or 150 acres where it is owned by any individual proprietor or proprietors.

Grant of permission to plant tea.

3 B. (1) Applications for permission to plant tea on any land not planted with tea on the 31st day of March 1938 shall be made to the Government or the Licensing Authority not later than the last day of June 1940, and shall contain a clear statement of all special circumstances justifying the application.

(2) Subject to the limits laid down in section 3 A Government or the Licensing Authority may grant or refuse the permission applied for or may grant it in part only or may call for further information from the applicant.

Grant of permission to plant tea in special circumstances.

3 C. (1) Where any land which was on the 31st day of March 1933 planted with tea—

(a) has since become wholly incapable of carrying tea through subsidence, flood, erosion, earthquake, or other irresistible superhuman cause, or

(b) has since been compulsorily acquired under the provisions of the Land Acquisition Act, II of 1070, or of any other law for the time being in force, and no longer carries tea, the owner of the tea estate in which such land was situated may apply to the Government or the Licensing Authority for permission to plant tea on land not planted with tea.

(2) Upon such application being made and upon proof to the satisfaction of the Government or the Licensing Authority that the applicant is entitled to the benefit of sub-section (1), the Government or the Licensing Authority may grant permission to plant tea on land not planted with tea:

Provided that the area of land in respect of which such permission is granted shall be within the area of the same tea estate and shall not exceed in extent the area of the land incapable of carrying tea or compulsorily acquired, as the case may be.

(3) All areas of land in respect of which permission to plant tea is granted under this section shall be excluded when computing for the purpose of section 3 A the total area of land in respect of which the permissions referred to in section 3 may be granted.

3 D. (1) Subject to the provisions of sub-section (4) the owner of a tea estate may establish nurseries on land not previously planted with tea for the growing of plants intended for infilling or supplying vacancies or for re-planting land planted with tea within the area of the estate or for any other purpose approved by the Government or the Licensing Authority: Tea Nurseries.

Provided that the total area utilised for nurseries in Cochin shall not upon the 31st day of March 1943 exceed the area so utilised in Cochin on the 31st day of March 1933.

(2) All areas of land utilised for nurseries in accordance with this section shall be excluded when computing for the purpose of section 3 A the total area of land in respect of which the permissions referred to in section 3 may be granted.

(3) The Government or the Licensing Authority may at any time serve by Anchal or Post a notice upon the owner of any tea estate or upon its manager requiring him to furnish within such period not being less than 30 days as may be specified in the notice such returns relating to the area of the land utilised for nurseries as it may deem necessary.

(4) If any return required under sub-section (3) is not furnished to the Government or the Licensing Authority, as the case may be, within the period specified in the notice or if in the opinion of Government or the Licensing Authority the total area of the land utilised for nurseries is excessive, Government or the Licensing Authority may make such restrictive or other order as it deems necessary and in particular may order the uprooting of any bushes planted on any such land."

110Tea Cultivation Restriction (Amendment)[1115: Act XVIII

**Amendment
to section 9.**

3. In section 9 of the Act, for the words and figures “section 8, sub-section (1)”, the words and figures “sub-section (3) of section 3 D or sub-section (1) of section 8” shall be substituted.

**Amendment
to section 11.**

4. In section 11 of the Act for the words “Whoever plants or causes to be planted tea” the words “Whoever knowingly plants tea or causes tea to be planted” shall be substituted.

**Addition of
a new section.**

5. After section 11 the following shall be inserted as section 11 A.—

“Whoever uses any land in contravention of any order made by Government or by the Licensing Authority under section 3 D or fails to comply with any order made by Government or by the Licensing Authority under sub-section (4) of section 3 D shall be punishable with fine which may extend to one thousand rupees.

PROCLAMATION

(IX OF 1115)

*Promulgated by His Highness the Maharaja of Cochin
on the 5th day of Medam 1115, corresponding
to the 17th day of April 1940*

WHEREAS it has been brought to Our notice that a decree has been passed by the District Court of Anjikaimal in Original Suit No. 173 of 1114 permanently restraining the Thachudaya Kaimal from exercising any of the rights, privileges and duties pertaining to the *Sthanam* of Thachudaya Kaimal and whereas the said decree further prohibits the Thachudaya Kaimal from entering the Koodalmanickam Temple and whereas We are satisfied that the Thachudaya Kaimal has performed *Prayaschitham*, We are now pleased to command that the decree in Original Suit No. 173 of 1114 of the Anjikaimal District Court do hereby stand annulled.

THE COCHIN PRISONS (AMENDMENT) ACT

(ACT XIX OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 5th day of Edavam 1115, corresponding
to the 18th day of May 1940*

WHEREAS it is deemed expedient further to amend the Cochin Prisons Act, VI of 1076; It is hereby enacted as follows.—

1. This Act may be called the Cochin Prisons (Amendment) Act XIX of 1115 and shall come into force at once.

Short title
and com-
mencement.

2. In the Cochin Prisons Act, VI of 1076, hereinafter referred to as the Act, the word "Government" shall be substituted for the words "the Diwan" wherever they occur.

Substitution
of the term
"Govern-
ment" for
the Diwan"

3. In section 3 of the Act—

Amendment
to section 3.

(1) In clause (1) (b) for the figures "408" and "1059", the figures "438" and "1086" shall be substituted respectively;

(2) In clause (3) for the figure "1059" the figure "1086" shall be substituted; and

(3) Clause (10) shall be deleted.

4. Substitute the following for section 5.—

Substitution
of section 5.

"The District Magistrate or any other Officer appointed by Government shall be Inspector General for Cochin State who shall exercise, subject to the orders of Government, the general control and superintendence of all prisons situated in Cochin State."

Inspector
General.

5. In section 7 of the Act for the words "as he may deem fit", the words "as Government may direct" shall be substituted.

Amendment
to section 7.

6. In sections 8, 13, 42, and 57 of the Act, for the word "sixty", the word "fifty-nine" shall be substituted.

Amendment
to sections 8,
13, 42 and 57.

Amendment
to section 12.

7. In section 12 of the Act the words "or section sixty" appearing after the word "fifty-nine" shall be deleted.

Insertion of a
new section.

8. Insert the following as section 39-A.—

Power of
Superintendent to send a
prisoner to
hospital or
asylum for
special
treatment.

"39-A. The Superintendent may, if in his opinion a prisoner requires special treatment in a hospital outside the prison or in an asylum as defined in the Cochin Lunacy Act, VII of 1096, send him to such hospital or asylum, subject to the prisoner or any relative or a friend of the prisoner executing such bond and abiding by such other conditions, if any, as Government may, by rule, or order prescribe. Any period during which the prisoner is undergoing treatment in such hospital or asylum or spent by him in going thereto or returning therefrom shall be deemed to be part of the period of his detention in the prison.

Explanation.—Nothing contained in this section shall be deemed to affect the operation of section 9 of the Prisoners Act, XLVI of 1112, in cases to which that section applies."

Amendment
to section 52.

9. In section 52 of the Act the words "having jurisdiction" occurring after the words "District Magistrate" shall be deleted.

Amendment
to section 59.

10. In clause (26) of section 59 of the Act, for the figure "408", the figure "438" shall be substituted.

Amendment
to section 60.

11. In section 60 of the Act for the words and figures "sections 59 and 60" the word and figure "section 59" shall be substituted.

THE COCHIN INSOLVENCY (AMENDMENT) ACT (ACT XX OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 5th day of Edavam 1115, corresponding
to the 18th day of May 1940*

Preamble.

WHEREAS it is expedient further to amend the Cochin Insolvency Act, VII of 1098; It is hereby enacted as follows,—

1. (1) This Act may be called the Cochin Insolvency (Amendment) Act, XX of 1115; and

Short title
and com-
mencement.

(2) It shall come into force at once.

2. In section 61 of the Cochin Insolvency Act, VII of 1098—

Amendment
to section 61.

(1) re-number sub-section (6) as sub-section (7) and insert the following as sub-section (6).—

“In cases where a sum of eight annas in the rupee has been paid as dividend to the creditors, the court may, where the court is satisfied that the conduct of the insolvent has been *bona fide* and that he has placed all his assets at the disposal of the court, grant him an amount equal to one-fourth of the value of the remaining property of the insolvent not exceeding a sum of Rs. 2,500 in any case;

Explanation.— In calculating the one-fourth to be granted to the insolvent, his surplus assets, if any, outside Cochin, shall be taken into account.”

(2) In sub-section (7) as re-numbered, for the words “foregoing debts” the words “foregoing debts and the amount, if any, granted to the insolvent under sub-section (6)” shall be substituted.

THE COCHIN WIRELESS TELEGRAPHY ACT

(ACT XXI OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 5th day of Edavam 1115, corresponding
to the 18th day of May 1940*

WHEREAS it is expedient to regulate the possession of wireless telegraphy apparatus in Cochin State; It is hereby enacted as follows.—

Preamble.

1. (1) This Act may be called the Cochin Wireless Telegraphy Act, XXI of 1115.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Cochin State.

(3) It shall come into force at such time as Government may, by notification in the Cochin Government Gazette, appoint.

Definitions.

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

- (1) “wireless communication” means the making, transmitting or receiving of telegraphic, telephonic or other communications by means of electricity or magnetism without the use of wires or other continuous electrical conductors between the transmitting and the receiving apparatus ;
- (2) “wireless telegraphy apparatus” means any apparatus, appliance, instrument or material used or capable of use in wireless communication, and includes any article determined by rule made under section 9 to be wireless telegraphy apparatus, but does not include any such apparatus, appliance, instrument or material commonly used for other electrical purposes, unless it has been specially designed or adapted for wireless communication or forms part of some apparatus, appliance, instrument or material specially so designed or adapted, nor any article determined by rule made under section 9 not to be wireless telegraphy apparatus ; and
- (3) “prescribed” means prescribed by rules made under section 9.

Prohibition of possession of wireless telegraphy apparatus without licence.

3. Save as provided by section 4, no person shall possess wireless telegraphy apparatus except under and in accordance with a license issued under this Act.

Power of Government to exempt persons from provisions of the Act.

4. Government may by rules made under this Act exempt any person or any class of persons from the provisions of this Act either generally or subject to prescribed conditions, or in respect of specified wireless telegraphy apparatus.

Licenses.

5. The District Magistrate or any other officer authorised by Government in this behalf shall be the authority

competent to issue licenses to possess wireless telegraphy apparatus under this Act, and may issue licenses in such manner, on such conditions and subject to such payments, as may be prescribed.

6. (1) Whoever possesses any wireless telegraphy apparatus in contravention of the provisions of section 3 shall be punished, in the case of the first offence, with fine which may extend to one hundred rupees, and in the case of a second or subsequent offence, with fine which may extend to two hundred and fifty rupees. Offence and penalty.
- (2) For the purposes of this section, a Court may presume that a person possesses wireless telegraphy apparatus, if such apparatus is under his ostensible charge or is located in any premises or place over which he has effective control.
- (3) If in the trial of an offence under this section the accused is convicted, the Court shall decide whether any apparatus in respect of which an offence has been committed should be confiscated, and, if it so decides, may order confiscation accordingly.
7. (1) The District Magistrate, or a Magistrate of the first class or a Magistrate of the second class specially empowered by Government in this behalf, may issue a warrant for the search, at any time between sunrise and sunset, of any building, vessel or place in which he has reason to believe that any wireless telegraphy apparatus, in respect of which an offence punishable under section 6 has been committed, is kept or concealed. Power of search.
- (2) The officer to whom a search warrant under sub-section (1) is addressed may enter into any building, vessel or place mentioned in the warrant and seize any wireless telegraphy

apparatus in respect of which he has reason to believe an offence under section 6 has been committed.

Apparatus
confiscated
or having no
owner to be
property of
Government.

8. All wireless telegraphy apparatus confiscated under the provisions of sub-section (3) of section 6, and all wireless telegraphy apparatus having no ostensible owner shall be the property of Government.

Power of
Government
to make
rules.

9. (1) Government may, by notification in the Cochin Government Gazette, make 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—

- (i) determining that any article or class of article shall be or shall not be wireless telegraphy apparatus for the purposes of this Act ;
- (ii) the exemption of persons or classes of persons under section 4 from the provisions of this Act ;
- (iii) the manner of and the conditions governing the issue, renewal, suspension and cancellation of licenses, the form of licenses, and the payments to be made for the issue and renewal of licenses ;
- (iv) the maintenance of records containing details of the acquisition and disposal by sale or otherwise of wireless telegraphy apparatus possessed by dealers in wireless telegraphy apparatus ; and
- (v) the conditions governing the sale of wireless telegraphy apparatus

by dealers in and manufacturers of such apparatus.

- (3) In making a rule under this section, Government may direct that a breach of it shall be punishable with fine which may extend to one hundred rupees.
10. In the Cochin Telephone Act, V of 1096—
- (a) in clause (1) of section 2 the words “making or transmitting” shall be substituted for the words “making, transmitting or receiving”; and
- (b) in section 3, the words “nor shall a private person deal in telephones or parts thereof” shall be deleted.

Amendment
to Act V of
1096.

THE COCHIN RUBBER CONTROL (AMENDMENT) ACT (ACT XXII OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 5th day of Edavam 1115, corresponding
to the 18th day of May 1940*

WHEREAS it is expedient further to amend the Cochin Rubber Control Act, XXXIV of 1111, as extended by Proclamation III of 1114; It is hereby enacted as follows.— Preamble.

1. (1) This Act may be called the Cochin Rubber Control (Amendment) Act, XXII of 1115. Short title
and com-
mencement.
- (2) It shall be deemed to have come into force on the 17th day of Dhanu 1114 corresponding to the 1st day of January 1939.

2. For sub-section (4) of section 1 of the Cochin Rubber Control Act, XXXIV of 1111, hereinafter referred to as the Act, substitute the following.— Amendment
to section 1.

“It shall continue in force until such time as Government shall, by notification in the Cochin Government Gazette, determine.”

3. In section 2 of the Act—

- (1) for clauses (b) to (e) the following shall be substituted.—

Amendment
to section 2.

“(b) ‘to export’ means to take out of Cochin by land, sea or air to a French or Portuguese settlement bounded by India or to any place outside India.

(c) ‘to plant’ means to propagate a rubber plant from seed or any living portion of the rubber plant that may be used to propagate it; ‘new planting’ means planting in an area which has not since the 1st day of June 1934, carried any rubber plants or substituting in an area carrying rubber plants and other growths, rubber growths for those other growths; ‘to re-plant’ means to plant, in such circumstances as not to constitute new planting, on any one acre of an area carrying rubber plants on the 1st day of June 1934, more than thirty rubber plants; and ‘to supply’ means so to plant on any one acre of such an area thirty rubber plants or less;

(d) ‘rubber’ means—

- (i) crude rubber, that is to say, rubber prepared from the leaves, bark or latex of any rubber plant;
- (ii) the latex of any rubber plant, whether fluid or coagulated, in any stage of the treatment to which it is subjected during the process of conversion into rubber; and
- (iii) latex in any state of concentration, and includes, for the purposes of determining

net exports and regulating export, the rubber content of any article manufactured wholly or partly from crude rubber in India ;

- (e) 'rubber plant' includes plants, trees, shrubs and vines, and any leaves, flowers, seeds, buds, twigs, branches, roots and any living portion thereof, that may be used to propagate any of the following, namely.—

- (i) *Hevea Braziliensis* (Para rubber)
- (ii) *Manihot Glaziovii* (Ceara rubber)
- (iii) *Castilloa elastica*
- (iv) *Ficus elastica* (Rambong)
- (v) any other plant, tree, shrub or vine which Government may, by notification in the Cochin Government Gazette, declare to be a rubber plant for the purposes of this Act;”.

- (2) The following shall be added as clause (g).—

“(g) ‘International Rubber Regulation Committee’ means the committee referred to as such in the Indian Rubber Control Act, XXVIII of 1934, as amended up-to-date.”

4. For section 3 of the Act, the following section shall be substituted, namely.—

**Substitution
of section 3.**

- “3. Nothing in this Act shall apply to the export of rubber by parcel post or to the re-export of rubber contained in imported manufactured articles.”

**Limitation
of application
of Act.**

Substitution
of section 4.

5. For section 4 of the Act, the following shall be substituted.—

Control of
export of
rubber and
rubber
plants.

“4. (1) No rubber the growth or produce of India shall be exported unless covered by a license and a certificate of origin issued on behalf of the Licensing Committee ;

(2) No rubber the growth or produce of a country other than India shall be re-exported unless covered by a certificate of origin issued by an official empowered in that behalf by the Government of such country and endorsed by or on behalf of the Licensing Committee;

(3) No person shall export rubber plants except to a territory specified in the schedule :

Provided that the export of rubber plants to such territories shall be subject to such conditions as Government may think fit to prescribe ;

(4) Every person exporting rubber plants to, or importing rubber plants from, a territory specified in the schedule shall within such time and in such manner as may be prescribed, submit to the Licensing Committee a return showing the particulars of such exportation or importation.

(5) Government may by Notification in the Cochin Government Gazette add to the schedule any territory to which rubber plants may be exported.

Amendment
to section 7.

6. In section 7 of the Act the word “overseas” occurring between the words “exported” and “before” shall be deleted.

Substitution
of section 8.

7. For section 8 of the Act the following shall be substituted.—

Shipment of
rubber only
on production
of export
license.

“8. No consignment of rubber shall be shipped or waterborne to be shipped for export or exported from Cochin until the owner or

transferee has delivered to the Customs Collector, a valid export license or special license in duplicate granted by the Licensing Committee covering the quantity to be shipped or exported."

8. In section 9 of the Act for the words "or permit" the words "or certificate of origin" shall be substituted. Amendment to section 9.

9. For section 10 of the Act the following sections shall be substituted.— Amendment to section 10.

"10. (1) So long as this Act remains in force no person shall, save in pursuance of a written permission granted by or on behalf of the Licensing Committee under this Act,— Control of cultivation of rubber.

(a) carry out new planting of rubber plants on any land except for the purpose of supply, or

(b) after the expiry of the year 1940, replant any land with rubber plants where any limitations on such replanting have been imposed under sub-section (3) of section 10-A.

(2) Orders passed by the Licensing Committee on applications for permission under sub-section (1) shall be subject to appeal to Government and 'no orders passed' by the Licensing Committee or Government under this section shall be questioned in any court of law.

10-A. (1) The total area in Cochin in respect of which permission for new planting otherwise than for the purpose of supply may be granted in the year 1940 shall be such area, being as nearly as may be five *per centum* of the total area which was planted with rubber plants on the 31st day of December 1938 Permission for new planting

as the Government of India may by Notification in their Official Gazette and in the Cochin Government Gazette specify in this behalf, or such larger area as they may, by like Notification, designate as being fixed in this behalf for those years by the International Rubber Regulation Committee, and shall not thereafter in any period exceed such area as they may, in like manner, designate as so fixed for that period :

Provided that such area may be modified to provide for such transfers of permissions for new planting between Cochin State and British India or any other Indian State as may be consented to by the Licensing Committee and under any law or order having the force of law in British India or in such other Indian State.

- (2) A permission granted for new planting during the years 1939 and 1940 shall cease to be of effect at the end of the year 1940 and any such permission granted thereafter shall cease to be of effect at the end of the particular period referred to in subsection (1) within which it was granted.
- (3) Until the end of the year 1940, there shall be no restrictions upon replanting, but thereafter replanting shall be subject to such limitations, if any, as the Government of India may, by Notification in their Official Gazette and in the Cochin Government Gazette designate as imposed in this behalf by the International Rubber Regulation Committee.

Transfer of
permission
for new
planting.

10-B. With the consent of the Committee.—

- (a) a permission for new planting under section 10 may be transferred within Cochin State wholly or in part, and
- (b) where provision in this behalf is made by or under any law or order having the force of

law in British India or any other Indian State a permission for new planting granted under this Act or under such law or order may be transferred, wholly or in part, to or from British India or such other Indian State as the case may be.

10-C. The licensing Committee shall make bye-laws to regulate the principles and procedure to be followed in granting permissions for new planting and for giving consent to transfers of such permissions."

Rules as to principles governing grants of permissions for new planting etc.

10. Section 11 of the Act shall be deleted.

Deletion of section 11.

11. In section 12 of the Act.—

Amendment to section 12.

(1) in sub-section (1) the words "or stocks" shall be deleted;

(2) in sub-section (2) the words "or the holding of stocks" occurring at the end shall be deleted.

12. For sections 14, 15 and 16 of the Act the following shall be substituted.—

Substitution of sections 14, 15 and 16.

"14. A breach of the provisions contained in sections 4 or 8 of this Act shall be punishable as if it were an offence under item 8 of section 166 of the Cochin Sea Customs Act, XII of 1109 and the provisions of section 167 and of Chapter XVII of that Act shall apply accordingly.

Penalty for illicit export.

15. Whoever carries out new planting of rubber plants or causes such new planting to be carried out in contravention of section 10 of this Act shall be punishable with fine which may extend to one thousand rupees for the first offence and with fine which may extend to five thousand rupees for any subsequent offence.

Penalty for illicit cultivation.

16. Whenever a person has been convicted of an offence under section 15, the convicting court shall be empowered to direct that rubber plants planted in contravention of section 10 be removed from the land within a prescribed time and in the event of the order not being complied with such court shall be empowered to remove

Removal of rubber plants planted without permission.

the rubber plants and to collect from the person convicted the cost of effecting the removal as if it were arrears of land revenue due from the estate on which the offence was committed."

Amendment
to section 18.

13. In section 18 of the Act, the words "or the holding of rubber stocks" shall be deleted.

Amendment
to section 19.

14. In section 19 of the Act, for the words and figures "sections 14, 15, 17 and 18" the words and figures "sections 15, 17 and 18" shall be substituted.

Addition of
schedule.

15. The following shall be added as a schedule to the Act.—

"SCHEDULE

[See section 4 (3)]

1. French Indo-China.

2. Burma, Ceylon, the Federated Malay States, the Unfederated Malay State, the Straits Settlements, the State of North Borneo, Brunel and Sarawak.

3. The Netherlands Indies.

4. Siam."

Repeal.

16. Proclamation III of 1114 is hereby repealed.

THE COCHIN FISHERIES (AMENDMENT) ACT

(ACT XXIII OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 5th day of Edavam 1115 corresponding
to the 18th day of May 1940*

Preamble.

WHEREAS it is expedient further to amend the Cochin Fisheries Act, III of 1092, it is hereby enacted as follows. —

Short title
and com-
mencement.

1. This Act may be called the Cochin Fisheries (Amendment) Act XXIII of 1115 and shall come into force at once.

Amendment
to section
5-C.

2. At the end of section 5-C of the Cochin Fisheries Act, III of 1092, the following explanation shall be added: —

"*Explanation.*—For the purposes of sections 5-A, 5-B

and 5-C the term 'wet lands' includes *parambas* assessed as *Payattupattam parambas* as well as *puduval* accretion *parambas* not assessed at the normal rate of Rs. 13—2—6 per acre."

THE COCHIN FOREST (AMENDMENT) ACT (ACT XXIV OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 5th day of Edavam 1115, corresponding to the
18th day of May 1940*

WHEREAS it is expedient further to amend the Cochin Forest Act, III of 1080; It is hereby enacted as follows.— Preamble.

1. This Act may be called the 'Cochin Forest (Amendment) Act XXIV of 1115 and shall come into force at once. Short title and commencement.

2. The word "Government" shall be substituted for the word "Sirkar" wherever it occurs in the Cochin Forest Act, III of 1080, hereinafter referred to as the Act. Substitution of "Government" for "Sirkar" throughout the Act.

3. In section 2 of the Act—

(1) in clause (h), for the words "goats and kids" the following shall be substituted.—"goats, kids, cows, bulls, calves and heifers"; Amendment to section 2.

(2) in clause (k) for the words "Divisional Forest Officer, Forest Ranger, Forester, Forest Guard, Watcher, Vicharippukaran, Aminadar, Masapady, or Boundary Peon" the words "Range Officer, Deputy Ranger, Forester, Forest Guard, Watcher, or Tanadhar" shall be substituted;

(3) in clause (l) between the words "officiating Conservator" and "any officer" the word "or" shall be inserted and all the words occurring after the words "Forest Department of the State" shall be deleted;

(4) in clause (n) the word "Cochin" shall be substituted for the word "Sirkar".

**Amendment
to section 8.**

4. In section 8 of the Act—
in clause (c)—

- (1) between the words “to” and “acquire”, the following shall be inserted.—“enquire into and determine the existence, nature and extent, of any rights claimed by, or alleged to exist, in favour of, any person in or over any land comprised within such limits or to any forest produce of any such land, and to”; and
- (2) the following shall be added at the end.—
“The officer to be appointed under this clause shall ordinarily be a person other than a Forest Officer”.

**Amendment
to section 9.**

5. In section 9 of the Act between the words “any” and “land” the following shall be inserted.—“land, or to the forest produce of any”.

**Amendment
to section 11.**

6. In section 11 of the Act—

- (1) the words and figures “as amended by Act, IV of 1074” shall be deleted; and
- (2) for the words “Provided also that before proceeding to acquire any land under this section the Forest Settlement Officer shall publicly invite claims to any of the following rights in and over such lands, namely.—”, the following words shall be substituted.—
“Provided further that, before taking any action under this section, the Forest Settlement Officer shall publicly invite claims to any of the following rights in and over any land included in the Notification published under section 8, namely.—”.

**Amendment
to section 14.**

7. In section 14 of the Act—

- (1) the word “and” occurring at the end of clause (e) shall be deleted; and
- (2) clause (f) shall be relettered as clause (g) and the following inserted as clause (f).—

“(f) to regulate or prohibit the exercise of rights when fire is caused and to compel right-holders and others to assist any Forest or Police Officer, in extinguishing such fire and preventing the commission of or detecting any forest offence, and”.

8. In section 15 of the Act between the words “cultivation” and “or” the following words shall be inserted.— Amendment to section 15.

“or for any other purpose”

9. In section 16 of the Act before the last paragraph, the following shall be inserted— Amendment to section 16.

“In cases where the offence is committed after sunset and before sunrise or after making preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalty prescribed for such offence.”

10. In section 18 of the Act for the words “or with both” occurring at the end of the section the following shall be substituted.—“or with both in addition to such compensation for damage done to the land at the disposal of Government but not included in a reserved forest as the convicting Magistrate may direct to be paid to Government. Amendment to section 18.

In cases where the offence is committed after sunset and before sunrise, or after making preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalty prescribed for such offence.”

Addition of
a new chapter.

11. After the end of Chapter IV add the following as Chapter IV-A of the Act.—

“CHAPTER IV-A

Control over Forests and Lands not at the disposal of Government or in which Government has a limited interest

Power to
make rules.

18-A (1) The Diwan may make rules to regulate or prohibit in any forest or waste land not at the disposal of Government or in which or over the forest produce in which Government has joint-interest with any person or persons ;

(a) the breaking up or clearing of land for cultivation or for any other purpose ;

(b) the pasturing of cattle ;

(c) the firing or clearing of the vegetation when such regulation or prohibition appears to be necessary for any of the following purposes.—

(i) protection against storms, winds, rolling stones, floods and avalanches ;

(ii) preservation of the soil, prevention of landslips and of the formation of ravines and torrents, and protection of land against erosion, or the deposit thereon of sand, stones or gravel ;

(iii) maintenance of water-supply in springs, rivers and tanks;

(iv) protection of roads, bridges, railways and other lines of communication;

(v) preservation of the public health;

(vi) securing public money;

(vii) formation or conservation of forest :

Provided that the Diwan may exempt any person or class of persons from the operation of all or any of such rules.

(2) Any person who acts in contravention of any rule or order made by the Diwan under sub-section (1) shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one month or fine which may extend to two hundred rupees or with both in addition to such compensation for damage done to the land or forest produce as the convicting Magistrate may direct to be paid.

In cases where the offence is committed after sunset and before sunrise, or after making preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalty prescribed for such offence."

12. For the heading of Chapter V of the Act the following shall be substituted.—

**Amendment
to the head-
ing of
Chapter V.**

“Transport of Timber and other Forest produce”

Amendment
to section 19.

13. In section 19 of the Act—

- (1) the words “timber and other forest produce” shall be substituted for the words “timber and forest produce” wherever they occur.
- (2) for clause (g) the following shall be substituted.—

“(g) authorise the transport of timber and other forest produce across any land and provide for the payment of compensation for any damage done by such transport.”

Amendment
to section 20.

14. In section 20 of the Act—

- (1) the word “the” shall be inserted between the words “double” and “penalty”; and
- (2) the following shall be added at the end—

“in addition to such compensation as he may direct to be paid to Government for the loss caused to it.”

Amendment
to section 22.

15. To section 22 of the Act the following shall be added at the end.—

“In cases where the offence is committed after sunset and before sunrise, or after making preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalty prescribed for such offence.”

Amendment
to section 26.

16. In section 26 of the Act for the words “carts and cattle”, the following shall be substituted namely.—
“carts, cattle and other things.”

Substitution
of section 27.

17. For section 27 of the Act, the following shall be substituted.—

“27. Upon receipt of a report regarding the commission of any forest offence, a forest officer not below the rank of an Assistant Conservator shall hold an enquiry or cause an enquiry to be made and if he be satisfied that an offence has been committed he shall move the Magistrate having jurisdiction to try the offence to take such measures as may be necessary for the trial of the accused and the disposal of the property seized, if any, according to law”.

Procedure on receipt of report.

18. In section 28 of the Act for the words “carts and cattle”, the following shall be substituted.—

Amendment to section 28.

“carts, cattle and other things.”

19. In section 29 of the Act—

Amendment to section 29.

(1) between the word “or” and the words “forest produce”, the word “other” shall be inserted.

(2) for the words “the Conservator”, the words “a forest officer not below the rank of an Assistant Conservator” shall be substituted.

20. In section 30 of the Act—

Amendment to section 30.

(1) for the words “the Conservator” where they first occur, the words “a forest officer not below the rank of an Assistant Conservator” shall be substituted; and

(2) for the words “the Conservator” where they next occur, the words “such forest officer” shall be substituted.

21. In section 31 of the Act—

Amendment to section 31.

(1) for the words “The Conservator” where they first occur, the words “A forest officer not below the rank of an Assistant Conservator” shall be substituted; and

- (2) for the words “the Conservator” where they next occur, the words “such forest officer”, shall be substituted.

Amendment
to section 32.

22. In section 32 of the Act—

- (1) for the figure “314” the figure “330” shall be substituted; and

- (2) for the words “the Conservator”, the words “a forest officer not below the rank of an Assistant Conservator” shall be substituted.

Amendment
to section 34.

23. In section 34 of the Act for the words “the Conservator”, the words “a forest officer not below the rank of an Assistant Conservator” shall be substituted.

Amendment
to section 35.

24. In section 35 of the Act, after the last word “both” the following shall be added.—

“in addition to such compensation as the convicting Magistrate may direct to be paid to Government for the loss caused to it. In cases where the offence is committed after sunset and before sunrise, or after making preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalty prescribed for such offence.”

Amendment
to section 40.

25. In section 40 of the Act—

- (1) for the words “The Conservator” occurring at the beginning of the section, the words “A forest officer not below the rank of an Assistant Conservator” shall be substituted;

(2) after the last word "him" in the first paragraph, the words "or confiscate such property to Government" shall be added; and

(3) for the words "the Conservator" in the second paragraph, the words "such officer" shall be substituted.

26. In clause (a) of section 44 of the Act, after the figure "1074" the following shall be added.— Amendment to section 44.

"and under the Land Conservancy Act, IV of 1096."

27. After section 44 of the Act the following shall be inserted as section 44-A.— Insertion of section 44-A.

"44-A. The Diwan may, by notification in the Cochin Government Gazette, authorise any officer by name or by virtue of his office to exercise all or any of the powers conferred on the Conservator under this Act and may withdraw the same."

Officers to exercise powers of the Conservator.

28. In section 48 of the Act—

Amendment to section 48.

(1) at the end of clause (e) the following shall be added.—"and of forests and lands not at the disposal of Government or in which Government has limited interest under section 18-A,"; and

(2) in clause (f), for the word "timber" the words "timber and other forest produce" shall be substituted.

29. In section 53 of the Act for the words and figures "285 to 287" the words and figures "300 to 302" shall be substituted. Amendment to section 53.

THE COCHIN LUNACY (AMENDMENT) ACT
(ACT XXV OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 5th day of Edavam 1115, corresponding
to the 18th day of May 1940*

WHEREAS it is deemed expedient further to amend the Cochin Lunacy Act, VII of 1096; It is hereby enacted as follows.—

Short title
and com-
mencement.

1. This Act may be called the Cochin Lunacy (Amendment) Act XXV of 1115 and shall come into force at once.

Amendment
to section 3.

2. In sub-section (1) of section 3 of the Cochin Lunacy Act, VII of 1096, hereinafter referred to as the Act, after the figure "14", the following shall be added.—

“of this Act and by section 39-A of the Cochin Prisons Act, VI of 1076.”

Amendment
to section 31.

3. Section 31 of the Act shall be numbered as sub-section (1) and the following shall be added as sub-section (2).—

“(2) Government may make such general or special order as they think fit directing the removal of any person for whose detention an order has been made under section 367 or section 372 of the Code of Criminal Procedure, Act II of 1086, from the place where he is for the time being detained, to any asylum, jail or other place of safe custody in Cochin State”.

THE COCHIN TOWN COUNCILS ACT

(ACT XXVI OF 1115)

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THE COCHIN TOWN COUNCILS ACT

(ACT XXVI OF 1115)

*Passed by His Highness the Maharaja of Cochin
on the 9th day of Edavam 1115 correspond-
ing to the 22nd day of May 1940*

WHEREAS it is expedient to make provision for the better administration of certain local areas to be constituted as Towns ; It is hereby enacted as follows.—

PART I

CHAPTER I—PRELIMINARY

1. (1) This Act may be called the Cochin Town Councils Act, XXVI of 1115; Title, extent and commencement.
(2) It extends to such local areas as are constituted “Towns” under this Act; and
(3) It shall come into force on such day as Government may, by notification in the Cochin Government Gazette, direct.
2. In this Act unless there is anything repugnant in the subject or context— Definitions.
 - (i) *Appoint.*—Appoint includes to appoint temporarily or in an officiating capacity.
 - (ii) *Appointment.*—Appointment includes temporary and officiating appointments.
 - (iii) *Building.*—Building includes a house, out-house, stable, latrine, reservoir, shed, hut, wall other than a boundary wall (not exceeding eight feet in height) and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever.
 - (iv) *Building line.*—Building line means a line which is in rear of the street alignment and

to which the main wall of a building abutting on a street may lawfully extend.

- (v) *Carriage*.—Carriage includes any wheeled vehicle with springs or other appliances acting as springs, and all kinds of motor cars, motor lorries, motor omnibuses, motor cycles, bicycles, tricycles, rickshaws and palanquins.
- (vi) *Cart*.—Cart includes any wheeled vehicle which is not a carriage.
- (vii) *Casual Vacancy and Casual election*.—Casual vacancy means a vacancy occurring otherwise than by efflux of time and casual election means an election held on the occurrence of a casual vacancy.
- (viii) *Company*.—Company means a company as defined in the Indian Companies Act, 1913 as amended by Act XXII of 1936, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent or of an Act of the Legislature of a British possession or under the Cochin Companies Act, IV of 1080, or under the Indian Companies Act, 1913 as amended by Act XXII of 1936 and as made applicable to Cochin by His Highness the Maharaja's Proclamation and includes any firm or association carrying on business in Cochin State, whether incorporated or not, and whether its principal place of business is situated in Cochin or not, but shall not include any co-operative society registered under the Cochin Co-operative Societies Act.
- (ix) *Council and Council Office*.—Council means a Town Council established by or under this

Act and Council Office means the principal office of any Town Council.

- (x) *Election authority*.—Election authority means such authority not being the President or a Councillor as may be prescribed.
- (xi) *European*.—European means any person of European descent who either was born in or has a domicile in the United Kingdom or in any British possession or in any Indian State or whose father was so born or has or had up to the date of the birth of the person in question such a domicile.
- (xii) *Filth*.—Filth includes sewage, night soil, dung, dirt, putrid and putrifying substances and all offensive matter.
- (xiii) *Hut*.—Hut means any building which is constructed principally of wood, mud, leaves, grass or thatch and includes any temporary structure of whatever size or any small building of whatever material made which the Council may declare to be a hut for the purposes of this Act.
- (xiv) *Latrine*.—Latrine includes privy, water closet and urinal.
- (xv) *Market*.—Market means a place where persons assemble for selling and for buying meat, fish, fruit, grain, vegetables or any other article of food or commerce or any vendible article or for the sale or purchase of live-stock or poultry, and which every member of the public has, of common right, the liberty to enter and frequent for the purpose of bringing thither and there exposing for sale and selling or of buying such commodities as are vendible there.

(xvi) *Medical Officer*.—Medical Officer means any person with medical qualifications deputed by the President, whether he be a Councillor or not.

(xvii) *Nuisance*.—Nuisance includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property.

(xviii) *Occupier*.—Occupier includes any person for the time being paying or liable to pay to the owner the rent or any portion of the rent of the land or building or part of the same in respect of which the word is used.

(xix) *Ordinary vacancy and ordinary election*.—Ordinary vacancy means a vacancy occurring by efflux of time and ordinary election means an election held on the occurrence of an ordinary vacancy.

(xx) *Owner*.—Owner includes—

(a) the person for the time being receiving or entitled to receive whether on his account or as agent, trustee, guardian, manager or receiver for another person, or for any religious or charitable purpose, the rent or profits of the property, in connection with which the word is used, and

(b) the person for the time being in charge of the animal or vehicle, in connection with which the word is used.

- (xxi) *Palanquin*.—Palanquin includes tonjons, man-chils and chairs carried by men by means of posts, but not slings or cots used for the conveyance of children or aged or sick people.
- (xxii) *Prescribed*.—Prescribed means prescribed by Government by rules made under this Act.
- (xxiii) *Private Street*.—Private street means any street, road, square, court, alley, passage or riding path which is not a “public street” but does not include a pathway made by the owner of premises on his own land to secure access to or the convenient use of such premises.
- (xxiv) *Public Street*.—Public street means any street, road, square, court, alley, passage or riding path, over which the public have right of way whether a thoroughfare or not and includes—
- (a) the roadway over any public bridge or causeway;
 - (b) the footway attached to any such street, public bridge or causeway; and
 - (c) the drains attached to any such street, public bridge or causeway and the land, whether covered or not by any pavement, veranda, or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property whether that property is private property or property belonging to Government.
- (xxv) *Public water courses etc.*—Public water courses, springs, wells and tanks include those used by the public to such an extent as to give a prescriptive right to such use.
- (xxvi) *Reconstruction*.—Reconstruction of a building includes—

- (a) the re-erection wholly or partially of a building after more than one half of its cubical contents has been taken down or burnt down, or has fallen down whether at one time or not ;
- (b) the re-erection wholly or partially of any building of which an outer wall has been taken down or burnt down or has fallen down to or within ten feet of the ground adjoining the lowest storey of the building, and of any frame building which has so far been taken down or burnt down or has fallen down as to leave only the frame work of the lowest storey ;
- (c) the conversion into a dwelling house or place of public worship of any building not originally constructed for human habitation or for public worship, as the case may be, or the conversion into more than one dwelling house of a building originally constructed as one dwelling house only or the conversion of a dwelling house into a factory ;
- (d) the re-conversion into a dwelling house or a place of public worship or a factory of any building which has been discontinued as, or appropriated for any purpose other than, a dwelling house or a place of public worship or a factory as the case may be.

(xxvii) *Residence—Reside.*—A person is deemed to have his residence or to reside in any

house if he sometimes uses any portion thereof as a sleeping apartment, and a person is not deemed to cease to reside in any such house merely because he is absent from it or has elsewhere another dwelling in which he resides, if he is at liberty to return to such house at any time and has not abandoned his intention of returning.

(xxviii) *Rubbish*.—Rubbish means dust, ashes, broken bricks, mortar, broken glass and refuse of any kind which is not “filth”

(xxix) *Salary*.—Salary means pay and acting pay or payment by way of commission and includes exchange compensation allowances, but not allowances for house rent, carriage hire or travelling expenses.

(xxx) *Scavenger*.—Scavenger means a person employed in collecting or removing filth, in cleansing drains or slaughter houses or in driving carts used for the removal of filth.

(xxxi) *Street alignment*.—Street alignment means a line dividing the lands comprised in and forming part of a street from the adjoining land.

(xxxii) *Town*.—Town means any local area constituted by or under this Act to be a Town.

(xxxiii) *Water course*.—Water course includes any river, stream or channel, whether natural or artificial.

(xxxiv) *Year*.—Year means the financial year.

PART II

CHAPTER II—CREATION AND ABOLITION OF TOWNS

3. (1) Government may, by notification, declare their intention—

Creation of
Towns.

(a) to constitute as a Town, any village, hamlet, bazaar, station or other

specified local area or any group of the same in the immediate neighbourhood of one another with a population of not less than 5,000 according to the latest census; or

(b) to exclude from a Town any local area comprised therein and defined in such notification; or

(c) to include within a Town any local area in the vicinity thereof and defined in such notification.

(2) Any inhabitant of a local area or tax-payer of a Town in respect of which any such notification has been published, may, if he desires to object to anything therein contained, submit his objection in writing to Government within six weeks from the publication of the notification and Government shall take all such objections into consideration.

(3) When six weeks from the publication of the notification have expired, and Government have considered the objections, if any, which have been submitted, they may, as the case may be, by notification declare to be a Town, or exclude from or include in a Town, the local area or any portion thereof.

(4) This Act shall come into force in, or cease to apply to any Town or part thereof, as the case may be, on such date as may be specified in the notification under sub-section (3).

**Abolition of
Towns.**

4. (1) Government may, by notification, declare that any Town to which this Act applies shall cease to be a "Town":

Provided as follows.—

- (a) Government shall, before they issue such notification, communicate to the Council the grounds on which they propose to do so, fix a reasonable period for the Council to show cause against the proposal and consider its explanations and objections, if any;
 - (b) the notification shall contain a statement of Government's reasons and shall be laid on the table of the Legislative Council.
- (2) From such date as may be specified in such notification, this Act and all notifications, rules, by-laws, regulations, orders, directions and powers issued, made or conferred under this Act, shall cease to apply to the area previously comprised in the Town; the balance of the Town Fund and all other property vested in the Council shall vest in Government, and the liabilities of the Council shall be transferred to Government.
- (3) All property vested in Government under sub-section (2) shall be applied by them to discharge the liabilities imposed on them by that sub-section or for the promotion of the safety, health, welfare and convenience of the inhabitants of the area previously comprised in the Town.

CHAPTER III—CONSTITUTION OF TOWN AUTHORITIES

Authorities

- 5. (1) The Town authorities charged with carrying out the provisions of this Act are—
 - (a) A Council and
 - (b) A President.
- (2) The Council shall, by the name of the Town, be a body corporate, shall have perpetual

Town
authorities
and their
incorpora-
tion.

succession and a common seal and subject to any restriction or qualification imposed by this or any other enactment shall be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property movable or immovable, of entering into contracts and of doing all things necessary for the purpose of its constitution.

**Constitution
of Council.**

6. (1) The Town Council shall consist of such number of Councillors as may be notified by Government in accordance with the following scale.—

*Number
of Councillors.*

Towns with a population between
5,000 and 8,000 at the last
Census .. 10

For every 4,000 of the population
in excess of 8,000 up to 20,000.. 2 additional
members:

Provided that the total number of Councillors shall in no case exceed 16.

- (2) The Councillors shall be partly appointed by Government and partly elected by the Town electors, as Government may determine by notification:

Provided that the total number of Councillors as appointed by Government shall not exceed one-third of the total number and one of the appointed members shall be an officer with qualifications in engineering not below the rank of an Overseer in the Public Works or Panchayat Departments of Government.

**Term of
Councillors
and filling up
seats.**

7. (1) The term of office of Councillors shall, save as otherwise expressly provided in this Act, be three years beginning and expiring at noon on the first day of Vrischigam.

- (2) Vacancies in the office of the Councillors appointed by Government under section 6 (2) shall be filled up by Government.
- (3) Ordinary vacancies in the office of elected Councillors shall be filled at ordinary elections which shall be fixed by the election authority to take place on such day or days in the months of Chingam and Kanni next preceding the vacancies as he thinks fit:

Provided that Government may, for sufficient cause, direct or permit the holding of any ordinary election after the end of Kanni.

- (4) A Councillor elected at an ordinary election held after the occurrence of a vacancy or appointed by Government after the occurrence of the vacancy shall enter upon office forthwith, but shall hold office only so long as he would have been entitled to hold office if he had been elected or appointed before the occurrence of the vacancy.
- (5) A casual vacancy in the office of an elected Councillor shall be filled at a casual election which shall be fixed by the election authority to take place as soon as may be after the occurrence of the vacancy:

Provided that no casual election shall be held to fill a vacancy occurring within three months before the ordinary date of retirement and that such vacancy shall be filled at the next ordinary election.

- (6) A Councillor elected or appointed at a casual vacancy shall enter upon office forthwith, but shall hold office so long only as the Councillor in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.
8. (1) If at an ordinary or casual election held under section 7 no Councillor is elected, a fresh election shall be held on such day as the election authority may fix.

Procedure
when no
Councillor is
elected.

- (2) If at such fresh election no Councillor is elected the Council may, in the manner prescribed, elect a qualified person to fill the vacancy.
- (3) The term of office of a Councillor elected under this section shall expire at the time at which it would have expired if he had been elected at the ordinary or casual election as the case may be.

No Council-
lor to receive
remunera-
tion.

9. No President or Councillor shall receive or be paid from the funds, at the disposal of or under the control of the Council, any salary or other remuneration for services rendered by him in any capacity whatsoever.

Explanation.—The words “salary or other remuneration” in this section do not include such conveyance allowances to the President or travelling allowances as may be sanctioned by Government.

President of
the Council.

10. (1) Every Council shall elect its President from its Councillors:

Provided that for the first Council Government shall and for any subsequent Council or Councils Government may, if they so determine in respect of any or all towns, nominate the President from among the members of the Council.

- (2) The term of office of the President so nominated may be terminated at any time by Government.
- (3) A President shall be deemed to have vacated his office—
 - (i) on his resigning his office as President under section 25; or
 - (ii) on the expiry of his term of office as Councillor ; or
 - (iii) on his otherwise ceasing to be a Councillor.

- (4) When the office of the President is vacant, Government shall nominate a person to exercise the functions of the President.
- (5) When the office of the President is vacant or when the President has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, the engineering member appointed by Government shall, after giving notice of not less than seven clear days to the Councillors, convene a meeting for the election of a President and until a new President is elected and assumes office or returns to jurisdiction or recovers from his incapacity, as the case may be, the engineering member shall, notwithstanding anything contained in this Act or in the rules or notifications issued thereunder, be ex-officio President of the Council.
- (6) An out-going President is eligible for re-election.

Explanation.— A new President will be deemed to have assumed office on his being declared elected as such.

11. If at an election held under section 10 no President is elected, a fresh election shall be held.

**Procedure
when no
President
is elected.**

12. The President of the Council shall—

- (a) convene the meetings of the Council;
- (b) carry into effect the resolutions of the Council;
- (c) furnish to the Council such periodical reports regarding the progress made in carrying out the resolutions of that body in the collection of taxes as the Council may direct; and
- (d) perform all the duties and exercise all the powers specially imposed or conferred on

**Functions of
the Presi-
dent.**

the President by this Act and subject, whenever it is hereinafter expressly so provided, to the sanction of the Council and subject to all other restrictions, limitations and conditions hereinafter imposed, exercise the executive power for the purpose of carrying out the provisions of this Act and be directly responsible for the due fulfilment of the purposes of this Act.

President to be member of every Committee of the Council.

13. The President shall, by virtue of his office, be a member of every Committee of the Council.

Emergency powers of President.

14. The President may, in cases of emergency, direct the execution of any work or the doing of any act which would ordinarily require the sanction of the Council 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 Town Fund:

Provided that—

(a) he shall not act under this section in contravention of any order of the Council prohibiting the execution of any particular act, and

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

Delegation and devolution of functions of President.

15. (1) The President may, by an order in writing, delegate any of his functions to any member of the Council:

Provided that he shall not delegate any functions which the Council expressly forbids him to delegate.

(2) If the President has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, his functions except those of promoting, withholding promotion from,

reducing, removing or dismissing any officer or servant of the Council, shall, during such absence or incapacity, devolve on the Engineering member :

Provided that where the absence from jurisdiction of the President is within the State and is on business connected with the Council, the President's functions shall not, except to the extent, if any, to which functions have been delegated by him under sub-section (1) devolve on the Engineering member.

(3) Subject to any restrictions that the Council may impose, the President may, by an order in writing, delegate any of his executive functions to any officer or servant of the Council or to any officer of Government.

(4) The exercise or discharge of any functions delegated under sub-sections (1) and (3) shall be subject to such restrictions, limitations and conditions, if any, as may be laid down by the President and shall also be subject to his control and revision.

The Council

16. Subject to the provisions of this Act the administration of the Town shall vest in the Council, but the Council shall not be entitled to exercise functions expressly assigned by or under this Act or any other law to the President.

**Functions of
the Council.**

17. (1) Any Councillor may call the attention of the President to any neglect in the execution of any work, to any waste of Town property or to the wants of any locality, and may suggest any improvements which may appear desirable.

**Duties and
powers of
individual
Councillors.**

(2) Every Councillor shall have the right to move resolutions and to interpellate the President

on matters connected with the Town administration subject to such rules as may be framed by the Council.

- (3) Every Councillor shall have access during office hours to the records of the Council after giving due notice to the President:

Provided that the President may, in any particular case for reasons given in writing, forbid such access.

**Council's
power to call
for records.**

18. The Council may, at any time, require the President to produce any document which is in his custody. The President shall comply with every such requisition, unless in his opinion immediate compliance therewith would be prejudicial to the interests of the Council or of the public, in which case he shall make a declaration in writing to that effect and shall if required by the Council, refer the question to Government whose decision shall be final.

**Appointment
of Com-
mittees.**

19. A Council may constitute Committees for the purpose of exercising such powers, discharging such duties or performing such functions as it may delegate to them, or may appoint individual Councillors or Committees to enquire into and report or advise on any matters which it may refer to them.

**Appointment
of Special
Committee.**

20. (1) It shall be lawful for the Council from time to time by a resolution supported by not less than one half of the sanctioned strength of the Council to appoint as members of any Committee any persons who are not Councillors but who may, in the opinion of such Council, possess special qualifications for serving on such Committee. But the number of persons so appointed on any Committee shall not exceed one-third of the total number of members of such Committee. All the provisions of this Act relating to the duties, powers, liabilities and disqualifications and disabilities of Councillors shall, save as regards the disqualification

on the ground of residence, be applicable, so far as may be, to such persons.

- (2) (a) A Council may and if so required by Government shall, join with one or more than one other local authority in constituting a joint Committee for any purpose in which they are jointly interested or for any matter for which they are jointly responsible.
- (b) A joint Committee may include persons who are not members of the local authorities concerned but who may, in their opinion, possess special qualifications or special interest for serving on such Committee :

Provided that the number of such persons shall not exceed one-third of the total number of members of the joint Committee.

- (c) The constitution of a joint Committee shall be by means of rules which shall not except in the cases referred to in sub-clauses (f) and (g), have effect unless assented to by each of the local authorities concerned.
- (d) The rules shall determine.—
- (i) the total number of members of the joint Committee;
 - (ii) the number who shall be members of the local authorities concerned and the number who may be outsiders;

- (iii) the persons who shall be members of the joint Committee or the manner in which they shall be elected or appointed;
 - (iv) the person who shall be Chairman of the joint Committee or the manner in which he shall be elected or appointed;
 - (v) the term of office of members and Chairman;
 - (vi) the powers, being powers exercisable by one or more of the local authorities concerned, which may be exercised by the joint Committee; and
 - (vii) the procedure of the joint Committee.
- (e) Rules made under sub-clauses (c) and (d) may be varied or revoked provided that all the local authorities concerned assent to such variation or revocation.
- (f) If Government take action under sub-clause (a) they may issue such directions as they think necessary or desirable in respect of all or any of the matters referred to in sub-clauses (c) and (d).
- (g) If any difference of opinion arises between local authorities under any of the foregoing provisions of

this section, it shall be referred to Government whose decision shall be final.

21. The Council with the approval of Government may, after previous publication, make by-laws not inconsistent with this Act or with any rules framed by Government in regard to the following matters.—

Rules and regulations for proceedings of Council.

- (a) The time and place of the meetings of the Council.
- (b) The manner in which notice thereof shall be given.
- (c) The preservation of order and the conduct of proceedings at meetings, and the powers which the President may exercise for the purpose of enforcing his decisions on points of order.
- (d) The suspension of Councillors for a period not exceeding one month.
- (e) The division of duties among the members of the Council.
- (f) The constitution and procedure of Committees.
- (g) The delegation of its powers, duties or functions—
 - (i) to the President, a Councillor, an officer or servant of the Council or an officer of Government, or
 - (ii) to a Committee constituted under clause (f) or to its Chairman or to any one or more of its members.
- (h) The interpellations of the President by the Councillors on matters connected with the Town administration.
- (i) All other similar matters.

22. All elections or nominations of President and members of Councils shall be notified in the Cochin Government Gazette.

Notification of election.

**Presidency
of Council.**

23. (1) Every meeting of the Council shall be presided over by the President; in his absence by a Councillor chosen by the meeting to preside for the occasion.
- (2) The President shall preserve order and shall decide all points of order arising at or in connection with meetings. There shall be no discussion on any point of order and the decision of the President on any point of order shall, save as is otherwise expressly provided in this Act, be final.
- (3) A Councillor presiding for the occasion shall, for that meeting, and during the period that he presides over it have all the powers of the President.

**Councillor
when to
abstain from
taking part
in discussion
and voting.**

24. (1) No Councillor shall vote on or take part in the discussion of any question coming up for consideration at a meeting of the Council or any Committee, if the question is one in which, apart from its general application to the public, he has any direct or indirect pecuniary interest by himself or his partner.
- (2) The President may prohibit any Councillor from voting or taking part in the discussion of any matter in which he believes such Councillor to have such interest or he may require such Councillor to absent himself during the discussion.
- (3) Such Councillor may challenge the decision of the President, who shall thereupon put the question to the meeting. The decision of the meeting shall be final.
- (4) If the President is believed by any Councillor present at the meeting to have any such pecuniary interest in any matter under discussion, he may, if a motion to that effect

be carried, be required to absent himself from the meeting during such discussion.

- (5) The Councillor concerned shall not be entitled to vote on the question referred to in sub-section (3) and the President concerned shall not be entitled to vote on the motion referred to in sub-section (4).

Explanation.—President in this section includes a Councillor presiding for the occasion.

25. (1) The President may resign by giving notice to the Council; any Councillor may resign his office by giving notice to the President. Such resignation shall take effect in the case of a President from the date on which it is placed before a meeting of the Council and in the case of a Councillor from the date on which it is received by the President.
- (2) Any person holding a salaried office under Government who is a Councillor of any Town Council shall, on being transferred permanently or temporarily from the Town or on quitting the Town with the intention of remaining absent therefrom for more than three months be deemed to have vacated his office of Councillor.

Power of President or Councillor to resign.

Act of Council, etc., not to be invalidated by informality, etc.

26. No act of a Council or of a Committee thereof or of any person acting as President or member of the Council or Committee shall be deemed to be invalid by reason only of a defect in the establishment of the Town or Committee or on the ground that the President, or any member of the Council or Committee was not entitled to hold or continue in such office by reason of any disqualification or by reason of any irregularity or illegality in his election or appointment or by reason of such act having been done during the period of any vacancy in the office of President or member of the Council or Committee.

Administration Report

Annual
Administration
Report.

27. (1) As soon as may be after the first day of Kanni in every year and not later than such date as may be fixed by Government, the Council shall submit to Government a report on the administration during the preceding year in such form and with such details as Government may direct.
- (2) The President shall prepare the report; the Council shall consider his report and forward it to Government with its resolutions thereon, if any.
- (3) The report and the resolutions thereon, if any, shall be published in such manner as the Council, subject to the approval of Government, may direct.

Government

Power of
Government
for purposes
of control.

28. Government may—
- (a) call for any document in the possession or under the control of any Council;
- (b) require the President or Council to furnish any return, plan, estimate or statement, account or statistics;
- (c) require the President or Council to furnish any information or report on any matter pertaining to the Town; and
- (d) record in writing for the consideration of the President or Council any observations in regard to matters pertaining to the Town.

Power to
suspend
action under
the Act.

29. (1) Government may, by order in writing—
- (i) suspend or cancel any resolution passed, order issued or license or permission granted; or
- (ii) prohibit the doing of any act which is about to be done or is

being done in pursuance or
under colour of this Act or

(iii) direct that any particular act shall
be done.

(2) If, in the opinion of the President immediate action is necessary the President may suspend any resolution, order, license, permission or act as the case may be and report to Government who may thereupon either rescind the order or after giving the authority or person concerned passing such resolution or order, issuing such license or permission or doing such act, a reasonable opportunity of explanation, direct that it continues in force with or without modification permanently or for such period as they think fit.

30. (1) Government may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which the Council or the President is empowered to execute or to do, and the immediate execution or the doing of which is, in their opinion, necessary for the safety of the public and may direct that the expense of executing such work or doing such act incurred as the emergency may require, shall be paid from the Town Fund.
- Power to
authorise any
officer in
case of
emergency
to execute
any work or
to do any
act.
- (2) If the expense is not so paid, Government may direct the person having the custody of the Town Fund to pay it in priority to any other charge against the fund.
- (3) Such person shall, so far as the funds to the credit of the Council admit, be bound to comply with such direction.
31. (1) Government may appoint such officers as may be required for the purpose of
- Power to
supervise
Town
Councils.

inspecting or superintending the operations of all or any of the Councils under this Act.

- (2) All institutions maintained by any Council and all documents relating thereto shall at all times be open to inspection of such officers as Government may appoint in that behalf.
- (3) Town authorities and Town officers and servants shall be bound to afford to inspecting and superintending officers of Government appointed under this section such access at all reasonable times to Town property or premises and to all documents which they may consider to be necessary to enable them to discharge their duties of inspection or superintendence.
- (4) The Director of Public Health shall be the statutory Health Inspector of all Towns concerning all matters relating to Public Health that are referred to in Part IV of this Act. He shall have access to such Town property or premises and shall be entitled, subject to any rules that may be framed by Government for his guidance, to inspect such registers, books, accounts and other documents and to require such information as he may consider necessary to enable him to discharge his duties as Statutory Inspector. Such recommendations as may be made by him in connection with the matters referred to in Part IV of the Act shall be carried out by the Council concerned as far as possible and in cases where the Council disagrees with such recommendations or finds itself unable to carry them into effect that fact shall be promptly reported by the Council to Government whose orders on the matter shall be final.

32. (1) If at any time it appears to Government that a Council or President has made default in performing any duty imposed by or under this or any other Act, they may, by order in writing, fix a period for the performance of such duty. **Power to undertake works for or to take action in default of a Council.**
- (2) If such duty is not performed within the period so fixed, Government may appoint some person to perform it and may direct that the expense of performing it shall be paid by the Council.
- (3) Government may, with the consent of the Council, undertake on its behalf the construction of water supply, drainage or other works, appoint persons to carry out the construction of such works and direct that the expense including the pay of such persons be paid from the Town Fund.
- (4) If expense which Government have directed under sub-section (2) or (3) to be paid from the Town Fund, are not so paid, Government may direct the person having the custody of the Town Fund to pay it in priority to any other charge against such fund except charges for the service of authorised loans.
- (5) Such person shall, so far as the funds to the credit of the Council admit, be bound to comply with such direction.

33. Government may direct by notification that any sum of money which may, in their opinion, be required for giving effect to their orders be lent from the public treasury at such rate of interest and on such terms as to repayment and otherwise as may be fixed for grant of loans from public funds to Town Councils generally. **Lending of money from public funds to Town Councils.**

34. (1) The Council may, in pursuance of a resolution passed at a meeting specially convened in that behalf and with the sanction of **Borrowing of money by Councils.**

Government and in accordance with the rules framed by Government, borrow, by debenture or otherwise, on the security of its funds or any portion thereof, from Government or from any person or persons any sum of money required for the carrying out of any works of a permanent nature which it is legally authorised to carry out or for the repayment of money previously borrowed under this Act.

- (2) Except as provided by sub-section (1) of this section and by section 33 no Council shall, for any purpose, borrow money upon or otherwise charge its funds; and any contract otherwise made for that purpose shall be void.
- (3) If any money borrowed in accordance with the provisions of this Act and any rules framed thereunder or any interests or costs due in respect thereof is or are not repaid according to the conditions of the loan, Government, if themselves be the lenders, may, and if Government are not the lenders, shall, on the application of the lender or lenders attach the funds on the security of which the loan was made. After such attachment, no person except an officer appointed in this behalf by Government shall in any way deal with the attached funds; but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interests and costs due in respect thereof and all expenses caused by the attachment and the subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were

previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of a liability in pursuance of which the attachment is made.

35. (1) Government may, by notification, remove any President if he disobeys the provisions of this Act or any rules, by-laws, regulations or lawful orders issued thereunder or abuse the powers vested in him. **Power to remove President.**
- (2) Government shall when they propose to take action under sub-section (1) give the President concerned an opportunity for explanation and the notification issued under the said sub-section shall contain a statement of the reasons of Government for the action taken.
- (3) Government may determine a period during which a President removed under sub-section (1) shall not be eligible for re-election.
36. (1) Government may, by notification, remove any Councillor.— **Power to remove Councillor.**
- (a) if at any time of his election or appointment he was not qualified to be or was disqualified from being elected or appointed Councillor,
- (b) if he is an undischarged insolvent or has been convicted of any such offence or subjected by a Criminal Court to any such order as implies in the opinion of Government a defect of character which renders him unfit to hold his office,
- (c) if he has been dismissed from the public service or while he is debarred from practising as a

lawyer or a medical man by order of competent authority,

(d) if he refuses to act or becomes incapable of acting, or

(e) if he without an excuse sufficient in the opinion of the Council neglects for more than three consecutive months to be present at the meetings of the Council.

(2) When Government propose to take action under this section they shall give the Councillor concerned an opportunity of explanation and shall record the reasons for any action taken.

**Motion of
no confidence
in President.**

37. (1) Subject to the provisions of this section, a motion expressing want of confidence in the President may be made in accordance with the procedure laid down herein.

(2) Written notice of intention to make the motion, in such form as may be fixed by Government, signed by such number of Councillors as shall constitute not less than one-half of the sanctioned strength of the Council, together with a copy of the motion which is proposed to be made, shall be delivered by any two of the Councillors giving the notice in person together, to the Tahsildar of the Taluk.

(3) The Tahsildar shall then convene a meeting for the consideration of the motion, to be held at the Council Office, at a time appointed by him which shall not be later than thirty days from the date on which the notice under sub-section (2) was delivered to him. He shall give to the Councillors notice of not less than fifteen clear days of such meeting and of the time appointed therefor.

- (4) The Tahsildar shall preside at the meeting convened under this section, and no other person shall preside thereat. If within half an hour after the time appointed for the meeting the Tahsildar is not present to preside at the meeting, the meeting shall stand adjourned to a time to be appointed and notified to the Councillors by the Tahsildar under sub-section (5).
- (5) If the Tahsildar is unable to preside at the meeting, he may, after recording his reasons in writing, adjourn the meeting to such other time as he may appoint. The date so appointed shall not be later than thirty days from the date appointed for the meeting under sub-section (3). Notice of not less than seven clear days shall be given to the Councillors of the time appointed for the adjourned meeting.
- (6) Save as provided in sub-sections (4) and (5) a meeting convened for the purpose of considering a motion under this section, shall not, for any reason, be adjourned.
- (7) As soon as the meeting convened under this section has commenced, the Tahsildar shall read to the Council the motion for the consideration of which it has been convened, and declare it to be open for debate.
- (8) No debate on any motion under this section shall be adjourned.
- (9) Such debate shall automatically terminate on the expiry of two hours from the time appointed for the commencement of the meeting, if it is not concluded earlier. Upon the conclusion of the debate or upon the expiry of the said period of two hours, as the case may be, the motion shall be put to the vote of the Council.

- (10) The Tahsildar shall not speak on the merits of the motion, nor shall he be entitled to vote thereon.
- (11) A copy of the minutes of the meeting together with a copy of the motion and the result of the voting thereon shall forthwith, on the termination of the meeting be forwarded by the Tahsildar to Government.
- (12) If the motion is carried with the support of not less than seven or three-fourths of the sanctioned strength of the Council whichever is higher, Government shall, by notification, remove the President.
- (13) If the motion is not carried by such a majority as aforesaid, or if the meeting cannot be held for want of a quorum, no notice of any subsequent motion expressing want of confidence in the same President shall be received until after the expiry of six months from the date of the meeting.
- (14) No notice of a motion under this section shall be received within six months of the assumption of office by a President.

Government's power to dissolve or supersede Council.

38. (1) If, in their opinion, a Council is not competent to perform or persistently makes default in performing the duties imposed on it by law, or exceeds or abuses its powers Government may, by notification, direct that the Council be dissolved and reconstituted on such dates as Government may fix in that behalf; or they may, if they think necessary supersede the Council for a specified period not exceeding two years. Such notifications shall be laid on the table of the Legislative Council:

Provided as follows—

- (a) for the purpose of completing the elections to a Council which has

been dissolved, Government may, in their discretion, from time to time, extend the time fixed by them under this sub-section for its reconstitution; and

(b) Government shall not supersede a portion only of the Council.

- (2) Before publishing a notification under sub-section (1), Government shall communicate to the Council concerned the grounds on which they propose to do so, fix a reasonable period for the Council to show cause against the proposal and consider its explanations and objections, if any:

Provided that where a Council has disobeyed any order issued under section 29 Government shall not be bound to follow the procedure laid down in this sub-section.

- (3) On the date fixed for the dissolution of the Council under sub-section (1), all its members as well as the President shall forthwith be deemed to have vacated their offices and fresh elections shall be held in accordance with the provisions of this Act. The newly elected Councillors shall enter upon their offices on the date fixed for the reconstitution of the Council.

- (4) Supersession shall take effect from the noon on the date of publication of the notification, if no date is therein specified, and thereupon the following consequences shall ensue:

(a) all the members of the Council as well as its President shall forthwith be deemed to have vacated their offices;

(b) all or any of the functions of the Council and of its President may, during the period of supersession,

be exercised and performed as far as may be, and to such extent as Government may determine, by such persons as Government appoint in that behalf and any such person who is not a Tahsildar may, if Government so direct, receive payment for his services from the Town Fund; Government may determine the relations of such person with other Town authorities and with themselves.

- (5) On or before the expiry of the period of supersession notified under sub-section (1), Government may, by notification, for reasons to be stated in the notification, postpone the reconstitution of the Council for a further period not exceeding six months, or notwithstanding anything contained in proviso (a) to sub-section (1) of section 4, withdraw the area of the Town from the operation of this Act under that section.
- (6) Government may reconstitute the Council before the expiry of the period notified under sub-section (1), or sub-section (5).
- (7) When a Council is dissolved or superseded under this section, Government, until the date of the reconstitution thereof and the reconstituted Council thereafter, shall be entitled to all the assets and be subject to all the liabilities as on the date of the dissolution or supersession and on the date of the reconstitution respectively.

Powers of
officers
acting for,
or in default
of Council
and liability
of Town
Fund.

39. When any person appointed by Government lawfully takes action on behalf or in default of the Council under this Act he shall have all such powers as are necessary for the purpose, and shall be entitled to the same protection under this Act as the Town authority whose

powers he is exercising and compensation shall be recoverable from the Town Fund by any person suffering damage from the exercise of such powers to the same extent as if the action had been taken by such Town authority.

40. (1) Meetings of the Council shall be open to the public, unless in any special case the house resolves otherwise. Every Council shall as far as possible provide facilities for visitors to attend meetings and for press reporters to report the proceedings. The rate payers.
- (2) Any rate payer or association of rate payers shall be entitled to inspect the minutes book in which the proceedings of the Council are recorded, the assessment registers, and the accounts of revenue and expenditure of the Town on payment of a fee in each case of annas eight.

CHAPTER IV—ELECTION OF COUNCILLORS

41. (1) For the purposes of election of Councillors to a Council, Government, may, by notification, divide the Town into wards. One Councillor shall be elected for each ward provided however that Government, after consulting the Council, may increase the elective seats for any particular ward to more than one, alter such number from time to time or divide the Town into wards anew. Election of Councillors.
- (2) When issuing under sub-section (1) a notification which materially alters the existing division of a Town into wards, Government may direct that the alteration shall take effect from the date of the next ordinary elections.
- (3) When the number of Councillors to be returned by a ward is altered or when a new ward is formed or when an existing ward is

abolished, the election authority shall, with the approval of Government determine—

- (a) the ward which each Councillor then on the Council shall be deemed to represent; and
- (b) the ward or wards in which elections shall be held to fill up the vacancies, if any, in the Council.

Publication
of electoral
roll.

42. (1) An electoral roll for every Town showing the names of persons qualified to vote therein shall be prepared and published by the election authority in the manner prescribed, before the end of Karkadagam of the year preceding that in which the ordinary vacancies are to occur.
- (2) The roll so prepared and published shall be revised and a list of amendments and corrections thereto shall in like manner be prepared and published by the election authority before the end of Karkadagam of every year.
- (3) When a Town has been divided into wards the electoral roll shall be divided into separate lists for each ward.
- (4) The electoral roll published in any year shall remain as revised by the list of amendments and corrections, if any, in force till the publication of a fresh electoral roll.
- (5) Every person whose name appears in the electoral roll as so revised shall so long as it remains in force be entitled to vote at an election; and no person whose name does not appear in such roll shall vote at an election.

Qualifica-
tions for
voting.

43. (1) No person shall be included in the electoral roll as qualified to vote unless—
- (a) he is a subject of Cochin State or of British India or of a State in India other than Cochin State:

provided that Government may exclude from the scope of this restriction any alien or class of aliens;

(b) he has completed the age of 21 years in the year preceding that in which the electoral roll is published;

(c) he has been assessed in such preceding year to any tax payable to Government or to the Council except tax on dogs; or has passed the S. S. L. C. Examination of Cochin or any like examination anywhere else or is an Ayurvedic practitioner recognised by Government in this behalf or is the holder of any degree or license of having passed any examination in oriental languages recognised by any Indian University or by the Government of Cochin; and

(d) he has resided in the Town in such preceding year.

(2) If a company or association or the member of a joint family or joint pattadars has or have been assessed to any tax, the company or association or the family or joint pattadars shall be treated as possessing the qualification, and the person entitled to be registered in the electoral roll shall be the Secretary of the company or association or some other person duly authorised in that behalf or the member authorised by a majority of the family or of the joint pattadars or, in the case of a joint Hindu family, either a member so authorised or in default of such authorisation the manager thereof.

- (3) A person may be qualified either in his personal capacity or in the capacity of a representative of a company or association or of a joint family or of joint pattadars, but not in both capacities.
- (4) Save as provided in sub-section (2) no person shall be qualified as an elector unless he possesses the necessary qualifications in his personal capacity.

Disqualifica-
tions of
voters.

44. Notwithstanding anything contained in sub-section (5) of section 42 a person who is of unsound mind, a deaf-mute or a leper shall not be entitled to vote at any election to a Town Council.

Qualifications for Membership of Council

Qualifica-
tion of candi-
dates.

45. (1) No person shall be qualified for election as a Councillor unless the name of such person appears on the electoral roll of the Town.
- (2) No officer of Government and no teacher in an aided school shall be qualified for election as a Councillor.

Disqualifica-
tion of candi-
dates.

46. (1) A person who has been sentenced by a criminal court to imprisonment for a period of more than six months for any offence other than an offence of a political character or an offence not involving moral delinquency (such sentence not having been reversed or the offence pardoned) shall be disqualified for election as a Councillor while undergoing the sentence and for five years from the date of the expiration of the sentence.
- (2) A person shall be disqualified for election as a Councillor if such person is at the date of nomination, or election—
- (a) of unsound mind, a deaf-mute or a leper;
 - (b) an applicant to be adjudicated a bankrupt or insolvent or an

uncertificated bankrupt or undischarged insolvent;

- (c) interested in a subsisting contract made with, or any work being done for the Town Council except as a share-holder (other than a director) in a company:

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his having a share or interest in—

- (i) any lease, sale or purchase of immovable property or any agreement for the same; or
 - (ii) any agreement for the loan of money or any security for the payment of money only; or
 - (iii) any newspaper in which any advertisement relating to the affairs of the Council is inserted; or
 - (iv) the sale to the Council of any articles in which he regularly trades; or the purchase from the Council of any articles to a value in either case not exceeding five hundred rupees in the aggregate in any year during the period of the contract or work;
- (d) employed as paid legal practitioner on behalf of the Council or as

legal practitioner against the Council;

- (e) an officer or servant holding office under this Act, or an honorary Magistrate for the Town;
- (f) already a Councillor whose term of office as such will not expire before his fresh election can take effect, or has already been elected a Councillor whose term of office has not yet commenced; or
- (g) the servant or employer or the official subordinate or official superior of a Councillor holding office on the said date.

(3) Notwithstanding anything contained in sub-section (1) Government may direct that such sentence shall not operate as a disqualification.

**Disqualifica-
tion of
Councillors.**

47. (1) Subject to the provisions of section 48, a Councillor shall cease to hold his office, if he—

- (a) is sentenced by a criminal court to such punishment and for such offence as is described in sub-section (1) of section 46;
- (b) becomes of unsound mind, a deaf-mute, or a leper;
- (c) applies to be adjudicated, or is adjudicated a bankrupt or insolvent;
- (d) subject to the proviso to clause (c) of sub-section (2) of section 46 acquires any interest in any subsisting contract made with, or work being done, for the Council except as a share-holder (other than a director) in a company;
- (e) is employed as paid legal practitioner on behalf of the Council

- or accepts employment as legal practitioner against the Council;
- (f) is appointed as an officer or servant under this Act or as an honorary Magistrate for the Town;
 - (g) accepts employment under (or becomes the official subordinate of) any other Councillor;
 - (h) ceases to reside in the Town or within two miles thereof; or
 - (i) absents himself from the meetings of the Council for a period of three consecutive months reckoned from the date of the commencement of his term of office, or of the last meeting which he attended, or of his restoration to office as Councillor under sub-section (3), as the case may be, or if within the said period, less than three meetings have been held, absents himself from three consecutive meetings held after the said dates:

Provided that no meeting from which a Councillor absents himself shall be counted against him under this clause, if due notice of that meeting was not given to him.

- (2) Notwithstanding anything contained in clause (a) of sub-section (1) Government may direct that such sentence shall not operate as a disqualification.
- (3) Where a person ceases to be a Councillor under clause (a) of sub-section (1) or under section 50, he shall be restored to office for such portion of the period for which he was elected as may remain unexpired at the date of such restoration, if and when the sentence is annulled on appeal or revision or the

disqualification caused by the sentence is removed by an order of Government. And any person elected to fill the vacancy in the interim shall on such restoration vacate office.

- (4) Where a person ceases to be a Councillor under clause (i) of sub-section (1), the President shall at once intimate the fact in writing to such person and report the same to the Council at its next meeting. If such person applies for restoration *suo moto* to the Council on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the Council may at the meeting next after the receipt of such application restore him to his office of Councillor:

Provided that a Councillor shall not be so restored more than twice during his term of office.

Decision on
questions of
disqualifica-
tions of
Councillors
by District
Munsiff.

48. (1) Whenever it is alleged that any person who has been elected as a Councillor was or has become disqualified under sub-section (1) of section 45 or sections 46, 47 or 50 and such person does not admit the allegation or whenever any Councillor is himself in doubt whether or not he was or has become disqualified for office under section 47 or section 50, such Councillor or any other Councillor may, and the President at the request of the Council shall, apply to the District Munsiff having jurisdiction at the area in which the Town is situated.
- (2) The said Munsiff, after making such inquiry as he deems necessary, shall determine whether or not, such person was or has become disqualified under sub-section (1) of section 45 or sections 46, 47 or 50 and his decision shall be final.

- (3) Pending such decision the person shall be deemed to be qualified.

Election Offences

49. Every polling officer, clerk or other person in attendance at the polling room who except for some purpose authorised by law, communicates to any person any information showing directly or indirectly for which candidate any voter has voted and every person who, by any improper means, procures any such information, shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

Infringement
of secrecy of
election.

50. Every person convicted of an offence punishable under section 49 or under Chapter VIII-A of the *Cochin Penal Code* shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of President or Councillor for a period of five years from the date of his conviction or for such shorter period as the court may, by order, determine.

Disqualifica-
tions of per-
sons convict-
ed of election
offences.

CHAPTER V—POWERS OF TOWN AUTHORITIES IN RESPECT OF PROPERTY CONTRACTS AND ESTABLISHMENT

Property

51. (1) All public streets in any Town Council with the pavements, stones and other materials thereof and all works, materials and other things provided for such streets, all sewers, drains, drainage works, tunnels and culverts whether made at the cost of the Town Fund or otherwise, in, alongside or under any street, whether public or private and all works, materials and things appertaining thereto shall vest in the Council.

Vesting of
public streets
and appur-
tenances in
the Council.

- (2) Government may, by notification, withdraw any such street, sewer, drain, drainage work,

tunnel or culvert from the control of the Council.

- (3) It shall be competent for Government to resume from time to time by notification any property, transferred by Government to the Councils or to lay down such terms as to their management as Government may determine:

Provided that resumption cannot be effected without payment of the cost or present value, whichever is less, of any buildings erected or other works executed on the property by the Council.

Collected
sewages, etc.,
to belong to
Council.
Inventory
of Town
property.

52. All rubbish and filth and other matter collected by a Council under this Act shall belong to the Council.

53. (1) The President shall maintain an inventory of all immovable property owned by the Council or to which the Council has a reversionary right.

(2) A copy of the said inventory shall be deposited in the Office of the Superintendent of Survey and Land Records and all changes shall be forthwith communicated to the said Officer.

Limitation
of power to
accept prop-
erty in
trust.

54. The Council may, with the sanction of Government, accept trusts relating exclusively to the furtherance of any purpose to which the Town Fund may be applied.

Objects not
provided for
by this Act.

55. Government may, with the consent of the Council, transfer to it the management of any institution or the execution of any work not provided for by this Act and it shall thereupon be lawful for the Council to undertake such management or execution:

Provided that in every such case the funds required for such management or execution shall be placed at the disposal of the Council by Government.

Procedure
for acqui-
sition of im-
movable
property.

56. Any immovable property which any Town Council desires to acquire for the purpose of this Act may be acquired under the provisions of the Land Acquisition Act

and on payment of the compensation awarded under the said Act in respect of such property and of any other charges incurred in acquiring it, the said property shall vest in the Council.

Contracts

57. (1) The Council shall be competent to make on its behalf any contract whereof the value or amount does not exceed five hundred rupees:

Delegation
of authority
to contract
and contract-
ual powers
of persons
appointed by
Government.

Provided that with regard to such contracts the lowest tender may be accepted without obtaining the sanction of Government.

- (2) In respect of a contract where the lowest tender is not accepted or whereof the value or amount exceeds five hundred rupees, the sanction of Government should be obtained before the same is made.
- (3) Notwithstanding anything contained in the two preceding sub-sections any person appointed by Government to carry any work into execution on behalf of a Council may, subject to such control as Government may prescribe, make such contracts as are necessary for the purpose of carrying such work into execution, to the extent of the sum provided for such work and the Council shall pay to the person so appointed such sums as may be required for the said purpose to the extent aforesaid.
- (4) Every contract made by or on behalf of a Council, whereof the value or amount exceeds one hundred rupees, shall be in writing and except in the case of contract made under sub-section (3) shall be signed by two Councillors and the President.
- (5) A contract executed or made otherwise than in conformity with the provisions of

this section shall not be binding on the Council.

Establishment

Power to fix the number and salaries of servants.

58. The Council may, from time to time, with the sanction of Government previously obtained in each case, fix or alter the number, designation and grade of its officers or servants and the salaries, fees and allowances payable to them:

Provided that Government shall always have power to fix, alter the number, designation and grades of, and the salaries, fees and allowances payable to, the officers and servants of any Council, or any class of such officers and servants.

Appointment of officers and servants.

59. The appointment of such officers and servants as shall have been provided in the manner aforesaid shall be made by Government or the President as the case may be under such rules as may be framed by Government from time to time.

Transfer of Officers or servants.

60. (1) Notwithstanding anything contained in this Act or any rule thereunder Government shall have power to transfer any officer or servant of a Town to the service of any other Town:

Provided that that power shall be exercised after consulting the Councils concerned.

(2) Government shall have power to issue such general or special directions as they may think necessary for the purpose of giving due effect to transfers made under subsection (1).

Punishment of servants.

61. The officers and servants appointed under section 59 may be fined, suspended, reduced or dismissed under such rules as may be framed by Government from time to time.

Power of Council to frame Service Regulations.

62. The Council may frame regulations in respect of officers and servants on the Town staff—

- (a) fixing the amount and nature of the security to be furnished ;
- (b) prescribing educational or other qualifications ;
- (c) regulating the grant of leave, leave allowances, acting allowances and travelling allowances ;
- (d) regulating the grant of pensions and gratuities ;
- (e) establishing and maintaining Provident Fund and making contribution thereto compulsory ;
- (f) regulating conduct ; and
- (g) generally prescribing conditions of service :

Provided that every regulation framed shall require the sanction of Government and shall not be repugnant to any rules framed in this behalf by Government.

63. (1) Government may, on the application of any Council, place the services of any Government servant at the disposal of the Council to be employed by it for the purposes of this Act. The Council shall pay any Government servant so employed the salary he may be entitled to receive from time to time if he had been under Government service and also pay Government such contribution towards the pension and leave allowances of such servant as may be payable under the regulations in that behalf for the time being.
- (2) If such servant, while employed by the Council or if any other servant of the Council does any work for Government, Government shall contribute to the Town Fund so much of the salary of such servant as Government may consider to be an equivalent for such work.
- (3) No Government servant employed by the Council under this section shall be dismissed

Special provisions regarding Government servants lent to Council.

from such employment without the consent of Government.

- (4) No Government servant employed by the Council shall, except in cases of emergency, be withdrawn from service without the consent of the Council, unless and until Government shall have given three months' notice in writing to that effect to the Council, or unless some other Government servant has been deputed to replace the one withdrawn.
- (5) Government servants employed by Councils shall be entitled to leave and other privileges in accordance with the regulations for the time being in force under Government.

PART III

CHAPTER VI—TAXATION AND FINANCE

Enumeration
of ordinary
Taxes and
power of
control of
Government.

64. (1) Every Council may levy—
 - (a) a property tax;
 - (b) a tax on companies;
 - (c) a tax on profession and other sources of income;
 - (d) a tax on carriages and animals;
 - (e) a tax on carts:

Provided that Government may exempt any Co-operative Society registered under the Cochin Co-operative Societies Act from any tax leviable under clause (b) or clause (c).

- (2) Any resolution of a Council determining to levy a tax shall specify the rate at which such tax shall be levied and the date from which it shall be levied:

Provided that before passing a resolution imposing a tax for the first time in the Town or increasing the rate of an existing tax the Council shall publish a notice in the Cochin Government Gazette of their intention, fix a

reasonable period not being less than one month for submission of objections and consider objections, if any, received within the period specified ;

Provided also that no resolution abolishing an existing tax or reducing the rate at which a tax is levied shall be carried into effect without the sanction of Government :

Provided also that where any resolution under this section has taken effect for a particular year, no proposals to alter the rates or date fixed in such resolution so far as that year is concerned shall be taken into consideration by the Council.

65. When a Council shall have determined subject to the provisions of section 64 to levy a tax for the first time or at a new rate, the President shall forthwith publish by a notification in the Cochin Government Gazette and by beat of drum, specifying the rate at which, the date from which and the period of levy, if any, for which such tax shall be levied.

Notification
of new taxes.

The Property tax

66. (1) The property tax which shall be levied at a consolidated rate on all buildings within Town limits save those exempted by or under this Act or any other law, shall comprise a tax for general purposes and may also comprise—

Description
and classes
of Property
Tax.

- (a) a water and drainage tax to provide for expenses connected with the construction, maintenance, repair, extension or improvement of water or drainage works heretofore provided or hereafter to be provided ;
- (b) a lighting tax to provide for expenses connected with the lighting of the Town ;
- (c) a scavenging tax to provide for expenses connected with the

removal of rubbish, filth or the carcasses of animals from private premises.

- (2) The tax for general purposes, the water and the drainage tax, the lighting tax and the scavenging tax shall, save as otherwise provided in this Act, be levied at such percentages of the annual value of all buildings as may be considered by the Council sufficient to provide for the expenses which the taxes are intended to meet. Without the special sanction of Government, however, no Council shall depart from the following minima and maxima.—

	<i>Minimum</i>		<i>Maximum</i>	
Tax for general purposes ..	2 per cent		5 per cent	
Water and drainage tax ..	1	..	2	..
Lighting tax ..	$\frac{1}{2}$	..	1	..
Scavenging tax ..	$\frac{1}{2}$	..	2	..

Provided that where the water and drainage tax is levied the Council shall declare what proportion of the tax is levied in respect of water works and the remainder shall be deemed to be levied in respect of drainage works and the proportion so declared shall also be specified in the notification under section 65.

Method of
assessment
of property.

67. (1) Every building shall be assessed together with its site and other adjacent premises occupied as an appurtenance thereto unless the owner of the building is a different person from the owner of such site or premises.
- (2) The annual value of buildings shall be deemed to be the gross annual rent at which they may reasonably be expected to let from month to month or from year to year less an allowance of 10 per cent for repairs.

68. The following buildings shall be exempt from the property tax.— **Exemption.**

- (a) Places set apart for public worship and either actually so used or used for no other purpose, choultries, buildings used for educational purposes, hostels attached to educational institutions, public buildings and places used for the charitable purposes of sheltering the destitute or animals, and libraries and playgrounds which are open to the public ;
- (b) Charitable hospitals and dispensaries and such hospitals and dispensaries maintained by railway administration as may, from time to time, be notified by Government ;
- (c) Burial and burning grounds ;
- (d) Public buildings belonging to Government or the Council ;
- (e) Palaces owned and actually used by the members of the Cochin Ruling Family ;
- (f) Any building the annual value of which is not more than Rs. 24, or where Government specially notifies, Rs. 36, if it be the owner's sole property liable to taxation under this Act.

Explanation.—The exemption granted under this section shall not extend to residential quarters attached to Schools and Colleges, not being hostels or to residential quarters attached to hospitals, dispensaries and libraries.

69. The Council shall levy the property tax at a uniform rate:

Provided that—

**Special
exemptions
and alter-
native basis
of taxation.**

- (a) The Council may, with the previous sanction of Government, exempt any particular part of a Town from the payment of the whole or a portion of the water and drainage tax or of the lighting tax on the ground that

such area is not deriving full benefit from the water supply and drainage, or from the lighting system.

- (b) The Council may exempt any building from the whole or any portion of the scavenging tax if it is satisfied that the owner or occupier has made efficient arrangements for the daily removal therefrom of rubbish, filth and carcasses of animals or if it is satisfied that such removal of rubbish, etc., is not necessary:

Provided that the aggregate property tax leviable in the case of light-houses, piers, wharves, jetties and passenger sheds, latrines, cart-stands, retiring rooms and platforms belonging to a railway administration shall not exceed 4 per cent of their annual value.

**Property tax
a first charge
on property.**

70. The property tax on buildings and lands shall, subject to the prior payment of land revenue, if any, due to Government thereon, be a first charge upon the said buildings or lands and upon the movable property, if any, found within or upon the same and belonging to the person liable to such tax.

**Payment of
property tax,
in half-
yearly
instalments.**

71. The property tax shall be paid by the owner of the assessed premises in two equal instalments, each instalment being payable within 30 days after the commencement of the half-year to which it relates.

**Vacancy
remission.**

72. (1) When any building whether ordinarily let or occupied by the owner himself has been vacant and unlet for thirty or more consecutive days in any half-year, the President shall remit so much not exceeding one-half of such portion of the tax as relates to the building only as is proportionate to the number of days during which the building was vacant and unlet in the half-year.

(2) Every demand for remission under subsection (1) shall be made during the half-year

in respect of which the remission is sought or in the following half-year and not afterwards.

- (3) (a) No demand for such remission shall be entertained unless the owner of the building or his agent has previously thereto delivered notice to the President—
- (i) that the building is vacant and unlet, or
 - (ii) that the building will be vacant and unlet from a specified date either in the half-year in which notice is delivered or in the succeeding half-year.
- (b) The period in respect of which the remission is made shall be calculated—
- (i) if remission is sought in respect of the half-year in which notice is delivered, from the date of delivery of the notice or from the date on which the building became vacant and unlet, whichever is later ; and
 - (ii) if remission in respect of the half-year succeeding that in which the notice is delivered, from the commencement of the half-year in respect of which remission is sought or

from the date on which the building became vacant and unlet, whichever is later.

- (c) Every notice under clause (a) shall expire with the half-year succeeding that during which it is so delivered, and shall have no effect thereafter.

**Obligation
of transferor
and trans-
feree to give
notice of
transfer.**

73. (1) Whenever the title of any person primarily liable to the payment of property tax on any premises to or over such premises is transferred, the person whose title is transferred and the person to whom the same shall be transferred shall, within three months after the 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 to the President.
- (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 written notice of such transfer to the President within one year from the death of the deceased.
- (3) The notice to be given under this section shall be in such form as the President may direct and the transferee or the person to whom the title passes, as the case may be, shall, if so required, be bound to produce before the President any documents evidencing the transfer or succession.
- (4) Every person who makes a transfer as aforesaid without giving such notice to the President shall, in addition to any other liability which he incurs through such neglect continue liable for the payment of

property tax assessed on the premises transferred, until he gives notice or until the transfer shall have been recorded in the Town Registers; but nothing in this section shall be held to affect—

- (a) the liability of the transferee for the payment of the said tax, or
- (b) the prior claim of the Town Council under section 70.

74. (1)

- (a) If any building in a Town is constructed or reconstructed, the owner shall give notice thereof to the President within fifteen days from the date of completion or occupation of the building whichever is earlier.
- (b) If such date falls within the last two months of a half-year the owner shall, subject to notice being given under clause (a), be entitled to a remission of the whole of the tax or enhanced tax, as the case may be, payable in respect of the building only for that half-year.
- (c) If such date falls within the first four months of a half-year, the owner shall, subject to notice being given under clause (a), be entitled to a remission of so much not exceeding a half of the tax or enhanced tax, as the case may be, payable in respect of the building only, for that half-year, as is proportionate to the number of days in that half-year preceding such date.

Owner's obligation to give notice of construction, reconstruction or demolition of building.

- (2) (a) If any building in a Town is demolished or destroyed, the owner shall, until notice thereof is given to the President be liable for the payment of the property tax which would have been leviable had the building not been demolished or destroyed.
- (b) If such notice is given within the first two months of a half-year, the owner shall be entitled to a remission of the whole of the tax payable in respect of the building only, for that half-year.
- (c) If such notice is given within the last four months of a half-year, the owner shall be entitled to a remission of so much not exceeding a half of the tax payable in respect of the building only, for that half-year, as is proportionate to the number of days in that half-year preceding the demolition or destruction as the case may be.

Remission of
tax in areas
included or
excluded in
the middle
of a half-
year.

75. (1) If any area is included within a Town the owner of every building or land in such area shall—
- (a) if the date of such inclusion falls within the last two months of a half-year, not be liable to pay any property tax in respect thereof for that half-year ; and
- (b) if such date falls within the first four months of a half-year, be entitled to a remission of so much not exceeding a half of the property tax payable in respect

thereof for that half-year as is proportionate to the number of days in that half-year preceding such date.

(2) If any area is excluded from a Town the owner of every building or land in such area shall be entitled—

(a) if the date of such exclusion falls within the first two months of a half-year, to a remission of the whole of the property tax payable in respect thereof for that half-year; and

(b) if such date falls within the last four months of a half-year, to a remission of so much not exceeding a half of the property tax payable in respect thereof for that half-year as is proportionate to the number of days in that half-year preceding such date.

(3) No remission shall be granted under subsection (2) in respect of any building or land unless an application for such remission is made to the President within three months from the date of the exclusion of the area in which the building or land is situated.

76. (1) For the purpose of assessing the property tax, the President may, by notice, call on the owner or occupier of any land or building to furnish him within thirty days after the service of the notice, where the notice is served upon a railway administration or a company, and within seven days after such service in other cases, with returns of the rent payable for the land or building, the cost of erecting the building and a measurement of the land and with such other

President's power to call for information and to enter upon premises.

information as the President may require; and every owner and occupier on whom such notice is served shall be bound to comply with it and to make a true return to the best of his knowledge or belief.

- (2) For the purpose aforesaid the President or the revision officer authorised in writing by the President may enter, inspect, survey and measure such building or land after giving twenty-four hours' notice to the owner or occupier.

Tax on Companies

**Taxation of
Companies
on their
capital.**

77. If the Council with the previous sanction of Government by resolution decides that a company's tax shall be levied, every company transacting business within the Town for profit or as a benefit society or as a Kuri shall pay a half-yearly tax on its capital or funds on the scale shown in Schedule I, if and as soon as, it has transacted business in the Town for a period of 60 days.

Tax on Profession and other Sources of Income

**Tax on pro-
fession and
other sources
of income.**

78. (1) If the Council by a resolution determines that a tax on profession and other sources of income shall be levied, every company not made liable to the company's tax under section 77 which after the date specified in the notification published under section 65, transacts business in the Town for not less than sixty days in the aggregate in any half-year;

and every person, not made liable to the company's tax under section 77, who after the said date, in any half-year—

- (a) exercises a profession, art, or calling or transacts business or holds any appointment public or private—

- (i) within the Town for not less than sixty days in the aggregate, or
 - (ii) without the Town but who resides in the Town for not less than sixty days in the aggregate, or
 - (b) resides in the Town for not less than sixty days in the aggregate and is in receipt of any pension or income from investments,
- shall pay a half-yearly tax assessed in accordance with the rates shown in Schedule II.
- (2) A person shall be chargeable under the class appropriate to his aggregate income from all sources specified in sub-section (1):

Provided that the allowances payable to the members of the Cochin Ruling Family shall not be taxable under that sub-section.

- (3) If a company or person proves that it or he has paid the sum due on account of the tax on profession and other sources of income levied under this or the Cochin Municipal Act, for the same half-year to any Town or Municipal Council, such company or person shall not be liable, by reason merely, of change of place of business, exercise of profession, art or calling, appointment or residence to pay to any other Town or Municipal Council more than the difference between such sum and the amount to which it or he is otherwise liable for the tax on profession and other sources of income for the half-year under this or the Cochin Municipal Act.
- (4) Nothing contained in this section shall be deemed to render a person who resides

within the limits of one Town and exercises his profession, art or calling or transacts business or holds any appointment within the limits of any other Town or Municipality liable to tax on profession and other sources of income for more than the higher of the amounts of the tax leviable by any of the Town or Municipal Councils. In such a case Government shall apportion the tax between the two Towns or Municipal Councils in such manner as it may deem fit and the decision of Government shall be final.

Explanation.—The word “person” in this section includes also the manager of a joint Hindu or *Marumakkathayee* family.

Liability of members of firms and associations to pay tax.

79. The tax leviable from a firm or association may be levied from any adult member of the firm or association.

General Provisions Common to Tax on Companies and Tax on Profession and other sources of Income

Liability of servants or agents to company tax or tax on profession and other sources of income.

80. (1) If a company or person employs a servant or agent to represent it or him for the purpose of transacting business, or exercising profession, art or calling, as the case may be, in a Town such company or person shall be deemed to transact business in the Town, and such servant or agent shall be liable for the company tax or the tax on profession and other sources of income, in respect of the business of such company or person, whether or not such servant or agent has power to make binding contracts on behalf of such company or person.
- (2) Where one company or person, is the agent of another company or person, the former company or person shall not be liable separately to the company tax or tax on

profession and other sources of income as the case may be, on the same income as that of the principal.

81. If the company tax or tax on profession and other sources of income due from any company or person is not paid, the President shall cause a notice to be served on such company or person to pay it within fifteen days of the date of such service.

Service of notice on failure of payment of tax.

82. All statements made, returns furnished or accounts or documents produced in connection with the assessments of company tax or tax on profession and other sources of income by any company or person shall be treated as confidential and copies thereof shall not be granted to the public.

Statements, returns, etc., to be confidential.

83. The President may, by notice, require the owner or occupier of any building or land and every secretary or manager of a hotel, boarding or lodging house, club or residential chambers to furnish within a specified time a list in writing containing the names of all persons occupying such building, land, hotel, boarding or lodging house, club or residential chambers and specifying the profession, art, calling or appointment of every such person and the rent, if any, paid by him and the period of such occupation.

Requisition on owner or occupier to furnish list of persons liable to tax.

84. The President may, by notice, require any employer or the head or secretary or manager of any public or private office, hotel, boarding house or club or of a firm or company—

Requisition on employers or their representatives to furnish such list.

- (a) to furnish within a specified time a list in writing of the names of all persons employed by such employer or by such office, hotel, boarding house, club, firm or company as officers, servants, dubashes, agents, suppliers or contractors, with a statement of the salary or income of such employed persons, and
- (b) to furnish particulars in regard to any company of which such employer, head, secretary or manager, as the case may be, is the agent.

Tax on Carriages and Animals

General provisions regarding tax on carriages and animals.

85. If the Council by resolution decides that a tax on carriages and animals shall be levied the President shall levy the said tax by half-yearly instalments on carriages and animals kept within the Town at the rates not exceeding those mentioned in Schedule III. This section shall not apply to motor vehicles plying with G. permits issued under rule 31 of the Cochin Motor Vehicles Rules framed by the Diwan in pursuance of the powers conferred upon him by section 11 of the Cochin Motor Vehicles Act, I of 1094, excepting motor cars seating not more than seven persons.

Liability to tax according to period for which carriage or animal has been kept.

86. (1) Every person having possession, custody or control of any taxable carriage or animal shall be liable for the full half-yearly tax if the carriage or animal has been kept within the Town for an aggregate period of not less than 60 days in the half-year.
- (2) If such aggregate period exceeds 15 days but is less than 60 days a moiety only of the half-yearly tax shall be leviable.
- (3) If such aggregate period does not exceed 15 days no tax is leviable for the half-year.
- (4) Every person having possession, custody or control of any taxable carriage or animal within the Town shall until the contrary is shown, be presumed to have kept the same within the Town for 60 days in the half-year.
- (5) Notwithstanding anything contained in subsections (1) and (2) no person shall be liable to tax during any half-year on account of any carriage or animal in respect of which the full tax for the same half-year has already been paid by some other person.
- (6) No person who shall prove that he has paid in any half-year the tax levied under this or the Cochin Municipal Act on account of any carriage or animal in any Town or

Municipality, shall be liable by reason merely of change of place to pay more than the difference between the amount of such tax and the tax to which he is otherwise liable on account of such carriage or animal for the same half-year in any other Town or Municipality. In such a case Government shall apportion the tax between the Towns and Municipalities concerned in such manner as it may deem fit and the decision of Government shall be final.

87. The carriage and animal tax shall not be levied **Exemptions.**
on—

- (a) carriages and animals belonging to Government and used for military purposes;
- (b) carriages and animals kept solely for sale by carriage makers and dealers;
- (c) carriages which have been under repair or standing at a carriage maker's during the whole of the half-year;
- (d) animals which during the whole of the half-year have been kept in any institution for the reception of infirm animals or which are certified by a veterinary surgeon to have been unfit for use during the whole of the half-year;
- (e) carriages and animals belonging to Town Councils;
- (f) cattle used exclusively for agricultural purposes.

88. With the sanction of the Council or in accordance with the regulations framed by that body, the President may compound, for any period not exceeding one year, with any livery stable keeper or other person keeping carriages and animals for sale or hire, for a certain sum to be paid in lieu of the carriage and animal tax. **Composition.**

Forms to be sent to and returned by tax-payers.

89. (1) The President shall send to every person supposed to have become liable to the payment of the tax on carriages and animals a printed table to be filled up with such information respecting the carriages and animals kept by him as the President considers necessary for the assessment of the tax.
- (2) Such table shall be filled up with such information in writing, and signed and dated, and returned within one week of its receipt to the Council Office by the person to whom it has been sent.
- (3) On the expiry of the period of one week referred to in sub-section (2) the President shall cause a notice to be served on such person requiring him to pay within fifteen days of the date of such service the sum for which, in the opinion of the President such person is liable on account of the tax on carriages and animals.

Grant of license on payment of tax.

90. When any person pays the amount of tax due in respect of any carriage or animal, the President shall grant him a license to keep such carriage or animal for the period to which the payment relates.

Power to require numbers to be affixed to bicycles, etc.

91. (1) The President may direct that a Town Council number shall be affixed to every carriage, bicycle or tricycle kept within the Town:

Provided that no number shall be requisite in the case of carriages to which a number must be affixed under the provisions of any special Act.

- (2) The numbers affixed under sub-section (1) shall be registered in the Council Office.

Tax on Carts

General provisions regarding cart tax.

92. (1) If the Council by resolution decides that a tax shall be levied on carts the President shall levy the said tax by half-yearly

instalments, at the rates, which shall not exceed Rs. 2 per cart per half-year, fixed by the Council in respect of all carts kept within the Town.

- (2) Every owner of any such cart shall register it once in every half-year in the Council Office.
- (3) The Council may direct that a Town Council number shall be affixed to every registered cart.
- (4) The President shall notify certain days in every half-year for the registration and numbering of carts and the payment of the tax.
- (5) All registrations made and numbers affixed under this section shall be entered in a book to be kept for the purpose at the Council Office.
- (6) Such book shall be open to the inspection of any person who pays any tax to the Town at all reasonable times without charge.
- (7) This section shall not apply to carts belonging to Government and used for military purposes or belonging to the Council or carts kept solely for sale by cart makers and dealers.

93. The President may remit any portion of the cart tax in respect of any cart which is known to his satisfaction to have been kept within the Town for an aggregate period not exceeding 15 days in the half-year, or to have been under repair or standing at a cart maker's during the whole of the half-year.

Power to
remit tax.

Taxes leviable under sections 85 and 92

94. Where the Cochin Hackney Carriage Act, 1098, is in force in any area of a Town, the person appointed to perform the functions of the Commissioner under the said Act in respect of such area shall before registering any

Registration
of Hackney
Carriages.

Hackney Carriage thereunder satisfy himself that the Council has received payment of tax, if any, due under section 85 or section 92, as the case may be, on account of the last preceding half-year and the current half-year.

*Powers to Seize Carriages and Carts not
Bearing Numbers*

**Seizure of
vehicles not
bearing
numbers.**

95. (1) If a Town Council number is not affixed to a carriage or cart in pursuance of a direction issued under section 91 or section 92, as the case may be, the President or any servant of the Town Council authorised by him in writing may at any time seize and detain the vehicle and the animal, if any, by which it is drawn :

Provided that no vehicle other than a bicycle, tricycle or motor bicycle shall be seized or detained when actually employed in the conveyance of any passenger or goods.

- (2) If the vehicle or animal seized be not claimed and the tax due thereon be not paid within seven days from the date of seizure, the President may direct that the vehicle or animal shall be sold in public auction and the proceeds of the sale applied to the payment of--

- (i) the tax, if any, due on the vehicle or animal sold ;
- (ii) such penalty not exceeding the amount of the tax as the President may direct ; and
- (iii) a sum of one rupee on account of charges incurred in connection with the seizure, detention and sale.

- (3) If the owner of the vehicle or animal or other person entitled thereto claims the same within seven days from the date of

seizure or at any time before the sale, it shall be returned to him on payment of—

- (i) the tax due thereon ;
- (ii) such penalty not exceeding the amount of tax as the President may direct ; and
- (iii) a sum of eight annas on account of charges incurred in connection with the seizure and detention.

General Provisions Regarding Taxation and Finance

96. With the sanction of Government the Council may exempt any person or class of persons wholly or in part from payment of any tax. **Power to exempt from taxes.**

97. If in the opinion of the Council, any tax, fee or other amount whatsoever due to it, whether under a contract or otherwise, is irrecoverable the Council may write off the same together with any sum payable in connection therewith. **Council's power to write off irrecoverable taxes.**

98. All moneys received by the Council shall constitute a fund which shall be called the Town Fund and shall be applied and disposed of subject to the provisions of this Act or other laws. The funds shall be lodged in the Government treasury or such other place as Government may direct. **Definition of Town Fund.**

99. The Council shall furnish, for the sanction of Government, an annual statement or estimate showing the probable receipts and the expenditure which it is proposed by the Council to incur during the next year and the items in respect of which it is proposed to incur such expenditure. **Budget estimates**

100. Government may pass such orders as they think fit upon the budget estimates submitted to them under section 99 and such orders shall be binding on the Council. When Government pass orders under this section, they **Control of Government over Budge.**

shall have due consideration for the liabilities in respect of loans contracted by the Council, and for the maintenance of a working balance.

Appointment
of auditors
of accounts.

101. Government shall appoint auditors of the accounts of receipts and expenditure of the Town Fund. Such auditors shall be deemed to be public servants within the meaning of section 15 of the *Cochin Penal Code*.

Power of
Government
to make
rules.

102. Government may, after previous publication, make rules regarding—

- (a) the assessment of property taxes ;
- (b) the assessment of the tax on Companies and tax on profession and other sources of income ;
- (c) the levy of the carriage and animal tax ;
- (d) the revision of assessment ;
- (e) the collection of taxes and dues ;
- (f) other miscellaneous matters connected with taxation under this Act ;
- (g) the auditing of the accounts and surcharge and disallowance by auditors ; and
- (h) the purposes to which the Town Fund may be applied.

Such rules shall be read as part of this Chapter and shall have the force of law.

Contribu-
tions to
expenditure
incurred by
other local
authorities.

103. (1) If the expenditure incurred by Government or by any other Town to which this Act applies, or by any other local authority for any purpose authorised by or under the rules framed under clause (h) of section 102 is such as to benefit the inhabitants of a Town, the Council may, with the sanction of Government, make a contribution towards such expenditure.

(2) Government may direct a Council to show cause within a month after a receipt of the order containing the direction, why any contribution described in sub-section (1) should not be made.

- (3) If the Council fails to show cause within the said period to the satisfaction of Government, Government may direct it to make such contribution as they shall name and it shall be paid accordingly.

PART IV

CHAPTER VII—WATER SUPPLY, LIGHTING AND DRAINAGE

Water Supply—Vesting of Works and Powers of Town Authorities

104. (1) All public water courses and springs and all public reservoirs, tanks, cisterns, fountains, wells, standpipes, and other water works existing at the time of the constitution of the Town Council or afterwards made, laid or erected and whether made, laid or erected at the cost of the Council or otherwise and also any adjacent land (not being private property) appertaining thereto shall vest in the Council and be subject to their control :

**Vesting of
works in
Council.**

Provided that nothing contained in this section shall apply to any work which is or is connected with a work of irrigation or to any adjacent land appertaining to any such work.

- (2) Government may, by notification, limit or define such control or may assume the administration of any public source of water supply and public land adjacent and appertaining thereto after consulting the Council and giving due regard to its objections, if any.

- 105 (1) The Council may, with the sanction of Government, direct the construction of such works as it deems fit without the limits of the Town for supplying it with water and may provide channels, tanks, reservoirs,

**Construction
and main-
tenance of
water works.**

cisterns, engines, mains, wells, fountains, standpipes and other works as it may deem fit within the said limits for the use of the inhabitants.

- (2) The Council may cause existing works for the supply of water to be maintained and supplied with water, or it may close any such works and substitute other such works and may cause them to be maintained and supplied with water.

Trespass on premises connected with water supply.

106. It shall not be lawful for any person except with permission duly given and obtained to enter upon land belonging to or vested in a Council along which a conduit or pipe runs or upon any premises connected with the water supply.

Prohibition of building over water mains.

107. (1) Without the permission of the Council no building, wall or other structure shall be newly erected and no street or railway shall be constructed over any Town water mains.

(2) If any building, wall or other structure be so erected or any street or railway be so constructed, the Council may cause the same to be removed or otherwise dealt with as shall appear to it fit and the expenses thereby incurred shall be paid by the persons offending.

(3) Nothing contained in sub-section (1) or (2) shall apply to the construction of railway lines taken up and executed under the direction of Government:

Provided that any person executing such work shall not cause any damage or injury or do anything which would tend to cause any damage or injury to such water mains and shall execute all additional work necessary for their safety, preservation and retention to the satisfaction of the Council.

(4) Any person who fails to comply with any of the provisions in sub-section (3) shall be

liable to pay to the Council such compensation as the Council may fix.

108. Whoever—

- (1) unlawfully breaks, injures or causes damage to any public channel, tank, reservoir, cistern, well, fountain or standpipe or diverts water of the work connected with the water supply or without due authority opens or removes any lock, cock or pipe belonging to or under the management or control of the Council, or
- (2) unlawfully draws off or takes water from any water works belonging to the Council or under their management or control,—

shall for every such offence be liable to a fine not exceeding Rs. 20.

Supply for Domestic Use

109. The Council shall so far as the funds at its disposal may admit provide a sufficient supply of water fit for the domestic use of the inhabitants.

Council to provide water for domestic use.

110. All house connections, whether within or without the premises to which they belong, with any water supply mains which may have been constructed by a Council shall be under the control of the Council, but shall be altered, repaired and kept in proper order if the Council so require, at the expense of the owner of the premises to which they belong or for the use of which they were constructed, and in conformity with the by-laws and regulations framed by the Council in this behalf.

Control over house connections

111. (1) In Towns in which there is a pipe supply of water the President may, at his discretion, on application by the owner or occupier of any building arrange in accordance with the by-laws, to supply water thereto for domestic consumption and use.

Private water supply for consumption and domestic use and powers of President to enforce provision of water supply.

- (2) Whenever it appears to the President that any masonry dwelling house assessed at an

annual value of not less than Rs. 200 is without a proper supply of water for domestic consumption and use and that such a supply can be furnished from a main not more than 100 feet distant from any part of such building the President may by notice require the owner to obtain such supply and to execute all such works as may be necessary for that purpose in accordance with the by-laws and regulations :

Provided that no action shall be taken under this sub-section if the owner satisfies the President that he is too poor to bear the cost of the said works.

- (3) The cost of making the connection and the cost or hire of meters shall be borne by the owner or applicant and shall be recoverable in the same manner as the property tax.

Explanation.—Supply of water for domestic consumption and use shall not be deemed to include a supply—

- (a) for any trade, manufacture, or business,
- (b) for gardens or for purposes of irrigation,
- (c) for building purposes,
- (d) for fountains, swimming baths, public baths, tanks in or near temples, churches, synagogues and mosques within the Town or for any ornamental or mechanical purpose, and
- (e) for animals or for washing vehicles, where such animals or vehicles are kept for sale or hire ;

but shall be deemed to include a supply—

- (i) for flushing water closets and latrines,

- (ii) for all baths other than swimming baths or public baths,
 - (iii) for the consumption and use of inmates of hotels, boarding houses and the like and for baths used by such inmates.
- (4) For all water supplied under this section in excess of a maximum determined by by-laws made by the Council, payment shall be made at such times and on such conditions as may be laid down in such by-laws and shall be recoverable in the same manner as the property tax.

Private Water Supply For Non-domestic Purposes

112. (1) The President may, at his discretion supply water for any purpose other than domestic consumption and use on receiving a written application specifying the purpose for which such supply is required and the quantity likely to be consumed.
- (2) For all water supplied under sub-section (1) payment shall be made at such rates and such conditions shall be imposed as may be determined by the Council by general or special order.

President's power to supply water for non-domestic purposes at rates fixed by Council.

Supply Beyond Limits of Town

113. The Council may, with the sanction of and on such terms (if any) as may be approved by Government, supply water to a local authority or other person without the Town.

Supply beyond the Town.

Cutting off Water Supply

114. (1) The President may cut off the Town water supply from any premises—

Power to cut off water supply.

- (a) if the premises are unoccupied ;
- (b) if any water-tax or any sum due for water, for the cost of making a connection or for the cost or hire of a meter or for the cost of carrying out any work or test connected with the water supply which is chargeable to any person by or under this Act, is not paid within 15 days after a bill for such tax or sum has been presented ;
- (c) if, after receipt of a notice from the President requiring him to refrain from so doing the owner or occupier continues to use the water or to permit it to be used in contravention of any by-law made under this Act ;
- (d) if the owner or occupier neglects within a period specified in any notice issued by the President under any by-law made under this Act to put up a meter or to comply with any other lawful order or requisition ;
- (e) if the owner or occupier wilfully or negligently damages his meter or any pipe or tap carrying water supplied by the Council ;
- (f) if the occupier refuses to admit the President into premises which he proposes to enter for the purpose of executing any work or of placing or removing any apparatus or of making any examination or inquiry in connection with the water supply or

prevents the President doing such work, placing or removing such apparatus or making such examination or inquiry;

- (g) if any pipes, taps, works or fittings connected with the Town water supply are found on examination by the President to be out of repair to such an extent as to cause waste or contamination of water;
- (h) if the owner or occupier causes pipes, taps, works or fittings connected with the Town water supply to be placed, removed, repaired or otherwise interfered with in violation of the by-laws:

Provided that in cases under clauses (e), (f), (g) and (h) the President shall not take action unless notice of not less than 24 hours has been given to the owner or occupier of the premises.

- (2) The expense of cutting off the supply shall be paid by the owner or occupier of the premises.
- (3) In cases under clause (b) as soon as any money for non-payment of which water has been cut off together with the expense of cutting off the supply, has been paid by the owner or occupier, the President shall cause water to be supplied as before on payment of the cost (if any) of re-connecting the premises with the Town water works.
- (4) No action taken under this section shall relieve any person from any penalties or liabilities which he may otherwise have incurred.

Non-liability
of Council
for reduction
or stoppage
of supply in
certain cases.

115. The Council shall not be liable to any penalty or damages for cutting off the supply of water or for not supplying water (save in the case of express stipulation in an agreement for the supply of water for other than domestic purposes) in the case of any draught or other unavoidable cause or accident or the necessity for relaying or repairing pipes.

Lighting

Provision for
lighting
public streets.

116. The Council shall, so far as the funds at its disposal permit, cause the public streets to be lighted and for that purpose shall provide such lamps and works as it thinks necessary.

Public Drainage

Maintenance
of system
of drainage
by Council.

117. The Council shall, so far as the funds at its disposal may admit, provide and maintain a sufficient system of public drains.

Private Drainage

Control over
house drains,
privies and
cess-pools.

118. All house drains whether within or without the premises to which they belong and all private latrines and cess-pools within the Town shall be under the control of the Council but shall be altered, repaired, cleansed and kept in proper order at the expense of the owner of the premises to which the same belong or for the use of which they were constructed and in conformity with any by-laws and regulations that may be framed by the Council in this behalf.

Connection
of house
drains with
public drains.

119. (1) The President shall, on application by the owner or occupier of any premises or the owner of a private street, arrange in accordance with the by-laws for the connection of the applicant's drain with any public drain at a distance not exceeding 300 feet therefrom at the applicant's expense.
- (2) If there is a public drain or outfall within a distance not exceeding 100 feet of the nearest

point on any premises the President may, by a notice, direct the owner of the said premises to construct a drain leading therefrom to such drain or place of outfall and to execute all such works as may be necessary in accordance with the by-laws and regulations at such owners' expense.

- (3) If any premises are in the opinion of the President without sufficient means of effectual drainage, but no part thereof is situated within 100 feet a public drain or its place of outfall, the President may, by notice, direct the owner of the said premises to construct a cess-pool or sceptic tank or filters of such material, dimensions and description, in such position and at such level as the President thinks necessary, and to construct a drain or drains emptying into such cess-pool, tank or filters and to execute all such works as may be necessary in accordance with the by-laws and regulations :

Provided that—

- (a) No requisition shall be made under this section on any person who has been exempted from payment of the property tax under clause (f) of section 68,
- (b) No person shall be required under this section to expend a sum exceeding five times the property tax on any such building with the land assessed with it as part of the same premises; or, in the case of buildings exempted under section 68, five times the property tax which would be payable on such building with the land which

would be assessed with it to the property tax if such building were not exempt; and if any amount exceeding the said sum is expended, the excess shall be borne by the Council.

President
may close
or limit the
use of exist-
ing private
drains.

120. (1) Where a drain connecting any premises with a public drain or other place set apart by the Town Council for the discharge of drainage is sufficient for the effectual drainage thereof and is otherwise unobjectionable, but is not in the opinion of the President adapted to the general drainage system of the Town or of the part of the Town in which such drain is situated the President with the approval of the Council may—

(a) subject to the provisions of subsection (2) close, discontinue or destroy the said drain and do any work necessary for that purpose, or

(b) direct that such drain shall from such date as he specifies in this behalf, be used for sullage and sewage only, or for water unpolluted with sullage or sewage only and by notice require the owner of the premises to make at his own expense an entirely distinct drain for water unpolluted with sullage or sewage or for sullage and sewage.

(2) No drain may be closed, discontinued or destroyed by the President under clause (1)

(a) except on condition of his providing another drain as effectual for the drainage of the premises and communicating with a public drain or other place aforesaid and the

expense of the construction of any drain so provided by the President and of any work done under clause (1)(a) shall be paid by the Council.

121. (1) When the President is of opinion that any group or block of premises, any part of which is situate within 100 feet of a Town drain already existing or about to be constructed, may be drained more economically or advantageously in combination than separately, the President may, with the approval of the Council cause such group or block of premises to be drained by such method as appears to the President to be best suited therefor and the expenses incurred by the President in so doing shall be paid by the owners in such proportions as the Council may decide.
- (2) Not less than 15 days before any work under this section is commenced the President shall give written notice to the owners, of—
- (a) the nature of the intended work,
 - (b) the estimated expenses thereof,
 - and
 - (c) the proportion of such expenses payable by each owner.
- (3) The owners for the time being of the several premises constituting a group or block drained under sub-section (1) shall be the joint owners of every drain constructed, erected or fixed or continued for the special use and benefit only of such premises and shall in the proportion in which it is determined that they are to contribute to the expenses incurred by the President under sub-section (1) be responsible for the expense of maintaining every such drain in good repair and efficient condition.

Power of President to drain premises in combination.

Building,
etc., not to
be erected
without
permission
over drains.

122. (1) Without the permission of the Council no person shall place or construct any fence, building, culvert, drain-covering, drain or other structure or any street, or cable over, under, in or across any public drain or stop up, divert, obstruct or in any way interfere with any public drain, whether it passes through public or private ground.
- (2) The President may remove or otherwise deal with anything placed or constructed in contravention of sub-section (1) as he shall think fit, and the cost of so doing shall be recoverable from the owner thereof in the manner provided in section 333.

Construction
of culverts or
drain
coverings by
owner or
occupier.

123. (1) The President may, by notice, require the owner or occupier of any building or land adjoining a public street to construct culverts or drain coverings over the side channels or ditches at the entrance to the said building or land.
- (2) All culverts or drain coverings or pials maintained over side channels or ditches by the owners or occupiers of adjacent buildings or lands shall be of such form and size and consist of such materials and be provided with such means of ventilation as the President may, by notice, require and shall be maintained and kept free from all obstruction at the expense of the said owners or occupiers.

Maintenance
of troughs
and pipes for
catching
water.

124. The owner or occupier of any building in a public street shall, within 15 days after receipt of notice in that behalf from the President put up and thenceforward maintain proper troughs and pipes for catching and carrying the water from the roof and other parts of such building and for discharging such water in such manner as the President may permit.

Public Latrines

125. The Council shall, as far as the funds at its disposal may admit, provide and maintain in proper and convenient places sufficient number of public latrines and shall cause the same to be daily cleansed and kept in proper order.

Provision of public latrines and urinals.

Private Latrines

126. (1) The owner or occupier of every building shall within 14 days after receiving notice from the President provide a latrine for the use of the persons employed in or about or occupying such building or alter or remove from an unsuitable to a more suitable place, any existing latrine in accordance with the directions contained in such notice.

Provision of latrines by owner or occupier.

(2) Every owner or occupier of the ground on which any group of six or more huts stands shall provide latrines of such description and number and in such position as the President may, by notice, require within such time as may be fixed in the notice for the use of the inhabitants of such huts.

127. Every person employing workmen, labourers or other persons exceeding 10 in number, shall provide and maintain for the separate use of persons of each sex so employed, latrines of such description and number and in such position as the President may by notice require, within such time as may be fixed in the notice.

Provision of latrines for labourers.

128. Every owner or manager of a market, cart-stand, cattleshed, choultry, theatre, railway station, dock, wharf or other places of public resort or entertainment shall within 14 days after receiving notice from the President, provide and maintain for the separate use of persons of

Provision of latrines for markets, cart-stands, cattle sheds, etc.

each sex, latrines of such description and number and in such position as may be specified in the notice.

Latrines to be screened from view and kept clean.

129. All latrines shall be so constructed as to screen persons using the same and the filth from the view of persons passing by or residing in the neighbourhood and shall be kept clean and in proper order.

General Powers

Power to carry wire, pipe, drains, etc., through private property.

130. The President may carry any cable, wire, pipe, drain, or channel of any kind to establish or maintain any system of drainage, water supply or lighting, through, across, under, or over any road, street or place laid out for a road or street, and after giving reasonable notice to the owner or occupier through, across, under, over or up the side of, any land or building in the Town, and may place and maintain posts, poles, standards, brackets or other contrivances to support wires and lights on any pole or post in the Town not owned by Government or the Government of India and may do all acts necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, channel, post, pole, standard, bracket or other similar contrivance in an effective state for the purpose for which it is intended to be used or for removing the same:

Provided that such work shall be done so as to cause the least practicable nuisance or inconvenience to any person:

Provided further that the President shall with the sanction of the Council, pay compensation to any person who sustains damage by the exercise of such power.

Prohibition against making connection with mains without permission.

131. (1) No person shall, without the permission of the President, make any connection with any Town cable, wire, pipe, drain, or channel or with the house connection of any other person.

(2) The President, may, by notice, require any connection made in contravention of

sub-section (1) to be demolished, removed, closed, altered or remade.

132. If the Council conduct any pipe or drain or other work connected with the water supply or drainage of the Town across a culvert, cable or drain it may, with the sanction of Government and at the cost of the Town Fund, require the owners of the same to raise or lower the level thereof.

Power to require level of culvert, cable, etc., to be raised or lowered.

133. (1) The Council shall not undertake works beyond the limits of the Town without the sanction of Government.

Powers in respect of works outside the Town.

(2) The Council may, in the execution and for the purpose of any works beyond the limits of the Town sanctioned by Government exercise all the powers which it may exercise within the Town throughout the line of the country through which conduits, channels, pipes, lines of posts and wires and the like run, and with the sanction of Government—

(a) over any lake, tank or reservoir, from which a supply of water for drinking, for producing electric energy or for other purposes is derived, and over all lands within one mile of the high water level of any such lake, tank or reservoir ;

(b) over any water course from which a supply of water for drinking, for producing electric energy or for other purposes is derived, within one mile above and half a mile below any point at which water is taken for such use ; and,

(c) over any lands used for sewage, farms, sewage disposal tanks,

filters and other works connected with the drainage of the Town.

CHAPTER VIII—SCAVENGING

Council to arrange for the removal of rubbish and filth.

134. Every Council shall, so far as the funds at its disposal admit, make adequate arrangements for.—

- (a) the regular sweeping and cleansing of the streets and removal of sweepings therefrom;
- (b) the daily removal of filth and the carcasses of animals from private premises; and
- (c) the daily removal of rubbish from dust-bins and private premises; and with this object it shall so far as the funds at its disposal admit provide—
 - (i) depots for the deposit of filth, rubbish and the carcasses of animals;
 - (ii) covered vehicles or vessels for the removal of filth;
 - (iii) vehicles or other suitable means for the removal of the carcasses of large animals and rubbish; and
 - (iv) dust-bins for the temporary deposit of rubbish.

135. Where the property tax levied by a Town Council does not comprise a scavenging tax as referred to in clause (c) of sub-section (1) of section 66, the President may contract with the owner or occupier of any premises to remove rubbish or filth or any particular kind of rubbish or filth from such premises or any place belonging thereto on such terms as to times and periods of removal and other matters as may seem suitable to the President, and on payment of fees at such rates calculated to recover the cost of the service as the Council may have laid down with the approval of Government.

136. No person shall, after due provision has been made under section 134 by the Council for the deposit and removal of the same—

Prohibition of improper disposal of carcasses, rubbish and filth.

- (a) deposit the carcasses of animals, rubbish or filth in any street or on the veranda of any building or on any unoccupied ground alongside any street or on any public quay, jetty or landing place or on the bank of a water course or tank; or
- (b) deposit filth or carcasses of animals in any dust-bin or in any vehicle not intended for the removal of the same; or
- (c) deposit rubbish in any vehicle or vessel intended for the removal of filth save for the purpose of deodorising or disinfecting the filth.

137. No occupier of any building shall, after a receptacle has been provided, fail to deposit therein all filth that has not been removed from the building or to keep such receptacle in readiness, screened from public view at the times fixed by the Council, or deposit in such receptacle any matter other than filth.

Prohibition of failure to deposit filth in receptacle etc.

138. No owner or occupier of any premises shall keep or allow to be kept for more than 24 hours any filth on such premises or any building or on the roof thereof or in any out-building or any place belonging thereto, or fail to comply with any requisition of the President as to the construction, repair, paving or cleansing of any latrine on or belonging to his premises.

Prohibition against keeping filth on premises too long, etc.

139. No owner or occupier of any premises shall allow the water from any sink, drain, latrine or stable, or any other filth to flow out of such premises to any portion of a street except a drain or a cess-pool or to flow out of such premises in such manner as to cause an avoidable nuisance by the soakage of the said water or filth into the walls or ground at the side of a drain forming a portion of a street.

Prohibition against allowing outflow of filth.

Prohibition
against using
any cart
without cover
in the
removal of
filth, etc.

140. No person shall, in the removal of filth, use any cart or receptacle not having a covering proper for preventing the escape of the contents thereof, or of the stench therefrom, or intentionally or negligently spill any filth in the removal thereof or omit carefully to sweep and clean every place in which any such filth has been spilled, or place or set down in any public place any filth whether in a vessel, closed or open.

Prohibition
against
throwing
rubbish or
filth into
drains.

141. No person shall put or cause to be put any rubbish or filth into any public drain not intended for rubbish or filth or into any drain communicating with any such public drain.

CHAPTER IX—STREETS

Public Streets

Maintenance
and repair
of streets.

142. The Council except when otherwise directed by Government, shall, at the cost of the Town Fund, cause the public streets other than roads maintained by Government and bridges to be maintained and repaired and may from the same fund meet the cost of all improvements to the same which are necessary or expedient for the public safety or convenience.

Powers of
Town
authorities.

143. (1) The Council may, with the sanction of Government—

- (a) lay out and make new streets;
- (b) construct bridges and sub-ways;
- (c) turn, divert or permanently close any public street or part thereof;
- (d) widen, open, extend or otherwise improve any public street.

(2) Reasonable compensation shall be paid to the owners and occupiers of any land or buildings which are required for or affected by any such purposes.

144. (1) When a public street is permanently closed under section 143 (1) (c) the Council may with the sanction of Government, dispose of the site or of so much thereof as is no longer required, in such manner as may be approved by Government, provided that due compensation is made to any person injured by such closing. **Power to dispose of permanently closed streets.**
- (2) In determining such compensation, allowance shall be made for any benefit accruing to the same premises or any adjacent premises belonging to the same owner from the construction or improvement of any other public street at or about the same time that the public street on account of which the compensation is paid, is closed.
145. (1) The Council may move Government to acquire under the Land Acquisition Act— **Acquisition of land and building for the improvement of streets.**
- (a) any land required for the purpose of opening, widening, extending or otherwise improving any public street, or of making any new public street and the building, if any, standing upon such land, and
- (b) any land outside the proposed street alignment with the buildings, if any, standing thereupon:

Provided that, in any case in which acquisition is made in respect of any land described in this clause, the owner of such land may retain it by paying to the Council an annual sum to be fixed by the Council in that behalf, or a lump sum to be fixed by the Council, not being less than 25 times such annual sum and subject to such conditions as the Council thinks fit as to the removal of the existing building, if any, the description of the new building, if any, to be erected, the period within which

the new building, if any, shall be completed and any other similar matters.

- (2) If any sum payable in pursuance of the proviso to sub-section (1) in respect of any land be not duly paid, it shall be recoverable in the manner provided by this Act for the collection of taxes, and, if not so recovered, the President may enter upon the land and sell it, with any erection standing thereon, by public auction subject to the conditions, if any, imposed under sub-section (1) above, and may deduct the said sum and the expenses of the sale from any proceeds of the sale and shall pay the balance, if any, to the defaulter.
- (3) Any sum paid in pursuance of the proviso to sub-section (1) or recovered under sub-section (2) in respect of any land shall be left out of account in determining the annual value of such land for the purpose of assessing it to the property tax.
- (4) Any land or building described in clause (b) of sub-section (1) after it has been handed over to the Council on acquisition by Government may be sold, leased or otherwise disposed of after public advertisement, and any conveyance made for that purpose may comprise such conditions as the Council thinks fit as to the removal of the existing building, if any, the description of the new building, if any, to be erected, the period within which the new building, if any, shall be completed and any other similar matters.
- (5) The Council may require any person to whom any land or building is transferred under sub-section (4) to comply with any condition comprised in the said conveyance before it

places him in possession of the land or building.

146. The Council may—

- (a) prescribe for any public street a building line or a street alignment or both;
- (b) from time to time define a fresh line in substitution for any line so defined or for any part thereof:

Power to prescribe building line and street alignment.

Provided that in either case—

- (i) at least one month before the meeting of the Council at which the matter is decided, public notice of the proposal has been given and special notice thereof has also been put up in the street or part of the street for which such fresh line is proposed to be defined; and
- (ii) the Council has considered all objections to the said proposal made in writing and delivered at the Council office not less than 3 clear days before the day of such meeting.

147. (1) No person shall construct any portion of a building within a street alignment defined under section 146.

Buildings not to be constructed within street alignment or building line.

(2) No person shall erect or add to any building between a street alignment and a building line defined under section 146 except with the permission of the President who may when granting permission impose such conditions as the Council may lay down for such cases.

Setting back
projecting
buildings
or walls.

148. (1) When any building or part thereof abutting on a public street is within a street alignment defined under section 146, the President may, whenever it is proposed—
- (a) to rebuild such building or take it down to an extent exceeding one-half thereof above the ground level, such half to be measured in cubic feet; or
 - (b) to remove, reconstruct or make any addition to any portion of such building which is within the street alignment;
in any order which he issues concerning the rebuilding, alteration or repair of such building, require such building to be set back to the street alignment.
- (2) When any building or any part thereof within the street alignment falls down or is burnt down or is, whether by order of the President or otherwise, taken down, or when any private land without any building thereon lies within the street alignment, the President may, forthwith take possession on behalf of the Council of the portion of land within the street alignment and if necessary, clear it.
- (3) Land acquired under this section shall be deemed a part of the public street and shall vest in the Council.
- (4) When any building is set back in pursuance of any requisition made under sub-section (1), or when the President takes possession of any land under sub-section (2), the Council shall forthwith make full compensation to the owner for any direct damage which he may sustain thereby.

Explanation.—The expression “direct damage” as used in sub-section (4) with reference to land means the market value of the land taken and the depreciation, if any, in the ordinary market value of the rest of the land resulting from the area being reduced in size, but does not include damage due to the prospective loss of any particular use to which the owner may allege that he intended to put the land, although such use may be injuriously affected by the reduction of the site.

149. The Council may upon such terms as it thinks fit allow any building to be set forward for the purpose of improving the line of a public street and may, by notice require any building to be so set forward in the case of reconstruction thereof or of a new construction.

Setting buildings forward to improve line of street.

Explanation.—For the purpose of this section a wall separating any premises from a public street shall be deemed to be a building and it shall be deemed a sufficient compliance with permission or requisition to set forward a building to the street alignment if a wall of such material and dimensions as is approved by the President is erected along the said line.

150. (1) The Council may prepare schemes and plans of proposed public streets, showing the direction of such streets, the street alignment and building line on each side of them their intended width and such other details as may appear desirable.
- (2) The width of such proposed streets shall not ordinarily be less than 40 feet or in any area covered by huts, 20 feet.
- (3) It shall be the duty of the Council to lay out public streets in areas covered by huts, so far as may be practicable both for the purpose of securing proper ventilation for huts in such areas, and in view to the contingency of buildings being erected therein.

Projected streets.

- (4) when any plan has been prepared under subsection (1) the street to which it refers shall be deemed to be a projected public street, and the provisions of section 148 shall apply to all buildings so far as they stand across the street alignment or building line of the projected street.

Watering of streets.

151. The Council shall, so far as it considers requisite for the public convenience and so far as funds permit, cause the chief public streets to be watered and for that purpose may provide such water-carts, animals and apparatus as it thinks necessary.

Temporary closure of streets.

152. The President may by an order in writing temporarily close any street to traffic for repair, or in order to carry out any work connected with drainage, water supply or lighting or any of the purposes of this Act:

Provided that such work shall be completed and such street re-opened to traffic with all reasonable speed.

Protection of appurtenances and materials of streets.

153. It shall not be lawful for any person without the permission of the President to displace, take up or make any alteration in the fences, posts, pavement, flags or other materials of any public street.

Power of Council to recover expenses caused by extraordinary traffic.

154. When by a certificate of an officer of the Public Works Department of a rank not below that of an Assistant Engineer it appears to the Council, that having regard to the average expense of repairing roads in the neighbourhood, extraordinary expenses have been incurred by the Council in repairing a street by reason of the damage caused by excessive weight passing along the street or extraordinary traffic thereon, the Council may recover in the Civil Court having jurisdiction from any person by or in consequence of whose order such weight or traffic has been conducted the amount of such expenses as may be proved to the satisfaction of such Court to have been incurred by such Council by reason of the damage arising from such weight or traffic as aforesaid:

Provided that any person against whom expenses are or may be recoverable under this section may enter into an agreement with the Council for the payment to it of a composition in respect of such weight or traffic and thereupon the persons so paying shall not be subject to any proceedings under this section.

155. (1) Subject to sub-section (5) of this section no person shall use—

Licensing of motor vehicles plying for hire and motor lorries.

(a) any motor vehicle for carrying passengers for hire; or

(b) any motor lorry;
in any Town except on a license obtained from the President.

(2) The Council may, with the previous approval of Government, make rules determining the rates of fares for passengers and of freight for goods carried in such vehicles and specifying the other conditions on which such licenses may be granted.

(3) Every license granted under sub-section (1) shall expire at the end of the year in which it is granted.

(4) (a) Any person aggrieved by an order of the President under sub-section (1) may appeal against such order to the Council.

(b) The period of limitation for such appeal shall be—

(i) When the appeal is against an order refusing a license. 15 days from the date of communication of the order to the applicant, and

(ii) When the appeal is against an order granting a license. 30 days from the date of publication of the order on the notice board of the Council.

- (5) When a motor vehicle has been licensed under the Cochin Motor Vehicles Act to be used for hire partly outside Town limits and partly within such limits no fee shall be charged for a license granted under subsection (1) in respect of such vehicle and the condition specified in such license shall relate only to the regulation of the use of public streets in the Town by such vehicle.
- (6) The Council may establish bus-stands in any Town whence passenger must be picked up by all motor vehicles constructed to carry more than five passengers and the Council may levy on such vehicles a fee of not less than two annas and not exceeding four annas per day for the use of the stand and such vehicles passing through the Town shall stop at such bus-stand and other places on the public road as the Council may direct.

Private Streets

Owners' obligation to make a street when disposing of land as building sites.

156. If the owner of any land utilises, sells, leases or otherwise disposes of such land or any portion or portions of the same as sites for the construction of buildings he shall, save in such cases as the site or sites may abutt on an existing public or private street, lay down and make a street or streets or road or roads giving access to the site or sites and connecting with an existing public or private street.

Making of new private streets.

157. (1) Any person intending to make or lay out a new private street shall send to the Council Office a written application with plans and section showing the following particulars, namely—

- (a) the intended level, direction and width of the street,
- (b) the street alignment and the building line, and

- (c) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewerage, draining, conserving and lighting the street.
- (2) The provisions of this Act and of any rules or by-laws made under this Act as to the level and width of public streets and the height of buildings abutting thereon shall apply also in the case of streets referred to in sub-section (1); and all the particulars referred to in that sub-section shall be subject to approval by the Council.
- (3) Within 60 days after the receipt of any application under sub-section (1) the Council shall either sanction the making of the street on such conditions as it may think fit, or disallow it, or ask for further information with respect to it.
- (4) Such sanction may be refused—
 - (i) if the proposed street would conflict with any arrangements which have been made, or which are in the opinion of the Council likely to be made for carrying out any general scheme for the laying out of streets;
 - (ii) if the proposed street does not conform to the provisions of the Act, rules and by-laws referred to in sub-section (2); or
 - (iii) if the proposed street is not designed so as to connect at one end with a street which is already open.
- (5) No person shall make or lay out any new private street without or otherwise than in conformity with the orders of the Council.

If further information is asked for, no steps shall be taken to make or lay out the street until orders have been passed upon receipt of such information:

Provided that the passing of such order shall not in any case be delayed for more than 60 days after the Council has received all the information which it considers necessary to enable it to deal finally with the said application. Any application not disallowed within a period of 90 days from the date of receipt in the Council Office shall be deemed to have been sanctioned.

Alteration or demolition of street made in breach of section 157.

158. (1) If any person makes or lays out any street referred to in section 157, without or otherwise than in conformity with the orders of the Council, the President may, whether or not the offender be prosecuted under this Act, by notice—

(a) require the offender to show sufficient cause by a written statement signed by him and sent to the President on or before such day as may be specified in the notice why such street should not be altered to the satisfaction of the President, or if such alteration be impracticable, why such street should not be demolished; or

(b) require the offender to appear before the President either personally or by a duly authorised agent on such day and at such time and place as may be specified in the notice, and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause to the satisfaction of the President why such street should not be so altered or demolished the

President may pass an order directing the alteration or demolition of such street.

159. (1) If any private street or part thereof is not levelled, paved, metalled, flagged, channelled, drained, conserved or lighted to the satisfaction of the President he may by notice require the owners or occupiers of buildings or lands fronting or abutting on such street or part thereof to carry out any work, which in his opinion may be necessary and within such time as may be specified in such notice.
- (2) If such work is not carried out within the time specified in the notice, the President may, if he thinks fit, execute it and the expenses incurred shall be paid by the owners or occupiers in default according to the frontage of their respective buildings or lands and in such proportion as may be settled by the President.

Power of President to order work to be carried out or to carry it out himself in default.

160. If any street has been levelled, paved, metalled, flagged, channelled, drained, conserved and lighted under the provisions of section 159 such street shall, on the requisition of not less than three-fourths of the owners thereof be declared a public street.

Right of owners to require street to be declared public.

Encroachment on Streets

161. No one shall build any wall or erect any fence or other obstruction, or projection, or make any encroachment in or over any street except as hereinafter provided.

Prohibition against obstructions in or over streets.

162. All streets vested in or to be vested in or maintained by a Council shall be open to the public.

Public streets open to all.

163. (1) No door, gate, bar or ground-floor window shall without a license from the President be hung or placed so as to open outwards upon any street.

Prohibition and regulation of doors, ground-floor windows and bars opening outwards.

- (2) The President may, by notice, require the owner of such door, gate, bar or window to alter it so that no part thereof, when open, shall project over the street.

**Removal of
encroach-
ments.**

164. The President may by notice require the owner or occupier of any premises to remove or alter any projection, encroachment or obstruction (other than a door, gate, bar or ground-floor window), situated against or in front of such premises and in or over any street.

- (2) If the owner or occupier of the premises proves that any such projection, encroachment or obstruction has existed for a period sufficient under the law of limitation to give any person a prescriptive title thereto or that it was erected or made with the permission or license of any Town authority duly empowered in that behalf, and that the period, if any, for which the permission or license is valid has not expired, the Council shall make reasonable compensation to every person who suffers damage by the removal or alteration of the same.

**Power to
allow certain
projections
and erec-
tions.**

165. (1) The Council may grant a license, subject to such conditions and restrictions as it may think fit, to the owner or occupier of any premises to put up verandas, balconies, sun-shades, weather-frames and the like, to project over a street; or in streets in which the construction of arcades has been sanctioned by the Council, to put up an arcade; or to construct any step or drain-covering necessary for access to the premises.

- (2) The President may grant a license, subject to such conditions and restrictions, as he may think fit, for the temporary erection of pandals and other structures in a public

street vested in the Council or in any other public place the control of which is vested in the Council.

- (3) The Council shall have power to lease roadsides and street margins vested in it for occupation on such terms and conditions and for such period as the Council may fix.
- (4) But neither a license under sub-section (1) nor a lease under sub-section (3) shall be granted if the projection, construction or occupation is likely to be injurious to health or cause public inconvenience or otherwise materially interfere with the use of the road as such.
- (5) Government may, by notification, restrict and place under such control, as they may think fit, the exercise by Councils in general or by any Council in particular, of the powers under sub-sections (1) and (3).
- (6) On the expiry of any period for which a license has been granted under this section, the President may, without notice, cause any projection or construction put up under sub-section (1) or (2) to be removed, and the cost of so doing shall be recoverable in the manner provided in section 333 from the person to whom the license was granted.

166. (1) The President shall, during the construction or repair of any street, drain or premises vested in the Council—

**Precautions
during repair
of streets.**

(a) cause the same to be fenced and guarded

(b) take proper precautions against accident by shoring up and protecting the adjoining buildings, and

(c) cause such bars, chains or posts to be fixed across or in any street in which any such work is under execution as are necessary in order to prevent the passage of vehicles or animals and avert danger.

(2) The President shall cause such drain, street or premises to be sufficiently lighted or guarded during the night while under construction or repair.

(3) The President shall with all reasonable speed complete the said work, fill in the ground, and repair the said drain, street or premises and remove the rubbish occasioned thereby.

**Prohibition
against re-
moval of bars
and lights.**

167. No person shall without lawful authority remove any bar, chain, post or shoring timber or remove or extinguish any light set up.

**Prohibition
against mak-
ing holes and
causing
obstruction.**

168. (1) No person shall make a hole or cause any obstruction in any street unless he previously obtains the permission of the President and complies with such conditions as he may impose.

(2) When such permission is granted, such person shall, at his own expense, cause such hole or obstruction to be sufficiently fenced and enclosed until the hole or obstruction is filled up or removed and shall cause such hole or obstruction to be sufficiently lighted during the night.

**Occupation
of poram-
boke without
license.**

169. (1) If any person without the previous sanction of the Council occupies any land belonging to it or vested in it or under its control, he shall be bound to pay in respect of such occupation such sums as may be demanded by the Council by way of penalty from time to time.

- (2) In default of payment of any such sum, the Magistrate on the requisition of the President shall recover it, if necessary, by issuing a warrant with all such powers of distress or sale as are vested in him by any law in force.

170. If any person intends to construct or demolish any building or to alter or repair the outward part thereof and if any street or foot-way is likely to be obstructed or rendered inconvenient by means of such work, he shall first obtain a license from the President in that behalf and shall also—

License for work on buildings likely to cause obstruction.

- (a) cause the said building to be fenced and guarded,
- (b) sufficiently light it during the night, and
- (c) take proper precautions against accidents during such time as the public safety or convenience requires.

171. If any obstruction is caused in any street by the fall of trees, structures or fences the owner or occupier of the premises concerned shall within 12 hours of the occurrence of such fall or within such further period as the President may, by notice, allow clear the street of such obstruction.

Clearing of debris of fallen houses, etc., by occupiers.

Regulation of traffic, etc.

172. The Council shall have power, with the approval of Government to make, after previous publication, by-laws to regulate traffic in streets and traffic in the back-water or in canals and the use of wharves, jetties, landing places and the protection of all Government and Town works connected therewith.

Regulation of traffic, etc.

Use of Public Parks, etc.

173. The Council may, with the approval of Government, after previous publication, make by-laws to regulate the use of parks, gardens, and other public places.

Use of Public Parks, etc.

*Naming of streets***Naming of
Public
Streets.**

174. (1) The Council shall give names to new public streets and may alter the name of any public street.
- (2) The President shall cause to be put up or painted in English and in Malayalam on a conspicuous part of some building, wall or place, at or near each end, corner or entrance the name of every public street.
- (3) No person shall, without lawful authority, destroy, pull down or deface any such name or put up any name different from that put up by order of the President.

*Numbers on buildings***Numbering
of buildings.**

175. (1) The President may cause a number to be affixed to the side or outer door of any building or to some place at the entrance of the premises.
- (2) No person shall, without lawful authority, destroy, pull down or deface any such number.
- (3) When a number has been affixed under sub-section (1) the owner of the building shall be bound to maintain such number and to replace it, if removed or defaced, and if he fails to do so, the President may by notice require him to replace it.

CHAPTER X—BUILDING REGULATIONS*General Powers***Building
Rules.**

176. (1) Government may, after previous publication, make rules—
- (a) for the regulation or restriction of the use of sites for building, and
- (b) for the regulation or restriction of building.

- (2) Without prejudice to the generality of the power conferred by sub-section (1) clause (a), rules made under that clause may provide that no insanitary or dangerous site shall be used for building.
- (3) Without prejudice to the generality of the power conferred by sub-section (1) clause (b), rules made under that clause may provide for the following matters—
- (a) information and plans to be submitted together with applications for permission to build;
 - (b) height of building, whether absolute or relative to the width of streets;
 - (c) level and width of foundation, level of lowest floor and stability of structure;
 - (d) number and height of stories composing a building and height of rooms;
 - (e) provision of sufficient open space external or internal and adequate means of ventilation;
 - (f) provision of means of egress in case of fire;
 - (g) provision of secondary means of access for the removal of filth;
 - (h) materials and methods of construction of external and party walls, roofs and floors;
 - (i) position, materials and methods of construction of hearths, smoke escapes, chimneys, stair-cases, latrines, drains, cess-pools;
 - (j) paving of yards;
 - (k) restrictions on the use of inflammable materials in building; and

- (l) in the case of wells, the dimensions of the well, the manner of enclosing it, and if the well is intended for drinking purposes, the means which shall be used to prevent pollution of the water.

Building site and construction or reconstruction of buildings.

177. No piece of land shall be used as a site for the construction of a building and no building shall be constructed or reconstructed otherwise than in accordance with the provisions of this part and of any rules or by-laws made under this Act relating to the use of building sites or the construction or reconstruction of buildings :

Provided that Government may, in respect of all Towns, exempt all buildings or any class of buildings from all or any of the provisions of this Chapter or the said rules and in respect of any particular Town exempt, after consulting that particular Council, any class of buildings from all or any of the provisions of this Chapter or the said rules.

Power of Council to regulate future construction of certain classes of buildings in particular street or localities.

178. (1) The Council may give public notice of its intention to declare—

(a) that in any street or portion of streets specified in the notice—

(i) continuous building will be allowed,

(ii) the elevation and construction of the frontage of all buildings thereafter constructed or reconstructed, shall, in respect of their architectural features, be such as the Council may consider suitable to the locality, or

(b) that in any locality specified in the notice the construction of only

detached buildings will be allowed, or

- (c) that in any streets, portion of streets or localities specified in the notice, the construction of shops, warehouses, factories, huts or buildings of a specified architectural character or buildings destined for particular uses will not be allowed, without the special permission of the Council.

- (2) No objection to any such declaration shall be received after a period of three months from the publication of such notice.
- (3) The Council shall consider all objections received within the said period and may then confirm the declaration, and before doing so, may modify it, but not so as to extend its effect.
- (4) The President shall publish any declaration so confirmed and it shall take effect from the date of publication.
- (5) No person shall, after the date of publication of such declaration, construct or reconstruct any building in contravention of any such declaration.

179. (1) The Council may require any building intended to be erected at the corner of two streets to be rounded off or splayed off to such height and to such extent otherwise as it may determine; and may acquire such portion of the site at the corner as it may consider necessary for public convenience or amenity. Buildings at corner of streets.
- (2) For any land so acquired the Council shall pay compensation.
 - (3) In determining such compensation allowance shall be made for any benefit accruing to

the same premises from the improvement of the streets.

Prohibition against use of inflammable materials for buildings without permission. Prohibition against constructing doors, ground-floor windows and bars so as to open outwards.

180. No external roof, veranda, pandal or wall of a building shall be constructed or reconstructed of grass, leaves, mats or other inflammable materials except with the permission of the President.

181. No door, gate, bar or ground-floor window which opens on any public street shall be constructed or reconstructed so as to open outwards except with the license of the President under section 163.

Buildings other than Huts

Application to construct or reconstruct building.

182. (1) If any person intends to construct or reconstruct a building other than a hut he shall send to the President—

- (a) an application in writing for the approval of the site, together with a site plan of the land, and
- (b) an application in writing for permission to execute the work together with a ground-plan, elevations and sections of the building and specification of the work.

Explanation.—“Building” in this sub-section shall include a wall or fence of whatever height bounding or abutting on any public street.

- (2) Every document furnished under sub-section (1) shall contain such particulars and be prepared in such manner as may be required under rules or by-laws.

Necessity for prior approval of site.

183. The President shall not grant permission to construct or reconstruct a building unless and until he has approved of the site on an application made under section 182.

184. The construction or reconstruction of a building shall not be begun unless and until the President has granted permission for the execution of the work.

Prohibition against commencement of work without permission.

185. Within thirty days after the receipt of any application made under section 182 for approval of a site or of any information or further information required under the rules or by-laws the President shall by written order either approve the site or refuse on one or more of the grounds mentioned in section 188 to approve the site.

Period within which President is to signify approval or disapproval.

186. Within thirty days after the receipt of any application made under section 182 for permission to execute any work or of any information or of documents or further information or documents required under the rules or by-laws, the President shall, by written order, either grant such permission or refuse on one or more of the grounds mentioned in section 188 to grant it :

Period within which President is to grant or refuse to grant permission to execute work.

Provided that the said period of thirty days shall not begin to run until the site has been approved under section 185.

187. (1) If within the period prescribed by section 185 or section 186, as the case may be, the President has neither given nor refused his approval of a building site or his permission to execute any work, as the case may be, the Council shall be bound on the written request of the applicant to determine by written order whether such approval or permission should be given or not.
- (2) If the Council does not, within one month from the receipt of such written request, determine whether such approval or permission should be given or not, such approval or permission shall be deemed to have been given; and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or by-laws made under this Act.

Reference to Council if President delays grant or refusal of approval or permission.

Grounds on which approval of site for, or license to construct or reconstruct building may be refused.

188. The only grounds on which approval of a site for the construction or reconstruction of a building or permission to construct or reconstruct a building may be refused are the following, namely.—

- (1) that the work, or use of the site for the work or any of the particulars comprised in the site plan, ground plan, elevations, sections or specification would contravene some specified provision of any law or some specified order, rule, declaration or by-law made under any law ;
- (2) that the application for such permission does not contain the particulars or is not prepared in the manner required under the rules or by-laws ;
- (3) that any of the documents referred to in section 182 have not been signed as required under the rules or by-laws ;
- (4) that any information or documents required by the President under the rules or by-laws has or have not been duly furnished ;
- (5) that streets or roads have not been made as required by section 156 ; or
- (6) that the proposed building would be an encroachment upon land belonging to Government or the Council.

Whenever the President or the Council refuses to approve a building-site for a building or to grant permission to construct or reconstruct a building, the reasons for such refusal shall be specifically stated in the order or resolution.

Lapse of permission.

189. If the construction or reconstruction of any building is not completed within the period specified the permission shall lapse and a fresh application shall be made before the work is continued.

190. (1) If the President finds that the work—

(a) is otherwise than in accordance with the plans or specifications which have been approved; or

(b) contravenes any of the provisions of this Act or any by-law, rule, order or declaration made thereunder—

he may, by notice, require the owner of the building within a period stated either—

(i) to make such alterations as may be specified in the said notice with the object of bringing the work into conformity with the said plans or provisions, or

(ii) to show cause why such alterations should not be made.

(2) If the owner does not show cause as aforesaid, he shall be bound to make the alterations specified in such notice.

(3) If the owner shows cause as aforesaid the President shall, by an order, cancel the notice issued under sub-section (1) or confirm the same subject to such modifications as he may think fit.

191. Notwithstanding anything contained in any of the preceding sections, the President may, at any time, stop the construction or reconstruction of any building, if in his opinion, the work in progress endangers human life.

Stoppage of work endangering human life.

Wells

192. The provisions of section 182, section 183, section 184, section 189, section 190 and section 191 shall, so far as may be, apply to a well.

Application of certain sections to wells.

Application
to construct
or
reconstruct
huts.

193. (1) Every person who intends to construct or reconstruct a hut shall send to the President—

(a) an application for permission to execute the work, and

(b) a site plan of the land.

(2) Every such application and plan shall contain the particulars and be prepared in the manner required by rule or by-law.

Prohibition
against
commence-
ment of work
without
permission.

194. The construction or reconstruction of a hut shall not be begun unless and until the President has granted permission for the execution of the work on an application sent to him under section 193.

Period
within
which
President
is to grant or
refuse to
grant
permission
to execute
the work.

195. Within fourteen days after the receipt of any application made under section 193 for permission to construct or reconstruct a hut or of any information or plan or further information or fresh plan required under the rules or by-laws, the President shall, by written order, either grant such permission or refuse on one or more of the grounds mentioned in section 197 to grant it.

Reference to
Council if
President
delays
passing
orders.

196. (1) If, within the period prescribed by section 195, the President has neither granted nor refused to grant permission to construct or reconstruct a hut, the Council shall be bound, on the written request of the applicant to determine by written order whether such permission should be granted or not.

(2) If the Council does not, within thirty days from the receipt of such written request, determine whether such permission should be granted or not, such permission shall be deemed to have been granted; and the applicant may proceed to execute the work but not so as to contravene any of the provisions of this Act or any rules or by-laws made under this Act.

197. The only grounds on which permission to construct or reconstruct a hut may be refused are the following, namely.—

Grounds on which permission to construct or reconstruct hut may be refused.

- (1) that the work or use of the site for the work would contravene some specified provision of any law or some specified order, rule, by-law or declaration made under any law;
- (2) that the application for permission does not contain the particulars or is not prepared in the manner required under the rules or by-laws;
- (3) that any information or plan required by the President under the rules or by-laws has not been duly furnished;
- (4) that streets or roads have not been made as required by section 156; or
- (5) that the proposed building would be an encroachment upon land belonging to Government or the Town Council.

Whenever the President or the Council refuses to grant permission to construct or reconstruct a hut the reasons for such refusal shall be specifically stated in the order or resolution.

198. If the construction or reconstruction of any hut is not completed within the period specified the permission shall lapse and a fresh application shall be made before the work is continued.

Lapse of permission.

External Walls, Alterations and Additions

199. The owner or occupier of any building adjoining a public street shall keep the external part thereof in proper repair with lime-plaster or other material to the satisfaction of the President.

Maintenance of external walls in repair.

200. (1) The provisions of this Chapter and of any rules or by-laws made under this Act relating to construction and reconstruction of

Application of provisions to alterations and additions.

buildings shall also be applicable to any alteration thereof or addition thereto:

Provided that works of necessary repair which do not affect the position or dimension of a building or any room therein shall not be deemed an alteration or addition for the purposes of this section.

- (2) If any question arises as to whether any addition or alteration is a necessary repair not affecting the position or dimension of a building or room, such question shall be referred to the Council whose decision shall be final.

Powers of the President

Demolition
or alteration
of building
work
unlawfully
commenced,
carried on or
completed.

201. (1) If the President is satisfied—

(i) that the construction or reconstruction of any building or well—

(a) has been commenced without obtaining the permission of the President or, (where an appeal or reference has been made to the Council) in contravention of any order passed by the Council, or

(b) is being carried on or has been completed otherwise than in accordance with the plans or particulars on which such permission or order was based, or

(c) is being carried on, or has been completed in breach of any of the provisions of this Act

or of any rule or by-law made under this Act or of any direction or requisition lawfully given or made under this Act or such rules or by-laws, or

(ii) that any alterations required by any notice issued under section 190 have not been duly made, or

(iii) that any alteration of or addition to any building or any other work made or done for any purpose in, to or upon any building has been commenced or is being carried on or has been completed in breach of section 200—

he may make a provisional order requiring the owner or the builder to demolish the work done; or so much of it as, in the opinion of the President has been unlawfully executed or to make such alterations as may, in his opinion, be necessary to bring the work into conformity with the Act, by-laws, rules, direction or requisition as aforesaid, or with the plans and particulars on which such permission or order was based; and may also direct that until the said order is complied with the owner or builder shall refrain from proceeding with the building or well.

(2) The President shall serve a copy of the provisional order made under sub-section (1) on the owner of the building or well together with a notice requiring him to show cause

within a reasonable time to be named in such notice why the order should not be confirmed.

- (3) If the owner fails to show cause to the satisfaction of the President, the President may confirm the order with any modification he may think fit to make and such order shall then be binding on the owner.

Exemptions

Exemptions.

202. (1) Any building constructed and used, or intended to be constructed and used, exclusively for the purpose of a plant-house, summer-house (not being a dwelling-house), poultry-house or aviary, shall be exempted from the provisions of this Chapter other than section 181, provided the building be wholly detached from, and situated at a distance of at least ten feet from the nearest adjacent building.
- (2) The President may grant permission at his discretion on such terms as he may decide in each case to erect for a specified period temporary huts or sheds for stabling, for watching crops, for storing tools or materials or for other similar purposes. On expiry of the period specified, the President may, by notice, require the owner of such hut or shed to demolish it.

CHAPTER XI—NUISANCES

Dangerous Structures, Trees and Places

Precautions in case of dangerous structures.

203. (1) If any structure appears to the President to be in a ruinous state and dangerous to the passers-by or to the occupiers of neighbouring structures, he may, by notice, require the owner or the occupier to fence off, take down, secure or repair such structure so as to prevent any danger therefrom.

- (2) If immediate action is necessary, the President shall himself before giving notice or before the period of such notice expires, fence off, take down, secure or repair such structure or fence off a part of any street or take such temporary measures as he thinks fit to prevent danger and the cost of doing so shall be recoverable from the owner or occupier in the manner provided in section 333.
- (3) If, in the opinion of the President, the said structure is imminently dangerous to the inmates thereof the President shall order the immediate evacuation thereof and any person disobeying may be removed by any police officer.
204. (1) If any tree or any branch of a tree or the fruit of any tree appears to the President to be likely to fall and thereby endanger any person or any structure he may, by notice, require the owner of the said tree to secure, lop or cut down the said tree so as to prevent any danger therefrom. **Precautions in case of dangerous trees.**
- (2) If immediate action is necessary the President shall himself before giving such notice or before the period of such notice expires secure, lop or cut down the said tree or remove the fruits thereof or fence off a part of any street or take such other temporary measures as he thinks fit to prevent danger and the cost of so doing shall be recoverable from the owner of the tree in the manner provided in section 333.
205. (1) If any tank, pond, well, hole, stream, dam, bank or other place appears to the President to be for want of sufficient repair, protection or enclosure, dangerous to the passers-by or to persons living in the neighbourhood, he may, by notice, require the owner to fill in, **Precautions in case of dangerous tanks, wells, holes, etc.**

remove, repair, protect or enclose the same so as to prevent any danger therefrom.

- (2) If immediate action is necessary, he shall before giving such notice or before the period of notice expires, himself take such temporary measures, as he thinks fit, to prevent danger, and the cost of doing so shall be recoverable from the owner in the manner provided in section 333.

**Power to
stop dangerous
quarrying.**

206. If, in the opinion of the President, the working of any quarry or the removal of stone, earth or other material from any place is dangerous to persons residing in or having legal access to the neighbourhood thereof or creates or is likely to create a nuisance, or is likely to damage any public street or road the President may require the owner or person having control of the said quarry or place to discontinue working the same or to discontinue removing stone, earth or other material from such place or to take such order with such quarry or place as he shall deem necessary for the purpose of preventing danger or damage or of abating the nuisance arising or likely to arise therefrom.

**Precautions
against fire.**

207. (1) The President may, by notice, require the owner of any structure, booth or tent partly or entirely composed of or having any external roof, veranda, pandal or wall partly or entirely composed of cloth, grass, leaves, mats or other highly inflammable materials to remove or alter such tent, booth, structure, roof, veranda, pandal or wall or may grant him permission to retain the same on such conditions as the President may think necessary to prevent danger from fire.

- (2) The President may, by notice, require any person using any place for the storage for private use of timber, firewood, or other combustible things to take special steps to guard against danger from fire.

- (3) Where the President is of opinion that the means of egress from any building are insufficient to allow of safe exit in the event of fire, he may, with the sanction of the Council, by notice, require the owner or occupier of the building to alter or reconstruct any staircase in such manner or to provide such additional or emergency staircase as he may direct, and when any building, booth or tent is used for purposes of public entertainment he may require, subject to such sanction as aforesaid, that it shall be provided with an adequate number of clearly indicated exits so placed and maintained as readily to afford the audience ample means of safe egress, that the seating be so arranged as not to interfere with free access to the exits and that gang-ways, passages and staircases leading to the exits shall during the presence of the public, be kept clear of obstructions.

Control over Waters, etc.

208. (1) No new well, tank, pond, cistern, fountain or the like shall be dug or constructed without the permission of the President.
- (2) The President may grant permission subject to such conditions as he may deem necessary, or may for reasons to be recorded by him, refuse it.
- (3) If any such work is begun or completed without such permission the President may either—
- (a) by notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the President shall direct, or

Prohibition of construction of wells, tanks, etc., without the President's permission.

- (b) grant permission to retain such work, but such permission shall not exempt such owner from proceedings for contravening the provisions of sub-section (1).

Filling in of
pools, etc.,
which are a
nuisance.

209. (1) If, in the opinion of the President—

(a) any pool, ditch, tank, well, pond, bog, swamp, quarry, hole, drain, cess-pool, pit, water course or any collection of water, or

(b) any land on which water may, at any time, accumulate—

is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance, the President may, by notice, require the owner or person having control thereof to fill up, cover over, weed and stock with larvicidal fish, petrolize, drain or drain off the same in such manner and with such materials as the President shall direct or to take such order with the same for removing or abating the nuisance as the President shall direct.

(2) If a person on whom a requisition is made under sub-section (1) to fill up, cover over or drain off a well, delivers to the President within the time specified for compliance therewith written objections to such requisition, the President shall report such objections to the Council, and shall make further inquiry into the case, and he shall not institute any prosecution for failure to comply with such requisition except with the approval of the Council, but the President may nevertheless, if he deems the execution of the work called for by such requisition to be of urgent importance proceed in accordance with section 328 and, pending the

Council's disposal of the question whether the said well shall be permanently filled up, covered over or otherwise dealt with, may cause such well to be securely covered over so as to prevent the ingress of mosquitoes and in every such case the President shall determine with the approval of the Council whether the expenses of any work already done as aforesaid shall be paid by such person or by the President out of the Town Fund or shall be shared and, if so, in what proportion.

210. The Council on the report of the Director of Public Health that the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land in any place within the limits of the Town is injurious to the public health may, with the previous sanction of Government, by public notice, regulate or prohibit the cultivation, use of manure, or irrigation, so reported to be injurious :

Regulation or prohibition of certain kinds of cultivation.

Provided that when such cultivation or irrigation has been practised during the five years preceding the date of such public notice with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the Town Fund to all persons interested for any damage caused to them by absolute prohibition.

211. (1) The President may, by notice, require the owner of or person having control over any private [water course, spring, tank, well or other place, the water of which is used for drinking, bathing or washing clothes to keep the same in good repair and to cleanse it of silt, refuse or vegetation and to protect it from pollution by surface drainage in such manner as the President may think fit.

Cleansing of insanitary private tank or well used for drinking.

(2) If the water of any place which is used for drinking, bathing or washing clothes, as the case may be, is proved to the satisfaction of

the President to be unfit for the purpose, the President may, by notice, require the owner or person having control thereof to—

- (a) refrain from using or permitting the use of such water, or
- (b) close or fill up such place or enclose it with a substantial wall or fence.

Duty of Council in respect of public well or receptacle of stagnant water.

212. The Council shall maintain in a cleanly condition all wells, tanks and reservoirs which are not private property, and may fill them up or drain them when it appears necessary to do so.

Public wells, etc., open to all.

213. All such wells, tanks and reservoirs when maintained by the Council shall be open to use and enjoyment by the public.

Prohibition against or regulation of washing animals or clothes or fishing or drinking in public water courses, tanks, etc.

214. The Council may, in the interests of the public health, regulate or prohibit the washing of animals, clothes or other things, or fishing in any public spring, tank, well, public water course or part thereof within the Town and may set apart any such place for drinking or for bathing or for washing clothes, or animals respectively or for any other specified purpose.

Provision of public wash-houses.

215. (1) The Council may construct or provide and maintain public wash-houses or places for the washing of clothes, and may require the payment of such rents and fees for the use of any such wash-house or place as it may determine.

(2) The Council may farm out the collection of such rents and fees for any period not exceeding three years at a time on such terms and conditions as it may think fit.

(3) If a sufficient number of public wash-houses or places be not maintained under sub-section (1), the Council may, without making any charge therefor appoint suitable places for the exercise by washermen of their calling.

216. (1) The Council may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling either within the Town or outside the Town within three miles of the boundary thereof, except at—

**Prohibition
against
washing by
washermen
at unauthor-
ised places.**

(a) public wash-houses or places maintained or provided under section 215, or

(b) such other places as it may appoint for the purpose.

(2) When any such prohibition has been made no person who is by calling a washerman shall, in contravention of such prohibition, wash clothes except for himself or for personal and family service or for hire on and within the premises of the hirer, at any place within or without Town limits other than a public wash-house or a place maintained or appointed under this Act:

Provided that this section shall apply only to clothes washed within or to be brought within the Town.

217. It shall not be lawful for any person to—

(a) bathe in or in any manner defile the water in any place set apart by the Council or by the owner thereof for drinking purposes; or

**Prohibition
against de-
filing water
of tanks,
etc., whether
public or
private.**

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

(c) wash clothes in any place set apart as aforesaid for drinking or bathing; or

(d) wash any animal or any cooking utensil or wool, skins or other foul or offensive substance or deposit any offensive or deleterious matter in any place set apart as aforesaid for bathing or washing clothes; or

- (e) cause or suffer to drain into or upon any place set apart as aforesaid for drinking, bathing or washing clothes or, cause or suffer anything to be brought thereinto or do anything whereby the water may be fouled or corrupted.

Control over Abandoned Lands, Untrimmed Hedges, etc.

Untenanted buildings or land.

218. If any building or land by reason of abandonment, disputed ownership or other cause remains untenanted and thereby becomes a resort of idle and disorderly persons or, in the opinion of the President becomes a nuisance, the President may, after due enquiry, by notice require the owner or person claiming to be the owner to secure, enclose, clear or cleanse the same.

Removal of filth or noxious vegetation.

219. The President may, by notice, require the owner or occupier of any building or land which appears to him to be in a filthy or unwholesome state, or overgrown with any thick, prickly or noxious vegetation, trees or under-growth injurious to health or offensive to the neighbourhood, to clear, cleanse or otherwise put the land in proper state or to clear away and remove such vegetation, trees or under-growth within twenty-four hours or such longer period and in such manner as may be specified in the notice.

Securing trees adjacent to house or well.

220. If any tree or branch of any tree appears to the President to be likely to be a nuisance to the adjacent house or wells or tanks, the President may, by notice, require the owner of the said tree to chop, secure or cut down the said trees so as to prevent the nuisance therefrom.

Fencing of building or lands.

221. The President may, by notice, require the owner or occupier of any building or land near a public street to—

- (a) fence the same to the satisfaction of the President; or

- (b) lower an enclosing wall or fence which by reason of its height and situation obstructs the view of traffic so as to cause danger.

222. The President may without notice—

Pruning of
hedges and
trees.

- (a) trim or prune any hedges bordering on a public street so that it may not exceed such height from the level of the adjoining road-way as the President may determine, or

- (b) cut and trim any hedges or trees overhanging the said street and obstructing it or the view of traffic or causing it damage.

Control over Insanitary Buildings

223. The President if it appears to him necessary for sanitary purposes so to do, may by notice require the owner or occupier of any building to lime-wash or otherwise cleanse the building inside and outside, in the manner and within a period to be specified in the notice.

Lime-wash-
ing and
cleansing of
buildings.

224. (1) Whenever the President considers—

Further
powers with
reference to
insanitary
buildings.

- (a) that any building or portion thereof is by reason of its having no plinth or having a plinth of insufficient height or by reason of the want of proper drainage or ventilation or by reason of the impracticability of cleansing, attended with danger of disease to the occupiers thereof or to the inhabitants of the neighbourhood or is, for any reason likely to endanger the public health or safety, or
- (b) that a block or group of buildings is, for any of the said reasons or by reason of the manner in which the buildings are crowded

together, attended with such risk as aforesaid—

he may, by notice, require the owners or occupiers of such buildings or portions of buildings or at his option, the owners of the land occupied by such buildings or portions of buildings, to execute such works or take such measures as he may deem necessary for the prevention of such danger.

(2) No person shall be entitled to compensation for damages sustained by reason of any action taken under or in pursuance of this section save when a building is demolished in pursuance of an order made hereunder, or so far demolished as to require reconstruction, in which cases the Council shall make compensation to the owner thereof.

(3) When any building is entirely demolished under this section and the demolition thereof adds to the value of other buildings in the immediate vicinity, the owners of such other buildings shall be bound to contribute towards the compensation payable to the owner of the first-named building in proportion to the increased value acquired by their own property to the full amount of such increased value.

(4) When any building is so far demolished under this section as to require reconstruction, allowance shall be made in determining the compensation for the benefit accruing to the premises from the improvement thereof.

Buildings
unfit for
human
habitation.

225. (1) If any building or portion thereof intended for or used as a dwelling place appears to the President to be unfit for human habitation, he may apply to the Council to prohibit the further use of such structure for such purpose and the Council may, after giving the

owner and occupiers of the structure a reasonable opportunity of showing cause why such order should not be made, make a prohibitory order as aforesaid.

- (2) When any such prohibitory order has been made, the President shall communicate the purport thereof to the owner and occupiers of the structure and on expiry of such period as is specified in the notice, not being less than thirty days after the service of the notice, no owner or occupier of such structure shall use or suffer it to be used for human habitation until the President certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction, or the Council withdraws the prohibition.
- (3) When such prohibitory order has remained in operation for three months the President shall report the case to the Council, which shall thereupon consider whether the structure should not be demolished. The Council shall give the owner not less than thirty days' notice of the time and place at which the question will be considered and the owner shall be entitled to be heard when the question is taken into consideration.
- (4) If upon such consideration the Council is of opinion that the structure has not been rendered fit for human habitation and that the steps are not being taken with due diligence to render it so fit and that the continuance of the structure is a nuisance or dangerous or injurious to the health of the public or to the inhabitants of the neighbourhood, it shall record a decision to that effect, with the grounds of the decision, and the President shall, in pursuance of the said decision, by

notice, require the owner to demolish the structure.

- (5) If the owner undertakes to execute forthwith the works necessary to render the structure fit for human habitation, the President may postpone the execution of the decision of the Council for such time not exceeding six months as he thinks sufficient for the purpose of giving the owner an opportunity of executing the necessary works.

Abatement of
over-crowd-
ing in dwell-
ing house or
dwelling
place.

- 226 (1) If it appears to the President that any dwelling house or other building which is used as a dwelling place, or any room in such dwelling house or building, is so over-crowded as to endanger the health of the inmates thereof he may apply to a Magistrate to abate such over-crowding, and the Magistrate, after such inquiry as he thinks fit to make, may, by written order, require the owner of the building, or room, within a reasonable time not exceeding four weeks to be specified in the said order, to abate such over-crowding by reducing the number of lodgers, tenants or other inmates of the building or room, or may pass such other order as he may deem just and proper.
- (2) The Council may, by written order, declare what amount of superficial and cubic space shall be deemed for the purposes of subsection (1) to be necessary for each occupant of a building or room.
- (3) If any building or room referred to in subsection (1) has been sub-let, 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 or room.

- (4) It shall be incumbent on every tenant, lodger or other inmate of a building or room to vacate on being required by the owner so to do, in pursuance of any requisition made under sub-section (1).

Control over Certain Animals

227. No person shall feed or permit any animal, which is kept for dairy purpose or may be used for food, to be fed on filth.

Prohibition against feeding certain animals on filth.

228. 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 thereon or who causes or suffers such animals to stray about without a keeper shall be punished with fine which may amount to twenty-five rupees.

Prohibition of stray cattle in streets.

229. No person shall keep any animal on his premises so as to be a nuisance or so as to be dangerous.

Prohibition against keeping animal so as to be a nuisance or danger.

230. (1) The Council may, and, if so directed by the District Magistrate, shall, give public notice that unlicensed pigs or dogs straying within specified limits will be destroyed.

Power to destroy stray pigs and dogs.

(2) When such notice has been given any person may destroy, in any manner not inconsistent with the terms of the notice, any unlicensed pig or dog (as the case may be) found straying within such limits.

General

231. (1) When the President takes down any structure or part thereof or cuts down any tree or hedge or shrub or part thereof or removes any fruit in virtue of his powers under this Chapter the President may sell the materials or things taken down, cut down or removed, and apply the proceeds in or towards payment of the expenses incurred.

Power of President to use or sell materials of dangerous structure taken down, etc., and procedure when there is no owner or occupier.

- (2) If after reasonable inquiry it appears to the President that there is no owner or occupier to whom notice can be given under any section in this Chapter he may himself take such order with the property mentioned in such section as may appear to him to be necessary and may recover the expense incurred by the sale of such property (not being land) or of any portion thereof.

Making noise by musical instruments or otherwise in public streets and other public places for purposes of advertisement prohibited.

232. (1) No person shall, for purposes of advertisement of any kind, create or cause to be created any noise by musical instruments or otherwise in or on any public street and other public places.

Playing of musical instruments in hotels, restaurants, etc., prohibited between 10 p.m. and 5 a.m.

- (2) No person shall play or allow to be played gramophones or such like other musical instruments in hotels, restaurants, coffee or tea shops after 10 p.m. and before 5 a.m.

Limitation of compensation.

233. No person shall be entitled save as provided in sections 209 and 224 to compensation for any damages sustained by reason of any action taken by the Town authorities in pursuance of their powers under this Chapter.

CHAPTER XII.—LICENSES AND FEES

General Provision as to Licenses

Exemption of Government from taking out license.

234. Nothing in this Chapter shall be construed as requiring Government to take out a license in respect of any place in the occupation or under the control of or any property belonging to Government.

Keeping of Animals

Licenses for places in which animals are kept.

235. (1) The owner or occupier of any stable, veterinary, infirmary stand, shed, yard or other place in which quadrupeds are kept or taken in for purposes of profit, shall in the first

month of every year or in the case of a place to be newly opened within one month before the opening of such place, apply to the President for a license for the use of the same for any such purpose of profit.

- (2) The President may, by an order and under such restrictions and regulations as he thinks fit, grant or refuse to grant such license :

Provided that this section shall not apply to any such place licensed as a place of public entertainment or resort under the Places of Public Resorts Act, X of 1097.

- (3) No person shall, without or otherwise than in conformity with a license, use any place for such a purpose.

236. (1) All stables, cattle-sheds and cow-houses shall be under the survey and control of the President as regards their site, construction, materials and dimensions.

General powers of control over stables, cattle-sheds and cow-houses.

- (2) The President may, by notice, require that any stable, cattle-shed or cow-house be altered, paved, drained, repaired, disinfected or kept in such a state as to admit of its being sufficiently cleaned or be supplied with water, or be connected with a sewer or be demolished.

- (3) Every such notice shall be addressed to the owner of the building or land to which the stable, cattle-shed or cow-house belongs, or for the use of the occupants of which the same was constructed or is continued.

- (4) The expense of executing any work in pursuance of any such notice shall be borne by the said owner.

237. If any stable, cattle-shed or cow-house is not constructed or maintained in the manner required by or under this Act, the President may, by notice, direct that the same shall no longer be used as a stable, cattle-shed or cow-house. Every such notice shall state the grounds on which it proceeds.

Power to direct discontinuance of use of buildings as stable, cattle-shed or cow-house.

Provision of
public cattle-
stands and
sheds.

238. (1) The Council may construct or provide and maintain public landing places, halting places and cart-stands and may levy rents and fees for the use of the same.
- (2) A statement in English and Malayalam of any fees fixed by the Council for the use of such place shall be put up in a conspicuous part of every such place where they are leviable.
- (3) The Council may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.

Explanation.—A cart-stand shall, for the purpose of this Act, include a stand for carriages and animals.

Prohibition
of private
landing
places, halt-
ing-places,
bus-stands
and cart-
stands.

239. No person shall open for the purpose of hiring out a new private landing place, halting place, bus-stand or cart-stand or continue to keep open a private landing place, halting place, bus-stand or cart-stand within Town limits or at a distance within one mile from such limits.

Prohibition
of use of
public places
or sides of
public street
as cart-stand
etc.

240. Where a Council has provided a public landing place, halting place or cart-stand the President may prohibit the use for the same purpose by any person within such distance thereof, as may be determined by the Council, of any public place or the sides of any public street.

Recovery of
cart-stand
fees, etc.

241. (1) If the fee leviable under section 238 is not paid on demand, the person appointed to collect it may seize and detain such portion of the appurtenances or load, if any, available as will, in his opinion, suffice to defray the amount due; in the absence of any such appurtenances or load or in the event of their value being insufficient to defray the amount due, he may seize and detain any vehicle or animal.

- (2) All property seized under sub-section (1) shall be sent within twenty-four hours to the President or to such person as he may have authorised to receive and sell such property and the President shall forthwith give notice to the proprietor of the property seized, or, if the proprietor is not known, or is not resident within the Town, to the person who was in charge of the said property at the time when it was seized, or, if such person cannot be found, publish by beat of drum, that, after the expiry of two days, exclusive of Sunday, from the date of service or publication of such notice the property will be sold in auction at a place to be specified in the notice.
- (3) If at any time before the sale has begun the amount due on account of the fee, together with a sum of four annas on account of charges incurred in connection with the seizure and detention, is tendered to the President or other person authorised as aforesaid, the property seized shall be forthwith released.
- (4) If no such tender is made, the property may be sold and the proceeds of the sale applied to the payment of—
- (i) the amount due on account of the fee;
 - (ii) such penalty not exceeding the amount of the fee as the President may direct; and
 - (iii) a sum of eight annas on account of charges incurred in connection with the seizure, detention and sale.

Purposes for which places may not be used without license.

242. (1) The Council may, publish by notification in the Cochin Government Gazette and by beat of drum that no place within Town limits shall be used for any one or more of the purposes specified in Schedule IV without the license of the President and except in accordance with the conditions specified therein :

Provided that no such notification shall take effect until sixty days from the date of publication.

- (2) The owner or occupier of every such place shall within thirty days of the publication of such notification, apply to the President for a license for the use of such place for such purpose.
- (3) The President may, by an order and under such restrictions and regulations as he thinks fit, grant or refuse to grant such license.
- (4) Every such license shall expire at the end of the year unless for special reasons the President considers it should expire at an earlier date; when it shall expire at such earlier date as may be specified therein.
- (5) Applications for renewal of such licenses shall be made not less than thirty days before the end of every year and applications for licenses for places to be newly opened shall be made not less than thirty days before they are opened.

Application to be made for construction, establishment or installation of factory, work-shop or work-place in which steam or other power is to be employed.

243. (1) Every person intending—
- (a) to construct or establish any factory, work-shop or work-place in which it is proposed to employ steam-power, water-power or other mechanical power or electrical power, or
 - (b) to instal in any premises any machinery or manufacturing plant

driven by steam, water or other power as aforesaid—

shall before beginning such construction, establishment or installation make an application in writing to the Council for permission to undertake the intended work.

(2) The application shall be accompanied by—

- (i) a plan of the factory, work-shop, work-place or premises prepared in such manner as may be prescribed by rules made in this behalf by Government, and
- (ii) such particulars as to the power, machinery, plant or premises as the Council may require by by-laws made in this behalf.

(3) The Council shall, as soon as may be after the receipt of the application—

- (a) grant the permission applied for, either absolutely or subject to such conditions as it thinks fit to impose, or
- (b) refuse permission, if it is of opinion that such construction, establishment or installation is objectionable by reason of the density of the population in the neighbourhood or that it is likely to cause a nuisance.

(4) Before granting permission under sub-section (3) the Council—

- (a) shall obtain the approval of the Inspector of Factories appointed under the Cochin Factories Act, 11 of 1113 as regards the plan of

the factory, work-shop, work-place or premises with reference to—

- (i) the adequacy of the provisions for ventilation and light,
- (ii) the sufficiency of the height and dimensions of the rooms and doors,
- (iii) the suitability of the exits to be used in case of fire, and
- (iv) such other matters as may be prescribed by rules made by Government, and

(b) shall consult and have due regard to the opinion of the Medical Officer as regards the suitability of the site of the factory, work-shop, work-place or premises for the purpose specified in the application.

(5) The grant of permission under this section shall not be deemed to dispense with the necessity for compliance with the provisions of the rules relating to the construction of buildings.

Council may issue directions for abatement of nuisance caused by steam or other power.

244. (1) If in any factory, work-shop or work-place in which steam-power, water-power or other mechanical power or electrical power is used nuisance is, in the opinion of the Council, caused by reason of the particular kind of fuel employed or by reason of the noise or vibration created, the Council may issue such directions as it thinks fit for the abatement of the nuisance within a reasonable time to be specified for the purpose.

(2) If there has been wilful default in carrying out such directions or if abatement is found impracticable, the Council may—

- (a) prohibit the use of the particular kind of fuel employed ; or
- (b) restrict the noise or vibration by prohibiting the working of the factory, work-shop or work-place between the hours of 9-30 p.m. and 5-30 a.m.

245. Government may either generally or in any particular case make such order or give such directions as they may deem fit in respect of any action taken or omitted to be taken under section 243 or section 244.

Power of Government to pass orders or give directions to Councils.

246. (1) The President or any person authorised by him in this behalf may enter any factory, work-shop or work-place—

The President may enter any factory, work-shop or work-place.

- (a) at any time between sun-rise and sun-set ;
- (b) at any time when any industry is being carried on ; and
- (c) at any time by day or by night if he has reason to believe that any offence is being committed under section 243 or section 244.

(2) No claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this section or by the use of any force necessary for the purpose of effecting an entrance under this section.

Slaughtering

247. (1) The Council shall provide a sufficient number of places for use as slaughter houses within the Town and may charge rents and fees for their use.

Provision of slaughter houses.

- (2) The Council may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.

License for
slaughter
houses.

248. (1) The owner of any place within Town limits which is used as a slaughter house for the slaughtering of animals or for the skinning or cutting up of any carcasses, shall in the first month of every year or in the case of a place to be newly opened, one month before the opening of the same, apply to the President for a license.

- (2) The President may by an order and subject to such restrictions and regulations as to supervision and inspection as he thinks fit, grant or refuse to grant such license.

Slaughter of
animals
during festi-
vals and
ceremonies.

249. The President may allow any animal to be slaughtered in such places as he thinks fit on occasions of festivals and ceremonies or as a special measure.

Slaughter of
animals for
sale as food.

250. No person shall slaughter within the Town except in a public or licensed slaughter house, any cattle, horse, sheep, goat or pig for sale as food or skin or cut up any carcass, without or otherwise than in conformity with a license from the President or dry or permit to be dried any skin in such a manner as to cause a nuisance:

Provided that the President may authorise any person to slaughter without license and without the payment of any fee, any animal for the purpose of a religious ceremony.

The Milk Trade

Regulation of
milk trade.

251. (1) No person shall without or otherwise than in conformity with a license from the President. —

- (a) carry on within the Town the trade or business of a dealer in or importer or seller or hawker of milk or dairy produce;

- (b) use any place in the Town for the sale of milk or dairy produce :

Provided that no such license shall be given to any person who is suffering from a dangerous disease.

- (2) Such license may be refused or may be granted on such conditions as the President may deem necessary which may extend to the construction, ventilation, conservancy, supervision and inspection of the premises, whether within or without Town limits, where the animals from which the milk supply is derived are kept.

Markets, Butchers, Fish-mongers, Hawkers

252. All markets which are acquired, constructed, repaired or maintained out of the Town Fund shall be deemed to be public markets and such markets shall be open to the public.

Public markets.

253. (1) (a) The Council may provide places for use as public markets.
- (b) The Council, if it considers that any private market is not amply serving the commercial needs of the public, may move the Government to acquire under section 262 of this Act the right of holding such private markets and shall after such acquisition establish a public market in place of such private market.
- (2) The Council may in any public market levy any one or more of the following fees at such rates and may place the collection of such fees under the management of such person, as may appear to it proper or may farm out such fees on such terms and subject to such conditions as it may deem fit —

Powers in respect of public markets.

Right of establishing public markets in place of private markets.

- (a) fees for the use of, or for the right to expose goods for sale in, such markets;
- (b) fees for the use of shops, stalls, pens or stands in such markets;
- (c) fees on vehicles or pack animals carrying or on persons bringing goods for sale in such markets;
- (d) fees on animals brought for sale into, or sold in such markets; and
- (e) license fees on brokers, commission agents, weigh-men and measurers practising their calling in such markets.

(3) The Council may, with the sanction of Government, close any public market or part thereof.

**President's
control over
public
markets.**

254. (1) No person shall, without the permission of the President, or if the rents and fees have been farmed out, of the farmer, sell or expose for sale any animal or article within any public market.
- (2) The President may expel from any public market any person who or whose servant has been convicted of disobeying any by-laws at the time in force in such market and may prevent such person from further carrying on by himself or his servants or agents any trade or business in such market or occupying any shop, stall or other place therein, and may determine any lease or tenure which such person may possess in any such shop, stall or place.

**Licensing of
private
markets.**

255. (1) No person shall open a new private market or continue to keep open a private market unless he obtains from the Council a license to do so.

- (2) Application for such license shall be made by the owner of the place in respect of which the license is sought, not less than six weeks before such place is opened as a market or before the commencement of the year for which the license is sought, as the case may be.
- (3) The Council shall, as regards private markets already lawfully established and may, irrespective of the distance from and the days of any of the markets in existence and at its discretion, as regards new private markets, grant the license applied for subject to such regulation as to supervision and inspection and to such conditions as to sanitation, drainage, water supply, width of paths and ways, weights and measures to be used, and rents and fees to be charged in such market as the Council may think proper; or the Council may refuse to grant any such license for any new private market. The Council may, however, at any time, for breach of the conditions thereof suspend or cancel any license which has been granted under this section. The Council may also modify the conditions of the license to take effect from a specified date.
- (4) When a license is granted, refused, suspended, cancelled or modified under this section, the Council shall cause a notice of such grant, refusal, suspension, cancellation or modification in English and Malayalam to be posted in some conspicuous place at or near the entrance to the place in respect of which the license was sought or had been obtained.
- (5) Every license granted under this section shall expire at the end of the year.

**Fee for
license.**

256. When a license granted under section 255 permits the levy of any fees of the nature specified in sub-section (2) of section 253, a fee not exceeding 15 per cent of the gross income of the owner from the market in the preceding year shall be charged by the Council for such license.

**Sale in
unlicensed
private
market.**

257. It shall not be lawful for any person to sell or expose for sale any animal or article in any unlicensed private market.

**Powers of
Council in
respect of
private
markets.**

258. The Council may by notice require the owner, occupier, or farmer of any private market to—

- (a) construct approaches, entrances, passages, gates, drains and cess-pits for such market and provide it with latrines of such description and in such position and number as the Council may think fit ;
- (b) roof and pave the whole or portion of it or pave any portion of the floor with such material as will in the opinion of the Council secure imperviousness and ready cleansing ;
- (c) ventilate it properly and provide it with a supply of water ;
- (d) provide passages of sufficient width between the stalls and make such alterations in the stalls, passages, shops, doors or other parts of the market as the Council may direct ; and
- (e) keep it in a cleanly and proper state and remove all filth and refuse therefrom.

**Suspension
or refusal of
license in
default.**

259. (1) If any person after notice given to him in that behalf by the Council fails, within the period and in the manner laid down in the said notice to carry out any of the works specified in section 258, the Council may suspend the license of the said person or may refuse to grant him a license, until such works have been completed.

- (2) It shall not be lawful for any person to open or keep open any such market after such suspension or refusal.

260. No owner, occupier, agent or manager in charge of any private market or of any shop, stall, shed or other place therein shall keep the same so that it is a nuisance or fail to cause anything that is a nuisance to be at once removed to the place to be notified by the Council.

Prohibition against nuisances in private markets.

261. The Council or any officer duly authorised by it in that behalf may close any private market in respect of which no license has been applied for or the license for which has been refused, withheld or suspended or which is held or kept open contrary to the provisions of this Act.

Power to close private markets.

262. (1) Government may, for the purpose and at the instance of any Town, acquire under the Land Acquisition Act, II of 1070 the rights of any person to hold a private market in any place and to levy fees therein. Such rights shall be deemed to be land for the purposes of that Act.

Acquisition of rights of private persons to hold private markets.

- (2) On payment of the compensation awarded under the said Act in respect of such property and any other charges incurred in acquiring it the rights of such person to hold a private market and to levy fees therein shall vest in the Council.

263. The person in charge of a market shall prevent the entry therein or expel therefrom any person suffering from leprosy or from any infectious or contagious disease, who sells or exposes for sale therein, any article or who, not having purchased the same, handles any articles exposed for sale therein, and he may expel therefrom any person who is creating a disturbance therein.

Duty of expelling lepers, etc., from markets and power to expel disturbers.

264. (1) No person shall, without or otherwise than in conformity with a license from the President, carry on the trade of a butcher,

Butcher's, fish-monger's and poulterer's license.

fish-monger or poulterer or use any place for the sale of flesh or fish intended for human food in any place within Town limits :

Provided that no license shall be required for a place used for the selling or storing for sale of preserved flesh or fish contained in air-tight and hermetically sealed receptacles.

(2) The President may, by an order and subject to such restrictions as to supervision and inspection as he thinks fit, grant or refuse to grant such license.

(3) Every such license shall expire at the end of the year in which it is granted unless for special reasons the President considers it should expire at an earlier date; when it shall expire at such earlier date as may be specified therein.

Power to prohibit or regulate the sale of articles in public streets.

265. The President may, with the sanction of the Council prohibit by public notice or license or regulate the sale or exposure for sale, of any animal or article in or on any public street or part thereof.

Decision of disputes as to whether places are markets.

266. If any question arises whether any place is a market or not the Council shall make a reference to Government and the decision of Government on the question shall be final.

Inspection of Places for Sale, etc.

Duty of President to inspect.

267. It shall be the duty of the President to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter, oil and any other articles exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale, or of preparation for sale.

268. (1) The President or any person authorised by him in writing for the purpose, may without notice enter any slaughter house or any place where animals, poultry or fish intended for food are exposed for sale or where articles of food are being manufactured or exposed for sale, at any time by day or night when the slaughter, exposure for sale, or manufacture is being carried on and inspect the same and any utensil or vessel used for manufacturing, preparing or containing any such article.
- Powers of President for purposes of inspection.**
- (2) If the President or any person so authorised by him has reason to believe that in any place any animal intended for human food is being slaughtered or any carcass is being skinned or cut up, or that any food is being manufactured, stored, prepared, packed, cleansed, kept or exposed for sale, or sold without, or otherwise than in conformity with a license, he may enter any such place without notice, at any time by day or night for the purpose of satisfying himself whether any provision of laws, by-laws or regulations or any condition of a license is being contravened.
- (3) No claim shall lie against a President or any person acting under his authority or the Council for any damage or inconvenience necessarily caused by the exercise of powers under this section or by the use of any force necessary for effecting an entry into any place under this section.
- (4) In any legal proceedings in respect of powers exercised under this section in which it is alleged that any animal, poultry, fish or articles of food were not kept exposed, hawked about, manufactured, prepared,

stored, packed, cleansed for sale, or were not intended for human food, the burden of proof shall lie on the party so alleging.

Preventing inspection by President.

269. No person shall, in any manner whatsoever, prevent the President or person duly authorised by him from exercising his powers under section 268.

Power of President to seize diseased animal, noxious food, etc.

270. If any animal, poultry or fish intended for food appears to the President or to a person duly authorised by him, to be diseased, or any food appears to him to be noxious, or if any vessel or utensil used in manufacturing, preparing or containing such article appears to be of such kind or in such state as to render the article noxious, he may seize or carry away or secure such animal, article, utensil or vessel in order that the same may be dealt with as hereinafter provided.

Explanation.—Meat subject to the process of blowing shall be deemed to be noxious.

Removing or interfering with article seized.

271. No person shall remove or in any way interfere with an animal or article secured under section 270.

Power to destroy article seized.

272. (1) When any animal or article of food is seized under section 270, it may, with the consent of the owner or person in whose possession it was found, be forthwith destroyed in such manner as to prevent its being used for human food or exposed for sale and if the article is perishable, without such consent.

(2) Any expense incurred in destroying any animal or article under sub-section (1) shall be paid by the owner or person in whose possession such article was at the time of its seizure.

Production of articles, etc. seized before Magistrate and powers of Magistrate to deal with them.

273. (i) Articles of food, animals, poultry, fish, utensils, vessels, etc., seized under section 270 and not destroyed under section 272 shall, as soon as possible, be produced before a Magistrate.

- 2) Whether or not complaint is laid before a Magistrate of any offence under the Cochin Penal Code or under this Act if it appears to the Magistrate on taking such evidence as he thinks necessary that any such animal, poultry or fish is diseased or any such article is noxious or any such utensil or vessel is of such kind or in such state as is described in section 270 he may order the same—

(a) to be forfeited to the Council;

(b) to be destroyed at the charge of the owner or person in whose possession it was at the time of seizure, in such manner as to prevent the same being again exposed or hawked about for sale, or used for human food or for the manufacture, or preparation of, or for containing, any such article as aforesaid.

Disposal of the Dead

274. (1) Every owner or person having the control of any place used at the date of the coming into operation of this Act as a place for burying, burning or otherwise disposing of the dead shall, if such place be not already registered, apply to the Council to have such place registered.
- (2) If it appears to the Council that there is no owner or person having the control of such place, it shall assume such control and register such place, or may, with the sanction of Government, close it.
275. (1) No new place for the disposal of the dead, whether public or private, shall be opened, formed, constructed or used unless a license

Registration
or closing of
ownerless
places for
disposal of
the dead.

Licensing of
places for
disposal of
the dead.

has been obtained from the Council on application.

- (2) Such application for a license shall be accompanied by a plan of the place to be registered showing the locality, boundary and extent thereof, the name of the owner, or person or community interested therein, the system of management and such further particulars as the Council may require.
- (3) The Council may—
 - (a) grant or refuse a license, or
 - (b) postpone the grant of a license until objections to the site have been removed or any particulars called for by it have been furnished.

Provision of burial and burning grounds and crematoria within or without Towns.

276. (1) The Council may, and shall, if no sufficient provision exists, provide at the cost of the Town Fund places to be used as burial or burning grounds or crematoria and may charge rents and fees for the use thereof.
- (2) The Council may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.

Register of registered, licensed and provided places and prohibition of use of other places.

277. (1) A book shall be kept at the Council Office in which the places registered, licensed or provided under sections 274, 275 or 276 and all such places registered, licensed or provided before the commencement of this Act, shall be recorded and the plans of such places shall be filed in such office.
- (2) Notice that such place has been registered, licensed or provided as aforesaid shall be affixed in English and in Malayalam to some

conspicuous place at or near the entrance to the burial or burning ground or other place as aforesaid.

- (3) No person shall bury, burn or otherwise dispose of any corpse except in a place which has been registered, licensed or provided as aforesaid.

278. The person having control of a place for disposing of the dead shall give information of every burial, burning or other disposal of a corpse at such place to any person appointed by the President in that behalf.

Report of burials and burnings.

279. (1) If the Council is satisfied—

- (a) that any registered or licensed place for the disposal of the dead is in such a state or situation as to be or to be likely to become dangerous to the health of persons living in the neighbourhood thereof, or
- (b) that any burial ground is overcrowded with graves,

Prohibition against use of burial and burning grounds dangerous to health or overcrowded with graves.

and if in the case of a public burial or burning ground or other place as aforesaid, another convenient place duly authorised for the disposal of the dead exists or has been provided for the persons who would ordinarily make use of such place,

it may, with the previous sanction of Government, give notice that it shall not be lawful after a period to be named in such notice to bury, burn or otherwise dispose of any corpse at such place.

- (2) Every notice given under sub-section (1) shall be published in the Cochin Government Gazette and by beat of drum.
- (3) After the expiry of the period named in such notice it shall not be lawful to bury, burn or otherwise dispose of a corpse at such place.

Application
of the above
sections.

280. The provisions of sections 274, 275, 277, 278 and 279 shall be deemed to apply to any place, public or private, used for the disposal of the dead, whether the use is for the public generally, or for any section of it, or for a single family.

Prohibitions
in respect of
corpses.

281. No person shall—

- (a) bury or cause to be buried any corpse or part thereof in a grave whether dug or constructed of masonry or otherwise in such manner that the surface of the coffin or the surface of the body where no coffin is used, is at a less depth than five feet from the surface of the ground; or
- (b) build or dig or cause to be built or dug any grave in any burial ground at a less distance than two feet from the margin of any other existing grave;
- (c) without the sanction in writing of the President or an order in writing of a Magistrate, re-open a grave already occupied; or
- (d) convey or cause to be conveyed a corpse or part thereof to any burial or burning ground, and not cause the burial or burning of the same to commence within six hours after its arrival at such place; or
- (e) when burning or causing to be burnt a corpse or part thereof, permit the same or any part thereof or its clothes to remain without being completely reduced to ashes; or
- (f) carry through any street a corpse or part thereof not decently covered; or
- (g) while carrying a corpse or part thereof within the Town leave the same in or near any street for any purpose whatever; or

- (h) remove otherwise than in a closed receptacle, any corpse or part thereof kept or used for the purpose of dissection.

282. No person shall discharge the office of grave digger or other attendant at a public place for the disposal of the dead (other than a place provided by Government) unless he has been licensed in that behalf by the President. Such license may be withdrawn or cancelled at the discretion of the Council.

Grave digger's License.

283. (1) When any license, sanction, permission or registration is granted under the provisions of this Act, a fee may be charged for such license, sanction, permission or registration.
- (2) The rates of the fees to be so charged shall be, from time to time, fixed by the Council subject to the approval of Government.
- (3) Every license, sanction, permission or registration granted under this Act or any rule or by-law made under this Act shall specify the period, if any, for which, and the restrictions, limitations and conditions subject to which the same is granted and shall be signed by the President.
- (4) Every order of a Town authority refusing, suspending, cancelling or modifying a license or permission shall be in writing and shall state the grounds on which it proceeds.
- (5) Subject to the special provisions in Chapters X and XII regarding buildings and private markets and subject to such sanction as may be required for the refusal of a license or permission and to such appeal as may be provided in case of refusal, any license or permission granted under this Act or any rule or by-law made under it may, at any time, be suspended or revoked by the President, if any, of its restrictions,

Enforcement of the licensing provisions.

limitations or conditions is evaded or infringed by the grantee or if the grantee is convicted of a breach of any of the provisions of this Act or any of the rules or by-laws or regulations made under it, in any matter to which such license or permission relates or if the grantee has obtained the same by misrepresentation or fraud.

- (6) It shall be the duty of the President to inspect places in respect of which a license or permission is required by or under this Act and he may enter any such place between sun-rise and sun-set and also between sun-set and sun-rise if it is open to the public, or any industry is being carried on in it at the time, and if he has reason to believe that anything is being done in any place without a license or permission where the same is required by or under this Act or otherwise than in conformity with the same, he may, at any time by day or night, without notice, enter such place for the purpose of satisfying himself whether any provision of law, rules, by-laws or regulations, any condition of a license or permission or any lawful direction or prohibition is being contravened, and no claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this sub-section by the President or any person to whom he has lawfully delegated his powers, or by the use of any force necessary for effecting an entrance under this sub-section.
- (7) When any license or permission is suspended or revoked or when the period for which it was granted or within which application for renewal should be made has expired, whichever expires later, the grantee, shall, for all

purposes of this Act or any rule or by-law made under it, be deemed to be without a license or permission until the order suspending or revoking the license or permission is cancelled or, subject to sub-section (4), until the license or permission is renewed as the case may be.

- (8) Every grantee of a license or permission shall at all reasonable times, while such license or permission remains in force, produce the same at the request of the President.
- (9) The President or any officer duly authorised by him in writing in that behalf may close any unlicensed dangerous and offensive trade in respect of which no license has been taken or license for which has been refused, withheld, revoked or suspended which is held or kept open contrary to the provisions of this Act.
- (10) Whenever any person is convicted of an offence in respect of the failure to obtain a license or permission or to make a registration required by the provisions of this Act or any rule or by-law made under it, the Magistrate shall in addition to any fine which may be imposed, recover summarily and pay over to the Council the amount of the fee chargeable for the license or permission or for registration, and may in his discretion also recover summarily and pay over to the Council such amount, if any, as he may fix as the costs of prosecution.
- (11) Such recovery of the fee under sub-section (10) shall not entitle the person convicted to a license or permission or to registration as aforesaid.

- (12) The acceptance by the Council of the pre-payment of the fee for a license or permission or for registration shall not entitle the person making such pre-payment to the license or permission or to registration as the case may be, but only to refund of the fee in case of refusal of the license, permission or of registration, but an applicant for the renewal of a license or permission or registration shall, until communication of orders on his application, be entitled to act as if the license or permission or registration has been renewed; and save as otherwise specially provided in this Act, if orders on an application for license or permission or for registration are not communicated to the applicant within thirty days after the receipt of the application by the President, the application shall be deemed to have been allowed for the year or for such less period as is mentioned in the application and subject to the law, rules, by-laws, regulations and all conditions ordinarily imposed.

CHAPTER XIII—VITAL STATISTICS AND THE PREVENTION OF DISEASES

Vital Statistics

**Compulsory
registration
of Vital
Statistics.**

284. (1) The Council shall register all births and deaths occurring in the Town.
- (2) Information of births and deaths shall be given and their registration shall be made and enforced in the manner prescribed by rules which Government shall have power to make.

Dangerous Diseases

285. (1) "Dangerous disease" means a disease specified in Schedule V. Government may after previous publication alter, add to or cancel the Schedule in part in respect of all Towns or of any Town.

Definition of
Dangerous
disease

(2) Government shall have power, after previous publication, to make rules for the prevention of dangerous disease and for the registration of medical practitioners.

286. (1) If any medical practitioner becomes cognisant of the existence of any dangerous disease in any private or public dwelling (not being a public hospital) in the Town, he shall inform the President with the least practicable delay.

Obligation
of medical
practitioner
or owner or
occupier of
house to
report
dangerous
disease.

(2) The information shall be communicated in such form and with such details as the President may require. The President may pay a fee not exceeding one rupee for each intimation by a private medical practitioner of a case occurring in his practice.

(3) This section shall apply to a hakim or a vaidyan.

(4) With the previous approval in all cases of Government, the President may direct the compulsory notification by the owner or occupier of every house within the Town limits during such period and to such officer as the President may prescribe of all deaths from or occurrence of dangerous diseases in his house.

287. The President or the medical officer may at any time by day or by night without notice, or after giving such notice as may appear to him reasonable, inspect any

Power of
entry into
suspected
places.

place in which any dangerous disease is reputed or suspected to exist, and take such measures as he may think fit to prevent the spread of such disease beyond such place.

**Disinfection
of buildings
and articles.**

288. (1) If the President or the medical officer is of opinion that the cleansing or disinfecting of any premises or part thereof, or of any article therein which is likely to retain infection, will tend to prevent or check the spread of any dangerous disease, he may by notice require the occupier to cleanse or disinfect the same, in the manner and within the time specified in such notice.

(2) If the President or the medical officer considers that immediate action is necessary, or that the occupier is by reason of poverty or otherwise unable effectually to comply with his requisition, the President or the medical officer may himself, without notice, cause such premises or article to be cleansed or disinfected and for this purpose may cause such article to be removed from the premises; and the expenses incurred by the President or the medical officer shall be recoverable from the said occupier in case in which he is, in the opinion of the President or the medical officer, not unable by reason of poverty effectually to comply with such requisition.

**Provision of
places for
disinfection
and power
to destroy
infected
articles.**

289. (1) The President shall from time to time notify places at which conveyances, clothing, bedding or other articles which have been exposed to infection from any dangerous disease shall be washed or disinfected.

(2) The President may direct any clothing, bedding or other article likely to retain such infection to be disinfected or destroyed and shall, on demand, give compensation

for any article destroyed under this subsection.

- (3) No person shall wash such clothing or bedding or other articles in any place other than those set apart for such purposes under sub-section (1).

290. No person shall, without previously disinfecting it, give, lend, let, hire, sell, transmit or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease:

Prohibition against transfer of infected articles.

Provided that nothing in this section shall apply to a person who transmits with proper precautions any article for the purpose of having it disinfected.

291. If the Director of Public Health or the medical officer certifies that the water in any well, tank or other place within the limits of the Town is likely, if used for drinking, to engender or cause the spread of any dangerous disease, the Council may, by public notice, prohibit the removal or use of such water for drinking and domestic purposes during a specified period.

Power of Council to prohibit use of water likely to spread infection.

292. When a hospital or other place for the reception of persons suffering from dangerous diseases is provided by the Council, the President may, on a certificate signed by a qualified medical practitioner, arrange for, or direct the removal to such hospital or place of any person suffering from a dangerous disease who is, in the opinion of such medical practitioner, without proper lodging or accommodation or without medical supervision directed to prevent the spread of the disease, or who is in a place occupied by more than one family.

President may order removal of patients to hospital.

293. If any person knows or has been certified by the medical officer or a qualified medical practitioner that he is suffering from a dangerous disease he shall not engage in any occupation, or carry on any trade or business unless he can do so without risk of spreading the disease.

Prohibition against infected person carrying on occupation.

Prohibition
against
diseased
person
entering
public
conveyance.

294. (1) No person who is suffering from any dangerous disease shall, without taking proper precautions against spreading such disease, cause or suffer himself to be conveyed in a public conveyance.
- (2) No person who is suffering from any dangerous disease shall enter a public conveyance without previously notifying the owner or driver or person in charge of such conveyance that he is so suffering.
- (3) No owner or driver or person in charge of a public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid in contravention of sub-section (1).
- (4) No owner or driver or person in charge of a public conveyance shall be bound to convey any person suffering as aforesaid, unless and until the said person pays or tenders a sum sufficient to cover any loss and costs that may be incurred in disinfecting such conveyance, anything in any Act relating to public conveyance for the time being in force to the contrary notwithstanding.
- (5) A court convicting any person of contravening sub-section (1) or sub-section (2) may levy, in addition to the penalty for the offence provided in this Act, an additional fine of such amount as the court deems sufficient to cover the loss and costs which the owner or driver must incur for the purpose of disinfecting the conveyance. The amount of any additional fine so imposed shall be awarded by the court to the owner or driver of the conveyance:

Provided that if such additional fine is imposed in a case which is subject to appeal the amount shall not be paid to the owner or driver before the period allowed for

presenting the appeal has elapsed, or if an appeal is presented, before the decision of the appeal.

- (6) At the time of awarding compensation in any subsequent civil suit relating to the same matter the court shall take into account any sum which the plaintiff shall have received under this section.

295. (1) No person shall let or sub-let or for that purpose allow any person to enter a building or any part of a building in which he knows or has reason to know that a person has been suffering from any dangerous disease without having the same and all articles therein liable to retain infection disinfected to the satisfaction of the President.

Letting of
infected
buildings.

- (2) For the purpose of sub-section (1), the keeper of a hotel or lodging-house shall be deemed to let the same or part of the same to any person accommodated therein.

296. In the event of the prevalence of any dangerous disease within the Town, the Council may, by notice require the owner or occupier of any building, booth or tent used for purposes of public entertainment to close the same for such period as it may fix.

Powers to
order closure
of places
of public
entertain-
ment.

297. No person being the parent or having the care or charge of minor who is or has been suffering from a dangerous disease or has been exposed to infection therefrom shall, after a notice from the President or the medical officer that the minor is not to be sent to school or college, permit such minor to attend school or college without having procured from the medical officer or a qualified medical practitioner a certificate that in his opinion such minor may attend without undue risk of communicating such disease to others.

Minors
suffering
from
dangerous
disease not
to attend
school.

*Small-pox***Compulsory
Vaccination.**

298. (1) Vaccination shall be compulsory and shall be enforced in every Town in the manner prescribed by rules which Government shall have power to make after previous publication.

(2) The procedure prescribed in such rules for enforcing vaccination shall be observed.

**Obligation
to give
information
of small-pox.**

299. Where an inmate of any dwelling place is suffering from small-pox, the head of the family to which the inmate belongs and in his default, the occupier or person in charge of such place, shall inform the President with the least practicable delay.

PART V**SUBSIDIARY LEGISLATION AND PENALTIES****CHAPTER XIV—RULES, SCHEDULES AND BY-LAWS****Power of
Government
to frame
forms and
make rules.**

300. (1) Government may frame forms for any proceedings of a Council or President or an officer of the Town Council for which they consider a form should be provided.

(2) Government may make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(3) Rules made and forms framed under this section by Government shall be made or framed subject to the condition of previous publication and shall have the force of law.

(4) In making any rule, Government may provide that a breach thereof shall be punishable with a fine which may extend to one hundred rupees.

**Power of
Government
to alter
schedule.**

301. Government shall have power, after previous publication, to alter, add to or cancel in part or the whole of any of the following Schedules attached to this Act in

respect to all Towns or in respect of particular Towns with the consent of their Councils—

Schedules I, II, III and IV

302. The Schedules attached to this Act shall have effect as if enacted in the body of this Act until cancelled in part or altered or added to and if altered or added to, shall have the like effect as altered or added to and all references to the said Schedules shall be construed as made to such Schedules as cancelled in part or altered or added.

Effect of
Schedules.

303. (1) The Council may after previous publication make by-laws whenever necessary not inconsistent with the Act or any rule or by-law made by Government.

Power of
Council to
make by-
laws, etc.

(2) In making a by-law the Council may provide that a breach thereof shall be punishable—

(a) with fine which may extend to Rs. 50, and in case of a continuing breach with fine which may extend to Rs. 15 for every day during which the breach continues after conviction for the first breach, or

(b) with fine which may extend to Rs. 10 for every day during which the breach continues after receipt of notice from the President to discontinue such breach.

(3) All by-laws, when they shall have been duly approved by Government, shall have the force of law.

304. The Council shall, before making or altering by-laws, publish a draft of the proposed by-laws and alterations together with a notice specifying a date at or after which such draft will be taken into consideration, and shall before making the by-laws or alterations, receive and

Conditions
precedent
to making of
by-laws.

consider any objection or suggestion which may be made in respect of such draft by any person interested therein before the date so specified.

Confirmation
of by-laws
by Govern-
ment.

305. (1) No by-law or cancellation or alteration of a by-law shall have effect until the same shall have been approved and confirmed by Government.

(2) Any by-law or cancellation or alteration of a by-law when it shall have been duly confirmed shall be published in the Gazette.

Copies of
Act, Rules
and by-laws
to be sold
at Council
Office.

306. Complete copies—

(a) of this Act,

(b) of all rules framed by Govern-
ment,

(c) of all by-laws in force for the time
being,

shall be kept at the Council Office and shall be sold to the public at cost price.

CHAPTER XV—PENALTIES

General
provisions
regulating
penalties
specified
in the
schedules.

307. (1) Whoever—

(a) contravenes any provision of any of the sections of this Act or rules specified in the first column of Schedule VI, or

(b) contravenes any rule or order made under any of the specified sections or rules, or

(c) fails to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of the provisions of any of the said sections or rules,

shall on conviction be punished with fine which may extend to the amount mentioned in that behalf in the

fourth column of the said schedule and in every case not specifically provided for in the schedule, shall be liable to a fine extending to fifty rupees.

(2) Whoever after having been convicted of—

- (a) contravening any provision of the sections or rules specified in the first column of Schedule VII, or
- (b) contravening any rule or order made under any of the specified sections or rules, or
- (c) failing to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of any of the said sections or rules,

continues to contravene the said provision or to neglect to comply with the said direction or requisition as the case may be, shall on conviction be punished, for each day after the previous date of conviction during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said schedule, and if there is no specific provision in the schedule, to twenty rupees.

Explanation.—The entries in the third column of Schedules VI and VII headed “Subject” are not intended as definitions of offences described in the sections, sub-sections or clauses mentioned in the first and second columns or even as abstracts of those sections, sub-sections or clauses, but are inserted merely as references to the subject of the sections, sub-sections or clauses as the case may be.

308. (1) Whoever acts as a member of a Council knowing that under this Act or the rules made thereunder he is not entitled or has ceased to be entitled to hold such office, shall on conviction be punished with fine not exceeding two hundred rupees for every such offence.

Penalty for acting as Councillor, or President when disqualified.

- (2) Whoever acts as or exercises the functions of the President of a Council knowing that under this Act or the rules made thereunder he is not entitled or has ceased to be entitled to hold such office or to exercise such functions shall, on conviction, be punished with fine not exceeding one thousand rupees for every such offence.
- (3) If the President of a Council fails to hand over any document of, or any money or other property vested in, or belonging to, the Council which has come into his possession or control, to his successor in office or other prescribed authority, in every case as soon as his term of office as President expires, such President shall on conviction be punished with fine not exceeding one thousand rupees for every such offence.

Penalty for acquisition by Council officer of interest in contract or work.

309. If any Officer or servant of the Town Council knowingly acquires, directly, or indirectly by himself or by a partner or employer or servant, any personal share or interest in any contract or employment with, by, or on behalf of the Council, he shall be deemed to have committed an offence under section 154 of the Cochin Penal Code, I of 1059:

Provided that no person shall by reason of being a share-holder in, or member of, any company, be held to be interested in any contract entered into between such company and the Council, unless he is a director of such company.

Penalty for omission to take out license for vehicle or animal.

310. (1) Every owner or person in charge of any vehicle or animal liable to tax under section 85 who omits to obtain a license shall on conviction be punished with fine not exceeding fifty rupees and shall also pay the amount of the tax payable by him in respect of such vehicle or animal.

- (2) On payment of such fine and tax and of such costs as may be awarded, such owner or person shall receive a license for the vehicle or animal in respect of which he has been fined and for the period during which he has been found to be in default.
- (3) The provisions of this section shall apply to any person who, having compounded for the payment of a certain sum under section 88 fails to pay such sum; and the amount due for a license shall in such case be taken as the amount so compounded for.

311. If the construction or reconstruction of any building or well—

Penalty for
unlawful
building. .

- (a) is commenced without the permission of the President, or
- (b) is carried on or completed otherwise than in accordance with the particulars on which such permission was based or,
- (c) is carried on or completed in contravention of any lawful order or in breach of any provision contained in this Act or in any rule or by-law made hereunder or of any direction or requisition lawfully given or made, or

if any alterations or additions required by any notice issued under the provisions of the rules framed under section 176 of this Act are not duly made, or

if any person to whom a direction is given by the President to alter or demolish a building or well under the provisions of the said rules fails to obey such direction,

the owner of the building or well or the said person, as the case may be, shall be liable on conviction to a fine which may extend, in the case of a building to five hundred rupees

and in the case of a well or hut, to fifty rupees, and to a further fine which may extend in the case of a building to one hundred rupees, and in the case of a well or hut to ten rupees, for each day during which the offence is proved to have continued after the first day.

Notice to scavenger before discharge.

312. (1) In the absence of a written contract to the contrary, every scavenger employed by the Council shall be entitled to one month's notice before discharge or to one month's wages in lieu thereof, unless he is discharged for misconduct or was engaged for a specified term and discharged at the end of it.

Penalty for withdrawal of scavengers without notice.

(2) Should any scavenger employed by the Council, in the absence of a written contract authorising him so to do, and without reasonable cause, resign his employment or absent himself from his duties, without giving one month's notice to the Council or neglect or refuse to perform his duties, or any of them, he shall be liable on conviction to a fine not exceeding Rs. 50 or to imprisonment of either description which may extend to two months.

Application of sub-sections (1) and (2) to other servants of the Council.

(3) Government may, by notification, direct that on and from a date to be specified in the notification, the provisions of sub-sections (1) and (2) with respect to scavengers shall apply also to any specified class of servants of the Council whose functions intimately concern the public health or safety.

Wrongful restraint of President and his delegates.

313. Every person who prevents the President or any person to whom the President has lawfully delegated his powers of entering into or on any land or building from exercising his lawful power of entering thereinto or thereon shall be deemed to have committed an offence

under section 172 of the Cochin Penal Code.

314. If any person who is required by the provisions of this Act or by any notice or other proceedings issued under this Act to furnish any information—

Penalty for not giving or giving false information.

(a) omits to furnish it, or

(b) knowingly or negligently furnishes false information, such person shall be liable to a fine not exceeding Rs. 100.

PART VI

CHAPTER XVI—PROCEDURE AND MISCELLANEOUS

Appeals

315. An appeal from any notice or order issued or other action taken or proposed to be taken by the President under the provisions of this Act shall in the first instance lie to the Council, and the Council may pass such orders as it deems fit:

Appeals from President to the Council.

Provided that any person aggrieved by any notice or order issued or passed by, or by any other act of a Council or its President under this Act may, within thirty days from the date of such act, or the promulgation or service of such order or notice, appeal to Government or such other officer as may be appointed by Government in that behalf. The time occupied in obtaining copies of material papers in connection with the order, notice or act appealed against shall be excluded from the computation of the said thirty days. Government or the appellate officer may pass such orders on the appeal as they or he think fit and pending decision may direct the Council, or President to keep the proceedings in abeyance.

Power to Summon

316. The President may summon any person to attend before him and to give evidence or produce documents, as the case may be in respect of any question relating to taxation, or inspection or registration or to the

Summons to attend and give evidence or produce documents

grant of any license under the provisions of this Act. Government may, by notification, extend this power to any officer acting under this Act.

Notices, etc.

Form of
notices and
permissions.

317. All notices and permissions given, issued or granted, as the case may be under the provisions of this Act, must be in writing.

Signature on
documents.

318. Every license, written permission, notice, bill, schedule, summons or other document which is required by this Act or by any rule, by-law or regulation made under it to bear the signature of the President or of any officer of the Council shall be deemed to be properly signed if it bears a facsimile of the signature of the President or of such officer as the case may be, stamped thereon.

(2) Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the Town Fund or to any deed of contract entered into by the Council.

Publication
of notifica-
tions.

319. Save as otherwise provided, every notification under this Act shall be published in the Cochin Government Gazette.

Method of
serving docu-
ments.

320. (1) When any notice or other document is required by this Act or by any rule, by-law, regulation or order made under it, to be served on, or sent to any person, the service or sending thereof may be effected—

(a) by giving or tendering the said document to such person; or

(b) if such person is not found, by leaving such document at his last known place of abode or business or by giving or tendering the same to some adult member or servant of his family; or

(c) if such person does not reside in the Town and his address elsewhere is known to the President

by sending the same to him by registered post or anchal ; or

(d) if none of the means aforesaid be available, by fixing the same in some conspicuous part of such place of abode or business.

- (2) When the person is an owner or occupier of any building or land it shall not be necessary to name the owner or occupier in the document, and in the case of joint owners and occupiers it shall be sufficient to serve it on, or sent it to, one of such owners or occupiers.
- (3) Whenever in any bill, notice, form or other document served or sent under this Act a period is fixed within which any tax or other sum is to be paid or any work executed or anything provided, such period shall, in the absence from this Act of any distinct provision to the contrary, be calculated from the date of such service or sending.

Relation of Occupier to Owner

321. If the occupier of any building or land makes on behalf of the owner thereof any payment for which under this Act the owner, but not the occupier is liable, such occupier shall be entitled to recover the same from the owner and may deduct the same from the rent then or thereafter due by him to the owner.

Recovery by occupier of sum leviable from owner.

322. (1) If the occupier of any building or land prevents the owner from carrying into effect in respect thereof any of the provisions of this Act, the President may, by an order require the said occupier to permit the owner within 8 days from the date of service of such order, to execute all such works, as may be necessary.

Obstruction of owner by occupier.

- (2) Such owner shall, for the period during which he is prevented as aforesaid, be exempt from any fine or penalty to which he might otherwise have become liable by reason of default in executing such works.

Execution of work by occupier in default of owner.

323. If the owner of any building or land fails to execute any work which he is required to execute under the provisions of this Act or of any rule, by-law, regulation or order made under it, the occupier of such building or land may, with the approval of the President execute the said work and shall be entitled to recover from the owner the reasonable expenses incurred in the execution thereof, and may deduct the amount thereof from the rent then or thereafter due by him to the owner.

President's Powers of Entry and Inspection

Power of entry to inspect, survey or execute the work.

324. The President or any person authorised by him in this behalf may enter into or on any building or land with or without assistants or workmen in order to make any enquiry, inspection, test, examination, survey, measurement or valuation or for the purpose of lawfully placing or removing pipes or meters or to execute any other work which is authorised by the provisions of this Act or of any rule, by-law, regulation or order made under it, or which it is necessary for any of the purposes of this Act or in pursuance of any of the said provisions, to make or execute:

Provided that—

- (a) except when it is in this Act otherwise expressly provided, no such entry shall be made between sunset and sunrise;
- (b) except when it is in this Act otherwise expressly provided, no dwelling house and no part of a public building used as a dwelling place shall be so entered without the consent of the occupier thereof unless the said occupier has received at least 6 hours'

previous notice of the intention to make such entry;

- (c) sufficient notice shall be given in every case even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy may be preserved;
- (d) due regard shall be paid, so far as may be compatible with the exigencies of the purpose of the entry, to the social and religious usages of the occupants of the premises.

325. (1) The President or any person authorised by him in this behalf may with or without assistants or workmen enter on any land adjoining or within 50 yards of any work authorised by this Act or by any rule, by-law, regulation or order made under it, for the purpose of depositing on such land any soil, gravel, stone or other materials or of obtaining access to such work or for any other purpose connected with the carrying on thereof. Power of entry on lands adjacent to works.
- (2) The President or person authorised by him as aforesaid, shall, before entering on any land under sub-section (1) give the owner or occupier 3 days' previous notice of the intention to make such entry, and state the purpose thereof; and shall, if so required by the owner or occupier, fence off so much of the land as may be required for such purpose.
- (3) The President shall not be bound to make any payment, tender or deposit before entering on any land under sub-section (1), but as little damage as may be shall be done and the President shall pay compensation to the

owner and occupier of the land for such entry, and for any temporary or permanent damage that may result therefrom.

- (4) If such owner or occupier is dissatisfied with the amount of compensation paid to him by the President, he may appeal to the Council.

Inspection
and stamping
of weights
and mea-
sures.

326. The President or any person authorised by him in this behalf may examine and test the weights and measures used in markets and shops in the Town with a view to the prevention and punishment of offences relating to such weights and measures under Chapter XII of the Cochin Penal Code.

Power to Enforce Licensing Provisions, Orders, etc.

Consequences
of failure to
obtain licen-
ses, etc., or of
breach of the
same. *

327. If, under this Act or any rule, by-law or regulation made under it, the license or permission of the Council or President or registration in the Council Office is necessary for the doing of any act and if such act is done without such license or permission or registration, or in a manner inconsistent with the terms of any such license or permission, then—

- (a) the President may, by notice, require the person so doing such act to alter, remove or as far as practicable restore to its original state the whole or any part of any property, movable or immovable, public or private, affected thereby, within a time to be specified in the notice; and further,
- (b) if no penalty has been specially provided in this Act for so doing such act, the person so doing it, shall be liable on conviction before a Magistrate to a fine not exceeding fifty rupees for every such offence.

Time for
complying
with order
and power to
enforce in
default.

328. (1) Whenever by any notice, requisition, or order under this Act, or under any rule, by-law or regulation made under it, any person is required to execute any work or to take any measures or do anything, a reasonable time

shall be named in such notice, requisition or order within which the work shall be executed, the measures taken or the thing done.

(2) If such notice, requisition or order is not complied with within the time so named, the President may cause such work to be executed or may take any measure or do anything which may, in his opinion, be necessary for giving due effect to the notice, requisition or order as aforesaid; and further,

(3) If no penalty has been specially provided in this Act for failure to comply with such notice, the said person shall be liable on conviction before a Magistrate to a fine not exceeding fifty rupees for every such offence.

329. (1) The President may, subject to the provisions of section 119, recover any reasonable expenses incurred under section 328 from the person or any one of the persons to whom the notice, requisition or order was addressed, and may in executing work or taking measure under section 328 utilise any material found on the property concerned or may sell it and apply the sale proceeds in or towards the payment of the expenses incurred.

Recovery of expenses from persons liable and limitation of liability of occupier.

(2) If the person to whom notice is given is the owner of the property in respect of which it is given the President may, (whether any action or other proceeding has been brought or taken against such owner or not) require the person, if any, who occupies such property, or any part thereof under the owner to pay to the Council, instead of to the owner, the rent payable by him in respect of such property as it falls due up to the

amount recoverable from the owner under sub-section (1) or to such smaller amount as the President may think proper, and any amount so paid shall be deducted from the amount payable by the owner.

- (3) For the purpose of deciding whether action should be taken under sub-section (2), the President may require any occupier of property to furnish information as to the sum paid by him as rent on account of such property and as to the name and address of the person to whom it is payable and such occupier shall be bound to furnish such information.
- (4) The provisions of this section shall not affect any contract made between any owner and occupier respecting the payment of any such expenses.

**Relief to
agent and
to trustees.**

330. (1) When any person by reason of his receiving the rent of immovable property as agent, trustee, guardian, manager or receiver or of his being agent, trustee, guardian, manager or receiver for the person who would receive the rent if the property were let to a tenant, would, under this Act be bound to discharge any obligation imposed by this Act, or any rule, by-law, regulation or order made under it on the proprietor of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or, but for his own improper act or default might have had in his hands funds belonging to the proprietor sufficient for the purpose.
- (2) The burden of proving the facts entitling a person to relief under this section shall lie on him.

- (3) When any person has claimed and established his right to relief under this section, the President may give him notice to apply to the discharge of such obligation as aforesaid the first moneys which shall come to his hands on behalf or for the use of the proprietor; and should he fail to comply with such notice he shall be deemed to be personally liable to discharge such obligation.

331. Instead of recovering any such expenses as aforesaid in the manner provided under section 329 the President may, if he thinks fit, take an agreement from the person liable for the payment thereof to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon at the rate of 6 per cent per annum, within a period of not more than 5 years.

Power of President to agree to receive payment of expenses in instalments.

Payment of Compensation, etc., by and to the Council

332. In any case not otherwise expressly provided for in this Act, the President may, with the approval of the Council, pay compensation to any person who sustains damage by reason of the exercise by any Town Council authority, officer or servant, of any of the powers vested in them by this Act or any other law or by any rule, by-law, or regulation made under it.

Power of Council to pay compensation.

333. All costs, damages, penalties, compensation, charges, fees, expenses, rents, (not being rents for lands and buildings demised by the Councils), contributions and other sums which under this Act or any other law or rules or by-laws made thereunder, or under any contract in respect of water supply, or drainage made in accordance with this Act, the rules or by-laws, are due by any person to the Council, may if there is no special provision in this Act for their recovery be demanded by a bill as provided by rules for the recovery of taxes and recovered in the manner provided therein.

Recovery of sums due to the Council.

**Limitation
for recovery
of dues.**

334. No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced in respect of any sum due to the Council under this Act after the expiration of a period of three years from the date on which distraint might first have been made, a suit might first have been instituted, or prosecution might first have been commenced, as the case may be, in respect of such sum.

**Procedure
in dealing
with surplus
sale proceeds.**

335. If any property, movable or immovable is sold under the provisions of this Act, and if there is a surplus after the sum due to the Council and the costs have been deducted from the sale proceeds, such surplus shall, if the owner of the property sold claims it within six months from the date of the sale be paid to him by the President but if no such claim is preferred within such time, the said surplus shall be credited to the Town Fund, and no suit shall lie for the recovery of any sum so credited.

**Persons em-
powered to
prosecute.**

336. (1) No person shall be tried for any offence against the provisions of this Act or of any rule, or by-law made under it unless complaint is made by the Police, or President, or by a person expressly authorised in this behalf by the Council or the President, within three months of the commission of the offence. But nothing herein contained shall affect the provisions of the Code of Criminal Procedure, 1086 in regard to the power of certain Magistrates to take cognisance of offences upon information received or upon their knowledge or suspicion :

Provided that failure to take out a license, obtain permission or secure registration under this Act shall, for the purposes of this section, be deemed a continuing offence until the expiration of the period, if any, for which the license, permission or registration is required and if no period is specified, complaint may be made at any time within 12 months from the commencement of the offence.

(2) Notwithstanding the provisions contained in the Cochin Code of Criminal Procedure,

1086 Town charge officers who file complaints in courts of law for offences under this Act or the rules or by-laws issued thereunder need not be examined on such complaints before the issue of summonses on them.

337. (1) In case any fine or costs imposed or assessed by a Magistrate under this Act or under any rule or by-law made under it, shall not be paid, the Magistrate may order the offender to be imprisoned in default of payment subject to all the restrictions, limitations, and conditions imposed in the Cochin Penal Code. Imprisonment in default of payment and application of fines.
- (2) Any fine costs, tax or other sum imposed or assessed by a Magistrate under this Act or under any rule or by-law made under it shall be recoverable by such Magistrate under the Code of Criminal Procedure, 1086 as if it were a fine and the same shall, on recovery, be paid to the Council to be applied to the purposes of this Act.

338. If, on account of any act or omission, any person has been convicted of an offence against the provisions of this Act or against any rule or by-law made under it and by reason of such act or omission damage has been caused to any property owned by or vested in the Council, the said person shall pay compensation for such damage, notwithstanding any punishment to which he may have been sentenced for the said offence. In the event of dispute the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence on application made to him for the purpose by the President not later than three months from the date of conviction; and in default of payment of the amount of compensation so determined, it shall be recovered under a warrant from the said Magistrate Payment of compensation for damage to Town property.

as if it were a fine inflicted by him on the person liable therefor.

Legal Proceedings

Institution of
suits against
Town Council
authorities,
officers
and servants.

339. (1) No suit for damages or compensation shall be instituted against the Council, any Town Council authority, officer or servant or any person acting under the direction of the same, in respect of any act done in pursuance or execution or intended execution of this Act or any rule, by-law, regulation or order made under it or in respect of any alleged neglect or default in the execution of this Act, or any rule, by-law, regulation or order made under it until the expiration of one month after a notice has been delivered or left at the Council office or at the place of abode of such officer, servant, or person stating the cause of action, the relief sought, and the name and the place of abode of the intending plaintiff; and the plaint shall contain a statement that such notice has been so delivered or left.
- (2) Every such suit shall be commenced within six months after the date on which the cause of action arose or in case of a continuing injury or damage during such continuance or within six months after the ceasing thereof.
- (3) If any person to whom any notice is given under sub-section (1) tenders amends to the plaintiff before the suit is instituted and if the plaintiff does not recover in any such action more than the amount so tendered he shall not recover any costs incurred after such tender by the person to whom such notice has been given, and the defendant, shall be entitled to costs as from the date of tender.

- (4) Where the defendant in any such suit is the President or an officer or servant of the Council payment of the sum, or any part of any sum payable by him in or in consequence of, the suit whether in respect of costs, charges, expenses, compensation for damages or otherwise, may be made, with the sanction of the Council, from the Town Fund.

340. The President may—

- (a) take or withdraw from proceedings against any person who commits—

(i) any offence against this Act, the rules, by-laws or regulations;

(ii) any offence which affects or is likely to affect any property or interest of the Council or the due administration of this Act;

(iii) any nuisance whatsoever;

- (b) compound any offence against this Act, the rules, by-laws, or regulations which may, by rules made by Government, be declared compoundable;

- (c) with the approval of the Council take, withdraw from or compromise proceedings for the recovery of expenses or compensation claimed to be due to the Council;

- (d) with the approval of the Council withdraw or compromise any claim against any person in respect of a penalty payable under a contract entered into with such person by the President;

- (e) with the approval of the Council, defend any suit or other legal proceedings brought against the Council or against any Town Council authority, officer or servant in respect of anything done or omitted to be done in its or his official capacity;

Provision
respecting
institution,
etc., of Civil
and Criminal
actions and
obtaining of
legal advice.

- (f) with the approval of the Council compromise any claim, suit or legal proceedings brought against the Council or against any Town Council authority, officer or servant, in respect of anything done or omitted to be done as aforesaid;
- (g) with the approval of the Council institute and prosecute any suit or withdraw from or compromise any suit or claim, which has been instituted or made in the name of the Council or of the President;
- (h) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain or as he may be desired by the Council to obtain, for any of the purposes mentioned in the foregoing clauses of this section or for securing the lawful exercise or discharge of any power or duty vesting in or imposed upon any Town Council authority, officer or servant.

Indemnity to
Town Council
authorities,
officers
and agents.

341. No suit shall be maintainable against Government or any officer of Government acting under this Act, any Town Council authority, officer or servant or any person acting under the direction of any Town Council authority, officer or servant, or of a Magistrate, in respect of anything lawfully and in good faith and with due care and attention done under this Act or any other law or any rule, by-law, regulation or order made under it.

Liability of
President,
members and
executive
authority for
loss, waste or
misapplication.

342. (1) The President and every Councillor shall be liable for the loss, waste or misapplication of any money or other property owned by or vested in the Council if such loss, waste or misapplication is a direct consequence of his neglect or misconduct and a suit for compensation may be instituted against him by the Council subject to Government sanction.

- (2) Every such suit shall be commenced within three years after the date on which the cause of action arose.

343. When the President or any Councillor is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty no court shall take cognisance of such offence except with the previous sanction of Government.

Sanction for prosecution of President or Councillor.

344. (1) No assessment or demand made, and no charge imposed, under the authority of this Act shall be impeached or affected by reason of any clerical error or by reason of any mistake—

Assessment, etc., not to be impeached.

- (a) in respect of the name, residence, place of business or occupation of any person, or
- (b) in the description of any property or thing, or
- (c) in respect of the amount assessed, demanded or charged:

Provided that the provisions of this Act have been in substance and effect complied with. And no proceedings under this Act shall merely for defect in form, be quashed or set aside by any court of justice.

- (2) No suit shall be brought in any court to recover any sum of money collected under the authority of this Act or to recover damages on account of any assessment or collection of money made under the said authority; provided that the provisions of this Act have been, in substance and effect complied with.

- (3) No distraint or sale under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any error, defect or want of form in the bill, notice, schedule, form, summons,

notice of demand, warrant of distraint, inventory or other proceeding relating thereto; nor shall such person be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him if the provisions of this Act, of the rules and of the by-laws, have in substance and effect been complied with :

Provided that every person aggrieved by such irregularity may recover satisfaction for any special damage sustained by him.

Police

Duties of
police
officers.

345. (1) It shall be the duty of every police officer—
- (a) to communicate without delay to the proper officer of the Council any information which he receives of the design to commit or of the commission of any offence under this Act or any rule, by-law or regulation made under it; and
 - (b) to assist the President or any officer or servant of the Council reasonably demanding his aid for the lawful exercise of any power vesting in the President or in such officer or servant under this Act or any such rule, by-law or regulation.
- (2) Any police officer who omits or refuses to perform any duty imposed on him by this Act, shall be deemed to have committed an offence under section 7 or 19 of Act, I of 1958.

Power of
police officer
to arrest
persons.

346. (1) If any police officer sees any person committing an offence against any of the provisions of this Act or of any rule or by-law made under it, he shall if the name and address of such person are unknown to him and if the said person on demand declines to give his

name and address or gives a name and address which such officer has reason to believe to be false, arrest such person.

(2) No person arrested under sub-section (1) shall be detained in custody—

(a) after his true name and address are ascertained, or

(b) without the order of a Magistrate, for any longer time, not exceeding twenty-four hours from the hour of arrest, than is necessary for bringing him before a Magistrate.

347. Government may empower any servant or any class of servants of the Council to exercise the powers of a police officer for the purposes of this Act, the Motor Vehicles Act and of the Nuisance Act.

Exercise of powers of police officer by servants of the Council.

Miscellaneous

348. Every officer or servant of the Council, every contractor or agent for the collection of any tax, fee or other sum due to the Council and every person employed by any such contractor or agent for the collection of such tax, fee or sum shall be deemed to be a public servant within the meaning of section 15 of the Cochin Penal Code.

Application of term "Public Servant" to Officers, agents and sub-agents of the Council.

349. No person shall obstruct or molest the Council, the President, any Councillor, or any person employed by the Council or any person with whom a contract has been entered into on behalf of the Council in the performance of their duty or of anything which they are empowered or required to do by virtue of or in consequence of this Act or of any by-law, rule, regulation or order made under it.

Prohibition against obstruction of Town authorities and servants and contractors of the Council.

350. No person shall remove any mark set up for the purpose of indicating any level or direction incidental to the execution of any work authorised by this Act or by any by-law, rule or order made under it.

Prohibition against removal of mark.

**Prohibition
against
removal or
obliteration
of notice.**

351. No person shall, without authority in that behalf remove, destroy, deface or otherwise obliterate any notice exhibited by or under the orders of the Council or the President.

**Summary
powers of
President.**

352. Any person occupying any land or building belonging to the Town Council or vested in the Town Council and occupying it under licenses for specific periods may on refusal to quit at the expiry of the period and after notice in writing to quit be summarily evicted by the President without recourse to a civil court.

**Prohibition
against
unauthorised
dealings with
public place
or materials.**

353. No person shall, without authority in that behalf remove earth, sand or other material or deposit any matter or make any encroachment from, in or on any land vested in the Town Council, or river, estuary, canal, backwater or water course (not being private property) or in any way obstruct the same.

General Provisions

**Application
in particular
Towns.**

354. Government may, by notification, direct that in any Town any of the sections of this Act excepting those of Chapter VI shall not apply, and may modify or cancel such notification.

**Reconstitu-
tion of minor
Municipali-
ties as Town
Council.**

355. (1) Government may, by notification in the Cochin Government Gazette, subject to any modification they may deem necessary, reconstitute, any minor Municipality constituted under the Cochin Municipal Act, XVIII of 1113, into a Town Council under this Act.

(2) All property, all rights of whatever kinds, used, enjoyed or possessed by, and all interests of whatever kind owned by or vested in or held in trust by or for, any minor Municipality reconstituted under sub-section (1) as well as all liabilities legally subsisting against the said Municipality shall pass to the Town Council as so reconstituted.

356. (1) Notwithstanding anything contained in this Act, when a Town is constituted for the first time, Government may appoint a special officer to exercise the powers, discharge the duties and perform the functions of the Council and its President.
- (2) The special officer shall cause arrangements for election to be made so that the newly elected Councillors may come into office on a day within six months from the date of publication of the notification under sub-section (3) of section 3 declaring the area to be a Town.
- (3) The special officer shall exercise the powers, discharge the duties and perform the functions of the Council until the Council has been constituted and of the President until a President has been nominated by Government.
- (4) The term of office of the Councillors or of the Councillors elected in their places at casual vacancies shall expire at the end of three years if the day referred to in sub-section (2) is the first day of Vrischigam and in other cases at the end of three years from the first day of Vrischigam immediately preceding such day.
- (5) The provisions of sub-sections (1) to (4) shall apply, save as otherwise provided in this Act and so far as may be, to all cases of reconstitution of Town Councils.
- (6) Where the number of seats in a Council is increased by or in consequence of a notification under sub-section (1) of section 6 the Councillors elected for the additional seats or the Councillors elected in their places at casual vacancies shall hold office until the date on which the Councillors elected to the original seats at the ordinary elections immediately preceding will vacate office.

Special provision in the case of newly constituted and reconstituted Town Councils.

SCHEDULE I

(Section 77)

Companies shall be assessed by the President on the following scale—

<i>Paid-up Capital</i>	<i>Half-yearly tax</i>		
	<i>Rs.</i>	<i>As.</i>	<i>Ps.</i>
A. Not less than ten lakhs of rupees	65	0	0
B. Not less than five, but less than ten lakhs of rupees	35	0	0
C. Not less than three, but less than five lakhs of rupees	20	0	0
D. Not less than two, but less than three lakhs of rupees	15	0	0
E. Not less than one, but less than two lakhs of rupees	7	8	0
F. Less than one lakh of rupees	4	0	0

Provided that any Company, the head office or a branch or principal office of which is not in the Town and which shows that its gross income received in or from the Town has not in the year immediately preceding the year of taxation exceeded—

	<i>Rs.</i>	<i>As.</i>	<i>Ps.</i>
(a) Twenty-five thousand rupees, shall pay only	35	0	0
(b) Fifteen thousand rupees, shall pay only	20	0	0
(c) Five thousand rupees, shall pay only	7	8	0

Note.—In computing the paid-up capital or the gross income of any Company which is expressed in any currency other than that in common use in Cochin, such capital or gross income shall be calculated on the value of such money in the currency in common use in Cochin, which is the same as that of British India, according to the rates of exchange prevailing on the date of assessment.

SCHEDULE II

(Section 78)

Tax on persons exercising professions, arts, trades and callings holding appointments or in receipt of pensions or income from investments or money lending or any source other than houses and lands inside the Town limits.

	<i>Half-yearly tax</i>	
	<i>Minimum</i>	<i>Maximum</i>
	<i>Rs.</i>	<i>Rs.</i>
Class I		
If the salary, pension or income is not less than Rs. 25, but is less than Rs. 50 a month	$\frac{1}{2}$	1

SCHEDULE II.—(cont.)

	Half-yearly tax	
	Minimum Rs.	Maximum Rs.
Class II		
If the salary, pension or income is not less than Rs. 50, but is less than Rs. 100 a month	1	2
Class III		
If the salary, pension or income is not less than Rs. 100, but is less than Rs. 150 a month	2	3
Class IV		
If the salary, pension or income is not less than Rs. 150, but is less than Rs. 200 a month	3	4
Class V		
If the salary, pension or income is not less than Rs. 200, but is less than Rs. 250 a month	5	7
Class VI		
If the salary, pension or income is not less than Rs. 250, but is less than Rs. 300 a month	7	9
Class VII		
If the salary, pension or income is not less than Rs. 300, but is less than Rs. 400 a month	10	12
Class VIII		
If the salary, pension or income is not less than Rs. 400, but is less than Rs. 500 a month	12	15
Class IX		
If the salary, pension or income is not less than Rs. 500, but is less than Rs. 750 a month	15	20
Class X		
If the salary, pension or income is not less than Rs. 750, but is less than Rs. 1,000 a month	20	30
Class XI		
If the salary, pension or income is not less than Rs. 1,000, but is less than Rs. 1,500 a month	40	50

	<i>Half-yearly tax</i>	
	<i>Minimum</i> Rs.	<i>Maximum</i> Rs.
Class XII		
If the salary, pension or income is not less than Rs. 1,500, but is less than Rs. 2,000 a month	60	80
Class XIII		
If the salary, pension or income is Rs. 2,000 and above a month	Rs. 80 for the first Rs. 2,000 and Rs. 15 for every Rs. 500 or part thereof above the first Rs. 2,000	Rs. 100 for the first Rs. 2,000 and Rs. 20 for every Rs. 500 or part thereof above the first Rs. 2,000

SCHEDULE III

(Section 85)

Maximum rates of tax on carriages and animals

The tax on carriages and animals shall be levied at rates not exceeding the following.—

	<i>Half-yearly tax</i>	
	Rs.	As.
For every motor or steam vehicle with metal tyres constructed to carry 2 tons or more	50	0
Additional charge for each trailer	25	0
For every motor or steam vehicle with rubber tyres constructed to carry 2 tons or more	37	8
Additional charge for each trailer	25	0
For every motor or steam vehicle constructed to carry one ton or less than 2 tons	25	0
For every tram car, motor bus or charabanc constructed to carry 10 or more passengers	25	0
For every four-wheeled motor vehicle constructed to carry less than 10 or more than 3 passengers	12	8
For every four-wheeled motor vehicle constructed to carry 3 or less passengers	10	0
For every four-wheeled vehicle constructed to be drawn by one or more animals	5	0
For every two-wheeled vehicle constructed to be drawn by one or more animals	2	8

	<i>Half-yearly tax</i>	
	<i>Rs.</i>	<i>Rs.</i>
For every motor tricycle and every motor bicycle with side-car	7	8
For every motor bicycle without side-car	5	0
For every other bicycle or tricycle	0	8
For every other carriage not being a child's perambulator or go-cart	1	8
For every elephant	6	0
For every camel	3	0
For every horse or mule not under 12 hands	3	0
For every horse or mule under 12 hands	1	0
For every bullock or bull	0	4
For every male buffalo	0	4
For every ass	0	2
For every dog or bitch	0	4
For every pig	0	4
For every rickshaw	1	0

SCHEDULE IV

Purposes for which premises may not be used without a license under section 242

- (a) Washing soiled clothes and keeping soiled clothes for the purpose of washing them and washed clothes;
- (b) boiling paddy, or camphor;
- (c) melting tallow or sulphur or using acids for any process;
- (d) storing or otherwise dealing with manure, offal, blood, bones, rags, hides, fish, horns or skins;
- (e) washing or drying wool or hair;
- (f) making or storing fish oil;
- (g) making soap, dyeing, boiling or pressing oil, burning bricks, tiles, pottery or lime;
- (h) manufacturing or distilling sago, manufacturing artificial manure or manufacturing beedies;
- (i) manufacturing or storing gunpowder or fire works including crackers;
- (j) keeping a public halting place, choultry or other rest house for travellers (other than a choultry or a rest house maintained by the Government or a local authority), a hotel, restaurant, eating house, coffee house, boarding house or lodging house (other than a students' hostel under public or recognised control);

SCHEDULE IV—(cont.)

- (k) keeping together twenty or more sheep or goats or ten or more pigs or head of cattle ;
- (l) preparing flour or articles made of flour for human consumption or sweet meats ;
- (m) manufacturing ice or aerated waters ;
- (n) selling or storing timber, fire wood, thatching materials, hay, grass, straw, fibre, coal or charcoal ;
- (o) selling grain, rice or jaggery wholesale or storing grain, rice or jaggery for the wholesale trade ;
- (p) manufacturing jaggery or sugar candy ;
- (q) storing any explosive or combustible material ;
- (r) manufacturing or storing anything from which offensive or unwholesome smells arise ;
- (s) using for any industrial purpose any fuel or machinery ;
- (t) running a barber saloon ; and

in general, doing in the course of any industrial process anything which is likely to be dangerous to human life, health or property :

Provided that no license shall be required for the storage of grain, rice, timber, fire-wood, thatching materials, hay, grass, straw, fibre, charcoal or coal for private use.

SCHEDULE V

List of dangerous diseases

(Section 285)

Acute Pneumonia
Anthrax
Chicken-pox
Cholera
Diphtheria

Enteric fever
Glanders
Leprosy
Plague
Small-pox

Tuberculosis
Typhoid fever
Influenza
Relapsing fever
Rabies

[SCHEDULE VI
Ordinary penalties
(Section 308)]

Section	Sub-section or clause	Subject	Fine which may be imposed
1	2	3	4
24	(1)	Interested Councillor voting or taking part in discussion	Fifty rupees
106		Trespassing on premises connected with the water supply	do.
110		Failure to maintain house connections in conformity with by-laws and regulations	do.
111	(2)	Failure to obey requisition to make house connection	do.
118		Failure to maintain house drains, etc., in conformity with by-laws and regulations	do.
119	(2) and (3)	Failure to obey requisition as to house drainage	do.
120	(1) (b)	Failure to obey directions as to limited use of drain or notice requiring construction of distinct drain	do.
122		Unlawful construction of building over public drain	One hundred rupees
123	(2)	Failure to obey requisition regarding culverts, etc., or to keep them free from obstruction	Fifty rupees
124		Failure to obey requisition to maintain troughs and pipes for catching, etc., water from roof or other part of building	do.
126		Failure to obey requisition to provide latrine or to remove latrine to another site and failure to keep latrines clean and in proper order	do.
127		Failure to provide latrines for premises used by large number of people or to keep them clean and in proper order	do.
128		Failure to obey requisition to provide latrines for market, cattle-stand or cart-stand, or to keep them clean and in proper order	One hundred rupees

SCHEDULE VI.—(cont.)

Section	Sub-section or clause	Subject	Fine which may be imposed
1	2	3	4
129		Failure to construct latrines so as to screen person using them from view	Twenty rupees
131		Making connection with mains without permission	Two hundred rupees
136		Improper disposal of carcasses, rubbish and filth	Ten rupees
137		Failure to deposit filth in receptacle, etc.	do.
138		Allowing rubbish or filth to accumulate on premises for more than twenty-four hours, etc.	Twenty rupees
139		Allowing filth to flow in streets	Ten rupees
140		Using cart without cover in removal of filth, etc.	Twenty rupees
141		Throwing rubbish or filth into drains	do.
147		Building within street alignment or building line without permission	One thousand rupees
148	(1)	Failure to obey orders to set back buildings	One hundred rupees
153		Unlawful displacement, etc., of pavement or fences, posts and other materials of public street	Fifty rupees
155	(1)	Using a motor vehicle for hire or a motor lorry without license or contrary to license	Two hundred rupees
155	(6)	Failure to use bus-stand or halt in places contrary to the directions of the Council	do.
156		Failure to provide roads, etc., on building sites prior to disposal	do.
157	(5)	Unlawful making or laying of new private street	do.
159		Failure to obey requisition to metal, etc., private street	One hundred rupees
161		Building wall or erecting fence, etc., in a public street	do.
162		Obstructing a person in the use of a street	do.

SCHEDULE VI.—(cont.)

Section	Sub-section or clause	Subject	Fine which may be imposed
1	2	3	4
163		Allowing doors, ground floor windows, etc., to open outwards, without license or contrary to notice	Twenty rupees
164		Failure to remove permanent encroachment	Two hundred rupees
165		Failure to remove temporary encroachment	Fifty rupees
167		Unlawful removal of bar or shoring timber, etc., or removal or extinction of light	Twenty rupees
168		Unlawful making of hole or placing of obstruction in street	Fifty rupees
170		Construction, etc., of building without license where street or foot-way is likely to be obstructed	do.
		Failure to fence, etc., such building while under repair or failure to remove obstruction	do.
171		Failure to remove obstruction caused in street by the fall of trees, etc.	do.
174	(3)	Unlawful destruction, etc., of name of street	Twenty rupees
175	(2)	Unlawful destruction, etc., of number of building	Five rupees
	(3)	Failure to replace number when required to do so	Twenty rupees
179	(1)	Failure to obey requisition to round or splay off buildings at corners of streets	One hundred rupees
180		Construction of external roofs, etc., with inflammable materials	Fifty rupees
181		Construction of door or window, etc., to open outwards on public street	Twenty rupees
199		Failure to keep external walls of premises in proper repair	do.
203	(1)	Failure to obey requisition to take down, repair or secure dangerous structure	Five hundred rupees

SCHEDULE VI.—(cont.)

Section	Sub-section or clause	Subject	Fine which may be imposed
1	2	3	4
204	(1)	Failure to obey requisition to secure, lop or cut down dangerous tree	Fifty rupees
205		Failure to obey requisition to repair, etc., tank or other place dangerous to passengers or persons living in neighbourhood	do.
206		Failure to obey notice to discontinue working, etc.	One hundred rupees
207		Failure to obey notice regarding precautions against fire	do.
208		Constructing well, etc., without permission	Fifty rupees
	(3)	Failure to obey notice to fill in or demolish well, etc.	do.
209		Failure to obey requisition to repair, etc., tank or well or drain off water, etc.	do.
211		Failure to obey requisition to cleanse or close, etc., tank, well or other source of water used for drinking	do.
214		Unlawful washing and fishing in river, etc., after prohibition or contrary to regulations	Twenty rupees
217		Defiling water of tanks, etc.	do.
218		Failure to obey requisition to enclose, clear or cleanse untenanted premises	Fifty rupees
219		Failure to obey requisition to clear or cleanse, etc., building or land in filthy state or overgrown with noxious vegetation	do.
220		Failure to secure trees adjacent to house or well	Twenty rupees
221		Failure to obey requisition to fence building or land or trim, prune or cut hedges and trees	Fifty rupees
223		Failure to obey requisition to limewash or otherwise cleanse building	do.

SCHEDULE VI.—(cont.)

Section	Sub-section or clause	Subject	Fine which may be imposed
1	2	3	4
224		Failure to obey requisition to execute work or take other act on with respect to insanitary buildings	One hundred rupees in the case of masonry building and fifty rupees in the case of huts
225	(2)	Using or allowing the use of buildings unfit for human habitation after prohibition	Twenty rupees
	(4)	Failure to obey requisition to demolish the same	do.
226	(1)	Allowing over-crowding in building after order to abate the same	Ten rupees for each day
	(4)	Failure to obey requisition to vacate overcrowded building or room	do.
227		Feeding animals on filth	Fifty rupees
228		Tethering cattle or animal in public street so as to obstruct traffic, etc.	Twenty-five rupees
229		Unlawful keeping of animal so as to be a nuisance or to be dangerous	Ten rupees
232	(1)	Making noise by musical instruments or otherwise in public streets and other public places for purposes of advertisement	Five rupees
	(2)	Playing of musical instruments in hotels, restaurants, etc., between 10 p.m. and 5 a.m.	do.
235		Use of place as stable, cattle-stand, etc., without license or contrary to license	Fifty rupees
236		Construction or maintenance of stable, cattle-shed, etc., contrary to Act or subsidiary legislation	do.
237		Use of place as stable, cattle-shed, etc., contrary to notice issued by executive authority	Two hundred rupees
239		Opening of a new private landing place, halting place, bus-stand or cart-stand against the provisions contained in section 252	do.

SCHEDULE VI.—(cont.)

Section	Sub-section or clause	Subject	Fine which may be imposed
1	2	3	4
240	(1)	Using public place or sides of public street as cart-stands, etc.	Twenty rupees
242		Using a place for any of the purposes specified in schedule V without license or contrary to license	One hundred rupees
243		Unlawful erection of factory, workshop, etc.	Five hundred rupees
244		Disobedience of order regarding abatement of nuisance	One hundred rupees
247		Use of place as slaughter-house without license or contrary to license	Two hundred rupees
250		Slaughter of animals for sale or food or skinning or cutting up of carcasses or drying skin without license	Twenty rupees for every animal, carcass or skin
251		Carrying on milk trade without license or contrary to license	Fifty rupees
254		Sale or exposure for sale in public market of animal or article of food without license	Twenty rupees
255		Opening or keeping open private market without license or contrary to license	Five hundred rupees
257		Sale or exposure for sale of animal or article in unlicensed private market	Twenty rupees
258		Failure to obey direction to construct approaches, drains, etc., to private markets or to pave them	Fifty rupees
259		Opening or keeping open of private market after suspension or refusal of license for default to carry out works	Twenty rupees for each day
260		Nuisance in private market	Twenty rupees
264		Carrying on butcher's, fish-monger's or poulterer's trade without license, etc.	One hundred rupees
265		Sale of article in public streets after prohibition or contrary to regulations	Ten rupees

SCHEDULE VI.—(cont.)

Section	Sub-section or clause	Subject	Fine which may be imposed
1	2	3	4
269		Preventing the executive authority or any person authorised by him from exercising this powers of entry, etc., under this section	Fifty rupees
271		Removing or in any way interfering with an animal or article seized	Five hundred rupees
275	(1)	Opening, etc., without license a new place for the disposal of the dead	One hundred rupees
277	(3)	Use or allowance of use of burial or burning ground which has not been registered, licensed or provided	do.
278		Failure to give information of burials or burnings in burial or burning ground	Twenty rupees
279		Burial or burning in place after prohibition	One hundred rupees
281		Offences in respect of corpses	Fifty rupees
282		Discharge of office of attendant at place for disposal of dead without license	Five rupees
283	(8)	Failure to produce license on request	do.
299		Failure to give information of small-pox	Fifty rupees
316		Disobedience of summons	do.
322	(1)	Failure of occupier to obey requisition to permit owner to comply with provisions of Act	Fifty rupees for each day
349		Obstructing or molesting Council, etc.	Fifty rupees
350		Removing mark set up for indicating level, etc.	do.
351		Removal, etc., of notice exhibited by or under orders of the Council	do.
353		Unlawful removal of earth, sand or other material from land or deposit of matter or encroachment in or on river, estuary, etc.	Twenty rupees

SCHEDULE VII
Penalties for continuing breaches
(Section 308)

Section	Sub-section or clause	Subject	Daily fine which may be imposed
1	2	3	4
110	(2)	Failure to maintain house connections in conformity with by-laws and regulations	Five rupees
111		Failure to obey requisitions to make house connection	do.
118		Failure to maintain house drains, etc., in conformity with by-laws and regulations	Ten rupees
119	(2) and (3)	Failure to obey requisition as to house drainage	do.
124		Failure to obey requisition to maintain troughs and pipes for catching water from roof or other part of building	do.
126		Failure to obey requisition to provide latrine or to remove latrine to another site and failure to keep latrines clean and in proper order	do.
127		Failure to provide latrines for premises used by large numbers of people or to keep them clean and in proper order	Twenty rupees
128		Failure to obey requisition to provide latrines for market, cattle-stand or cart-stand or to keep them clean and in proper order	do.
147		Building within street alignment or building line without permission	One hundred rupees
155		Using a motor vehicle for hire or a motor lorry without license or contrary to license	Fifty rupees
		Failure to use bus-stand or halt in places contrary to the directions of the Council	do.
164		Failure to remove permanent encroachment	Ten rupees

SCHEDULE VII.—(cont.)

Section	Sub-section or clause	Subject	Daily fine which may be imposed
1	2	3	4
165	(1)	Failure to remove temporary encroachment	Five rupees
168		Unlawful making of hole or placing of obstruction in street	Ten rupees
170		Construction, etc., of building without license where street or foot-way is likely to be obstructed	do.
179		Failure to obey requisition to round or splay off buildings at corners of streets	Twenty-five rupees
180		Construction of external roofs, etc., with inflammable materials	Ten rupees
199		Failure to keep external walls of premises in proper repair	do.
205		Failure to obey requisition to repair, etc., tank or other place dangerous to passengers or persons living in neighbourhood.	do.
206		Failure to obey requisition to stop dangerous quarrying	Twenty-five rupees
207		Failure to obey notice regarding precautions against fire	Ten rupees
209		Failure to obey requisition to repair, etc., tank or well, or drain off water, etc.	do.
211		Failure to obey requisition to cleanse or close, etc., tank, well, etc., or other source of water used for drinking	do.
218		Failure to obey requisition to enclose, clear or cleanse untenanted premises	do.
219		Failure to obey requisition to clear or cleanse, etc., building or land in filthy state or overgrown with noxious vegetation	do.
220		Failure to secure trees adjacent to house or well	Five rupees
221		Failure to obey requisition to fence building or land or trim, prune or cut hedges and trees	Ten rupees

SCHEDULE VII.—(cont.)

Section	Sub-section or clause	Subject	Daily fine which may be imposed
1	2	3	4
223		Failure to obey requisition to lime-wash or otherwise cleanse building	Ten rupees
224		Failure to obey requisition to execute work or to take other action with respect to insanitary buildings	Ten rupees in the case of masonry building and five rupees in the case of hut
229		Unlawful keeping of animal so as to be a nuisance or to be dangerous	Five rupees
232	(1)	Making noise by musical instruments or otherwise in public streets and other public places for purposes of advertisement	Ten rupees
	(2)	Playing of musical instruments in hotels, restaurants, etc., between 10 p.m. and 5 a.m.	do.
235		Use of place as stable, cattle-stand, etc., without license or contrary to license	do.
236		Construction or maintenance of stables, cattle-shed, etc., contrary to Act or subsidiary legislation	do.
237		Use of place as stable, cattle-shed, etc., contrary to notice issued by executive authority	Fifty rupees
239		Opening of a new private landing place, halting place, bus-stand or cart-stand against the provisions contained in section 252	Twenty rupees
240		Using public place or sides of public street as cart-stands, etc.	Five rupees
242	(1)	Using a place for any of the purposes specified in Schedule V without license or contrary to license	Twenty rupees
243		Unlawful erection of factory, workshop, etc.	One hundred rupees

SCHEDULE VII.—(cont.)

Section	Sub-section or clause	Subject	Daily fine which may be imposed
1	2	3	4
244	(1)	Disobedience of order regard- ing abatement of nuisance	Twenty-five rupees
247		Use of place as slaughter house without license or contrary to license	Fifty rupees
251		Carrying on milk trade with- out license or contrary to license	Five rupees
255		Opening or keeping open private market without license or contrary to license	One hundred rupees
257		Sale or exposure for sale of animal or article in unlicensed private market	Twenty rupees
264		Carrying on butcher's fish- monger's or poulterer's trade without license, etc.	Ten rupees
275		Using without license a place for the disposal of the dead	Twenty-five rupees

APPENDIX

Defence of India Proclamation (VIII of 1115)

*The Defence of India Amendment Act, XIX of 1940

25th May 1940 (12th Edavam 1115)

No. 58.—The following Act of the Indian Legislature making certain amendments to the Defence of India Act, XXXV of 1939, as made applicable to Cochin by His Highness the Maharaja's Proclamation, VIII of 1115. is published for general information.—

GOVERNMENT OF INDIA

Legislative Department

The following Act of the Indian Legislature received the assent of the Governor-General on the 10th April 1940, and is hereby promulgated for general information.—

Act No. XIX of 1940

(An Act to amend the Defence of India Act, 1939)

Whereas it is expedient to amend the Defence of India Act, 1939, for the XXXV of 1939. purposes hereinafter appearing.

It is hereby enacted as follows.—

1. *Short title.*—This Act may be called the Defence of India (Amendment Act) 1940.

2. *Amendment of section 2, Act XXXV of 1939.*—In section 2 of the Defence of XXXV of 1939. India Act, 1939 (hereinafter referred to as the said Act).

(a) in clause (V) of sub-section (2), after the words “with foreign powers,” the words “or with States in India, or to prejudice the maintenance of peaceful conditions in the tribal areas.” shall be inserted ;

(b) in sub-section (5), after the words “not being” the brackets and words “(except in the case of a Chief Commissioner's Province)” shall be inserted.

3. *Amendment of section 18, Act XXXV of 1939.*—In section 18 of the said Act after the word “from”, in both places where it occurs, the words “or in respect of” shall be inserted.

*This amending Act is in force here in virtue of the provisions contained in Proclamation VIII of 1115.