

**THE
ACTS AND PROCLAMATIONS
OF
COCHIN**

THE ACTS AND PROCLAMATIONS OF COCHIN

Volume XI—(1118 M.E.)

(1942)

**PUBLISHED BY
THE GOVERNMENT OF COCHIN
(Law Department)**



**PRINTED BY
THE SUPERINTENDENT, COCHIN GOVERNMENT PRESS,
ERNAKULAM
1944**

THE ACTS AND PROCLAMATIONS OF COCHIN

Volume XI—(1118 M.E.)

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* Amended by Act XV of 1118.

ACTS AND PROCLAMATIONS

VOLUME XI

1118

PROCLAMATION

(I of 1118)

THE WAR RISKS (FACTORIES) INSURANCE
AMENDMENT PROCLAMATION

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 5.

THE WAR RISKS (FACTORIES) INSURANCE
AMENDMENT PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 6th day of Chingam 1118 corresponding to
the 22nd day of August 1942*

[Published in the Cochin Government Gazette,
dated 6th Chingam 1118]

WHEREAS it is expedient to amend the War Risks (Factories) Insurance Proclamation, XXIV of 1117, WE are hereby pleased to command as follows: -

Short title
and com-
mencement.

1. This Proclamation may be called the War Risks (Factories) Insurance Amendment Proclamation, I of 1118 and shall come into force at once.

Amendment
of section 5.

2. In sub-section (1) of section 5 of the War Risks (Factories) Insurance Proclamation, XXIV of 1117, the words "a factory belonging to Government or" shall be deleted.

PROCLAMATION

(II of 1118)

THE PENALTIES (ENHANCEMENT) AMENDMENT PROCLAMATION

CONTENTS

Preamble Sections

1. Short title and commencement.
2. Amendment of section 3.
3. Amendment of section 4.
4. Amendment of section 5.
5. Amendment of section 6.
6. Amendment of section 7.

THE PENALTIES (ENHANCEMENT) AMENDMENT PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 19th day of Chingam 1118 corresponding to
the 4th day of September 1942*

[Published in the Cochin Government Gazette, dated
20th Chingam 1118]

Preamble.

WHEREAS it is necessary to amend the Penalties (Enhancement) Proclamation, XV of 1117, WE are pleased to command as follows.—

Short title
and com-
mencement.

1. (1) This Proclamation may be called the Penalties (Enhancement) Amendment Proclamation, II of 1118.

(2) It shall come into force at once.

2. In section 3 of the Penalties (Enhancement) Proclamation, XV of 1117, hereinafter referred to as the Proclamation, after the words "or with whipping", the words "or with whipping in addition to such rigorous imprisonment" shall be added. Amendment of section 3.

3. In section 4 of the Proclamation.—

Amendment of section 4.

(a) after the word and figures "section 306" the words and figures "or section 366 or section 367 or section 372 or section 373 or section 379" shall be inserted;

(b) after the words "or with whipping" the words "or with whipping in addition to any punishment to which he is liable under the said Code" shall be added.

4. In section 5 of the Proclamation after the words "or with whipping" the words "or with whipping in addition to any punishment to which he is liable under the said rule" shall be added. Amendment of section 5.

5. In section 6 of the Proclamation.—

Amendment of section 6.

(a) after the word and figures "section 356" the words and figures "or section 360 or section 362 or section 374 or section 375" shall be inserted;

(b) after the words "with death" the following words shall be added, namely.—"or in the case of an offence punishable under section 360 or section 362, with whipping in addition to any punishment to which he is liable under the said Code".

6. In section 7 of the Proclamation, after the words "in lieu of", the words "or in addition to" shall be inserted. Amendment of section 7.

PROCLAMATION**(III of 1118)****THE PANDAL ERINJANA VALLI ILLOM
PROCLAMATION**

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 26th day of Chingam 1118 corresponding
to the 11th day of September 1942*

**[Published in the Cochin Government Gazette,
dated 27th Chingam 1118]**

WHEREAS all the members of the Pandal Erinjana Valli Illom in Parappukkara Village, Mukundapuram Taluk, have requested OUR Government to assume management of certain items of immovable properties belonging to their Illom and have executed an Agreement in that behalf;

And WHEREAS WE are satisfied that it is necessary that OUR Government should assume such management;

And WHEREAS the interests of OUR Government have to be effectively protected on account of the assumption of such management; WE are pleased to command as follows.—

1. The management of the immovable properties specified in the Schedule hereto annexed (hereinafter referred to as “the Estate”) shall be assumed forthwith by OUR Government and that such management by OUR Government shall be continued until such time as OUR Government may deem fit.

2. During the period of the management of the Estate by OUR Government the members of the Illom now living or to be born hereafter shall have no manner of right to alienate any portion or the whole of the Estate and that alienations, if any, made in contravention of this Proclamation shall be void.

3. During the period of such management of the Estate, OUR Government shall have plenary powers with regard to alienation of any portion or the whole of the Estate, advancing or borrowing funds for the re-payment of the debts of the Illom, composition with tenants in respect of arrears of rent, michavaram and kindred dues

accruing and accrued due and with regard to the rights of management in general and to do all that OUR Government consider necessary for the efficient administration and management of the Estate.

4. OUR Government may, by notification published in OUR Government Gazette, appoint a person or persons to manage the affairs of the Estate and OUR Government may delegate by notification published in OUR Government Gazette, to the person or persons so appointed all or any of the powers conferred upon them by clause 3.

5. OUR Government may frame such rules, as may, from time to time, be deemed necessary for managing the affairs of the Estate. Such rules, when framed and published in OUR 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 grounds.

6. All suits on behalf of or against the Estate, shall during the period of management of the Estate by OUR Government, be brought in the name of OUR Government or in the name of any officer or person as OUR Government may, generally or specially, by rules framed under this Proclamation, appoint.

7. All acts done by OUR Government or by the person or persons appointed to manage the affairs of the Estate in pursuance of the powers conferred by this Proclamation during the period of management by OUR Government shall be accepted without question by the members of the aforesaid Illam and all accounts of management maintained by OUR Government or the persons appointed by OUR Government to manage the affairs of the Estate and all items of expenditure incurred by them for and on behalf of the Estate during such period shall also be accepted without question by the members of the aforesaid Illam.

8. The provisions of the Cochin Revenue Recovery Act, IV of 1083, shall apply for the recovery of dues already accrued due or accruing due in future in respect of the Estate during the period of its management by OUR Government.

9. Every Officer or servant employed by OUR Government in relation to the management of the Estate shall be deemed to be a public servant within the meaning of section 15 of the Cochin Penal Code.

Schedule

മുക്തപുരം			മുക്തപുരം	താലൂക്ക്	
നെല്ലായി			നെല്ലായി	ഡിസ്ട്രിക്ട്	
തൊറവ്			തൊറവ്	വില്ലേജ്	
൨ ൨	൨ ൧	൨ ൦	൧ ന്	സര്യ നമ്പ്	
൨	൨	൨	൨	സബ് ഡിവിഷൻ നമ്പ്	
൧	൩	൨	൧	നമ്പ്	
൧	൧	൧	൧	൧൦	
൧ ൦	൧ ൧	൧ ൨	൧ ൩	൧ ൪	
൧ ൧	൧ ൨	൧ ൩	൧ ൪	൧ ൫	
ആമ്പലൂർ വില്ലേജ്	സര്യ ൨ ൨-ൽ ൨-ാം നമ്പ് ഭൂമി	സര്യ ൨ ൧-ൽ ൨-ാം നമ്പ് ഭൂമി	പഞ്ചായത്തു വഴിയും സര്യ ൨ ൦-ൽ ൨-ാം നമ്പ് വഹകളും	കിഴക്കു	നാലായി
ടി	ആമ്പലൂർ വില്ലേജ്	ആമ്പലൂർ വില്ലേജ്	ആമ്പലൂർ വില്ലേജ്	തെക്കു	
സര്യ ൨ ൧-ൽ ൨-ാം നമ്പ് വില്ലേജ്	സര്യ ൨ ൦-ൽ ൨-ാം നമ്പ് ഭൂമി	സര്യ ൧ ന്-ൽ ൨-ാം നമ്പ് ഭൂമി	പണ്ടാരവക നിലവും തോടും	പടിഞ്ഞാറു	
ആമ്പലൂർ വില്ലേജ്	ആമ്പലൂർ വില്ലേജ്	ആമ്പലൂർ വില്ലേജ്	ആമ്പലൂർ വില്ലേജും തൊറവു വില്ലേജും	വടക്കു	

Total extent is thirty-seven acres and six cents.

PROCLAMATION (IV of 1118)

THE ESSENTIAL SERVICES (MAINTENANCE) AMENDMENT PROCLAMATION

CONTENTS

Preamble Sections

1. Short title and commencement.
2. Substitution of new section for section 9 of Proclamation, IX of 1117.
3. Saving of effect of laws imposing liability to national service.

THE ESSENTIAL SERVICES (MAINTENANCE) AMENDMENT PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 2nd day of Kanni 1118
corresponding to the 18th day of September 1942
[Published in the Cochin Government Gazette,
dated 3rd Kanni 1118]*

WHEREAS it is deemed necessary to further amend the Essential Services (Maintenance) Proclamation, IX of 1117; WE are hereby pleased to command as follows.—

- | | |
|--|---|
| <p>1. (1) This Proclamation may be called the Essential Services (Maintenance) Amendment Proclamation IV of 1118.</p> | <p>Preamble.</p> |
| <p>2. For section 9 of the Essential Services (Maintenance) Proclamation, IX of 1117, the following section shall be substituted, namely.—</p> | <p>Short title and commencement.</p> |
| <p>“9. Nothing contained in this Proclamation or in any declaration or order made thereunder shall have effect in derogation of any provision of law for the time being in force imposing upon a person engaged in an employment or class of employment to</p> | <p>Substitution of new section for section 9 of Proclamation, IX of 1117.</p> |
| | <p>Saving of effect of laws imposing liability to national service.</p> |

which this Proclamation applies any liability to be called up for national service or to undertake employment in the national service."

PROCLAMATION

(V of 1118)

THE COLLECTIVE FINES (AMENDMENT) PROCLAMATION

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of preamble and section 3 of Proclamation XXIII of 1117.

THE COLLECTIVE FINES (AMENDMENT) PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 29th day of Kanni 1118
corresponding to the 15th day of October 1942*

[Published in the Cochin Government Gazette,
dated 8th Thulam 1118]

Preamble.

WHEREAS it is expedient to amend the Collective Fines Proclamation, XXIII of 1117; WE are hereby pleased to command as follows.—

Short title and commencement.

1. (1) This Proclamation may be called the Collective Fines (Amendment) Proclamation, V of 1118.

(2) It shall come into force at once.

Amendment of preamble and section 3 of Proclamation XXIII of 1117.

2. In the preamble and in sub-section (1) of section 2 of the Collective Fines Proclamation, XXIII of 1117, for the words "or the efficient prosecution of war", the words "the public safety, the maintenance of public order, the efficient prosecution of war or the maintenance of supplies or services necessary to the life of the community" shall be substituted.

PROCLAMATION

(VI of 1118)

THE MILITARY FORCES (RESIGNATION OF OFFICE) PROCLAMATION

CONTENTS

Preamble

Sections

1. Short title, extent and commencement.
2. Members of the Nayar Brigade, Body Guard and State Band not to resign without express permission, etc.
3. Penalties and Procedure.

THE MILITARY FORCES (RESIGNATION OF OFFICE) PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 29th day of Kanni 1118
corresponding to the 15th day of October 1942*

[Published in the Cochin Government Gazette,
dated 8th Thulam 1118]

WHEREAS it is expedient temporarily to modify the conditions under which members of the Cochin Nayar Brigade, His Highness' Body Guard and the Cochin State Band may resign or withdraw themselves from their duties; WE are hereby pleased to command as follows.—

1. (1) This Proclamation may be called the Military Forces (Resignation of Office) Proclamation, VI of 1118.

Preamble.

Short title, extent and commencement.

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

(3) It shall come into force at once and shall continue to be in force until rescinded by Government by notification in the Cochin Government Gazette.

2. So long as this Proclamation remains in force no member of the Cochin Nayar Brigade or His Highness' Body Guard or the Cochin State Band shall, notwithstanding anything contained in the conditions of his appointment or in the regulations governing such services be entitled—

Members of the Nayar Brigade, Body Guard and State Band not to resign without express permission, etc.

- (1) to resign or withdraw himself from the duties thereof unless expressly allowed to do so in writing by the Commandant, Nayar Brigade; or
- (2) to engage in any other employment or office whatever unless expressly permitted to do so in writing by the Commandant, Nayar Brigade.

**Penalties and
Procedure.**

- 3. (1) Any member of the Cochin Nayar Brigade, His Highness' Body Guard or the Cochin State Band who contravenes the provisions contained in section 2 shall be guilty of an offence under this Proclamation and shall on conviction be punishable with imprisonment for a term which may extend to three months or with fine or with both.
- (2) No Court shall take cognisance of any offence under this Proclamation except upon a complaint in writing made by the Commandant, Nayar Brigade or any officer specially authorised by him in this behalf.
- (3) Notwithstanding anything contained in the Cochin Code of Criminal Procedure, II of 1086, an offence under this Proclamation shall be cognisable.

PROCLAMATION**(VII of 1118)****THE KERALAKALAMANDALAM PROCLAMATION**

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 13th day of Thulam 1118, corresponding
to the 29th day of October 1942*

**[Published in the Cochin Government Gazette Extraordinary,
dated 13th Thulam 1118]**

WHEREAS the general body of members of the *Kerala Kalamandalam*, a Society registered under the Registration of Literary, Scientific and Charitable Societies Act, II of 1088, resolved on the 19th day of Kumbham 1116 corresponding to the 2nd day of March 1941 to vest in OUR GOVERNMENT the management of the Society and the properties thereof and authorised the President of the aforesaid society to do everything necessary to give effect to the resolutions passed on the date aforesaid and WHEREAS the said resolutions have been acted upon and WHEREAS it is deemed expedient to remove all doubts regarding the legality of the action that has been taken or that may hereafter be taken in pursuance to the aforesaid resolutions, WE are hereby pleased to command that notwithstanding any other law for the time being in force, the resolutions passed by the general body of members of the *Kerala Kalamandalam* at its meeting held on the 19th day of Kumbham 1116 corresponding to the 2nd day of March 1941, and the action that has been taken or that may hereafter be taken in pursuance to the resolutions passed at the said meeting shall be deemed and shall always be deemed to have been valid and effective in all respects and for all purposes and the properties of the said society shall be deemed to have vested in OUR Government with effect from the 18th day of Meenam 1116 corresponding to the 31st day of March 1941.

PROCLAMATION (VIII of 1118)

THE PENALTIES (ENHANCEMENT) AMENDMENT PROCLAMATION

CONTENTS

Preamble Sections

1. Short title and commencement.
2. Amendment to section 5 of Proclamation XV of 1117.

THE PENALTIES (ENHANCEMENT) AMENDMENT PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 13th day of Thulam 1118 corresponding to
the 29th day of October 1942*

[Published in the Cochin Government Gazette,
dated 15th Thulam 1118]

Preamble.

WHEREAS it is necessary further to amend the Penalties (Enhancement) Proclamation, XV of 1117, WE are pleased to command as follows.—

Short title and com- mencement.

1. (1) This Proclamation may be called the Penalties (Enhancement) Amendment Proclamation, VIII of 1118.

(2) It shall come into force at once.

Amendment to section 5 of Proclamation XV of 1117.

2. In section 5 of the Penalties (Enhancement) Proclamation, XV of 1117,—

- (a) after the word “provisions” the words “for the time being in force” shall be inserted;
- (b) after the words “Defence of India Rules as made applicable to Cochin” the words and figures “or is deemed under rule 121 of the said Rules as so made applicable to have contravened any such provision” shall be inserted;

- (c) for the words “the said rule” in both places where they occur, the words “the said Rules” shall be substituted.

THE COCHIN TARIFF ACT (I of 1118)

THE COCHIN TARIFF ACT CONTENTS

Preamble

Sections

1. Short title, extent and commencement.
2. Customs Duties.

THE COCHIN TARIFF ACT

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 30th day of Vrischigam 1118, corresponding
to the 15th day of December 1942*

[Published in the Cochin Government Gazette,
dated 6th Dhanu 1118]

WHEREAS it is necessary to enact a law for the purpose of providing that Customs duties on goods exported from or imported into Cochin State by sea shall be at the rate and on the same basis at which such goods would be liable to duty under the tariff law for the time being in force in British India ; It is hereby enacted as follows.—

Preamble.

1. (i) This Act may be called the Cochin Tariff Act, I of 1118.
- (ii) It extends to the whole of Cochin State and shall come into force at once.

Short title,
extent and
commence-
ment.

2. In every port to which this Act applies Customs duties on goods exported or imported into Cochin State by sea shall be levied and collected at the rate and on the basis prescribed therefor in British India and for this purpose the Indian Tariff Act, XXXII of 1934 and the rules and notifications issued thereunder as amended from time to time shall be deemed to be in force in Cochin State.

Customs
Duties.

PROCLAMATION

(IX of 1118)

THE SPECIAL CRIMINAL COURTS (AMENDMENT) PROCLAMATION

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 1.
3. Amendment of section 23-A.

THE SPECIAL CRIMINAL COURTS (AMENDMENT) PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 30th day of Vrischigam 1118
corresponding to the 15th day of December 1942*

[Published in the Cochin Government Gazette,
dated 6th Dhanu 1118]

Preamble. WHEREAS it is necessary further to amend the Special Criminal Courts Proclamation, XVI of 1117; We are hereby pleased to command as follows.—

Short title and commencement. 1. This Proclamation may be called the Special Criminal Courts (Amendment) Proclamation IX of 1118, and shall come into force at once.

Amendment of section 1. 2. In sub-section (3) of section 1 of the Special Criminal Courts Proclamation, XVI of 1117 hereinafter referred to as the Proclamation, after the words “arising from” the words “any disorder within the State or from” shall be inserted.

Amendment of section 23-A. 3. In clause (b) of section 23-A of the Proclamation, for the words “the Court” the words “where the prosecution opposes the application, the Court” shall be substituted.

PROCLAMATION (X of 1118)

THE COLLECTIVE FINES (AMENDMENT) PROCLAMATION CONTENTS

Preamble Sections

1. Short title and commencement.
2. Amendment of section 2.

THE COLLECTIVE FINES (AMENDMENT) PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 30th day of Vrischigam 1118
corresponding to the 15th day of December 1942*

[Published in the Cochin Government Gazette,
dated 6th Dhanu 1118]

WHEREAS it is necessary further to amend the Preamble.
Collective Fines Proclamation, XXIII of 1117; We are
hereby pleased to command as follows.—

1. This Proclamation may be called the Collective Short title
and com-
mencement.
Fines (Amendment) Proclamation X of 1118, and shall
come into force at once.

2. In section 2 of the Collective Fines Proclamation, Amendment
of section 2.
XXIII of 1117—

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

“(1-A) An officer empowered in this behalf by
Government by general or special order
may exercise the power conferred by sub-
section (1) on Government:

Provided that an imposition of a Collective Fine by
any such officer may be made by publication of the order
imposing the fine either in the Cochin Government

Gazette or in any such other manner as such officer considers best calculated to bring the order to the notice of the inhabitants of the area concerned."

(b) In sub-section (2) after the word "Government" the words "or any officer empowered in this behalf by Government by general or special order" shall be inserted.

(c) After sub-section (3) the following sub-section shall be inserted, namely.—

"(3-A) In any such apportionment the District Magistrate may assign a portion of such fine to a Hindu undivided family or Marumakkathayam Tarwad to be payable by it."

(d) In sub-section (4) after the word "person" the brackets and words "(including a Hindu undivided family or Marumakkathayam Tarwad)" shall be inserted and the words "from him" shall be omitted.

THE COCHIN INCOME-TAX (AMENDMENT) ACT (ACT II OF 1118)

CONTENTS

Preamble Sections

1. Short title and commencement.
2. Amendment to section 20.

THE COCHIN INCOME-TAX (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 10th day of Kumbham 1118 corresponding to
the 22nd day of February 1943*

[Published in the Cochin Government Gazette,
dated 15th Kumbham 1118]

Preamble.

WHEREAS it is expedient to amend the Cochin Income-tax Act, VI of 1117; It is hereby enacted as follows.—

1. (1) This Act may be called the Cochin Income-tax (Amendment) Act, II of 1118. Short title and commencement.

(2) It shall be deemed to have come into force with effect from the first day of Chingam 1117.

2. In sub-section (1) of section 20 of the Cochin Income-tax Act, VI of 1117, for the words "of British India" the words "a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914" shall be substituted. Amendment to section 20.

THE COCHIN SALE OF GOODS (AMENDMENT) ACT (ACT III OF 1118)

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Insertion of new section 64-A.
3. In contracts of sale amount of increased or decreased duty to be added or deducted.

THE COCHIN SALE OF GOODS (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 10th day of Kumbham 1118 corresponding to
the 22nd day of February 1943*

[Published in the Cochin Government Gazette,
dated 15th Kumbham 1118]

WHEREAS it is expedient to amend the Cochin Sale of Goods Act, XXV of 1112, for the purposes hereinafter appearing; It is hereby enacted as follows.— Preamble.

1. This Act may be called the Cochin Sale of Goods (Amendment) Act, III of 1118, and shall come into force at once. Short title and commencement.

2. After section 64 of the Cochin Sale of Goods Act, XXV of 1112, the following section shall be inserted, namely.— Insertion of new section 64A.

In contracts
of sale
amount of
increased or
decreased
duty to be
added or
deducted.

“64A. In the event of any duty of customs or excise on any goods being imposed, increased, decreased, or remitted after the making of any contract for the sale of such goods without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such goods duty-paid where duty was chargeable at that time—

- (a) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, or any part thereof, is paid, the seller may add so much to the contract price as will be equivalent to the amount paid in respect of such duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and
- (b) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the buyer may deduct so much from the contract price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay, or be sued for or in respect of such deduction”.

THE COCHIN MAINTENANCE ORDERS ENFORCEMENT ACT

(ACT IV OF 1118)

CONTENTS

Preamble Sections

1. Short title and extent.
2. Definitions.
3. Reciprocal arrangements.
4. Registration in Cochin State of maintenance orders made in a reciprocating territory.
5. Transmission of maintenance orders made in Cochin State.
6. Powers of summary courts to make provisional maintenance orders against persons resident in a reciprocating territory.

7. Power of court of summary jurisdiction to confirm maintenance order made out of Cochin State.
8. Enforcement of maintenance orders.
9. Payment of charge for transmission of sums awarded as maintenance and other costs and charges.
10. Proof of documents signed by officers of court.
11. Depositions to be evidence.
12. Rule making power.

THE COCHIN MAINTENANCE ORDERS
ENFORCEMENT ACT

*Passed by His Highness the Maharaja of Cochin
on the 10th day of Kumbham 1118 corresponding to
the 22nd day of February 1943*

[Published in the Cochin Government Gazette,
dated 15th Kumbham 1118]

WHEREAS it is expedient to facilitate the enforce- Preamble.
ment in Cochin of maintenance orders made in British
Indian and other parts of His Britanic Majesty's dominions
and protectorates and *vice-versa*; It is hereby enacted as
follows.—

1. (1) This Act may be called the Cochin Mainte- Short title
and extent.
 ance Orders Enforcement Act, IV of 1118.

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

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

(a) "Court of summary jurisdiction" means the
Court of the District Magistrate ;

(b) "dependants" means such persons as a person
against whom a maintenance order is made
is liable to maintain according to the law in
force in the reciprocating territory or in
Cochin, as the case may be, in which the
maintenance order is made ;

(c) "maintenance order" means a decree or an
order, other than an order of affiliation made
by a Court in the exercise of civil or crimi-
nal jurisdiction for the periodical payment

of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made ;

- (d) "prescribed" means prescribed by rules made under this Act ;
- (e) "proper authority" means the authority appointed by or under the law of a reciprocating territory to receive and transmit documents to which this Act applies; and
- (f) "reciprocating territory" means British India or any other part of His British Majesty's dominions or protectorates to which this Act for the time being applies.

**Reciprocal
arrange-
ments.**

3. (1) If Government are satisfied that provisions have been made by the Legislature of British India or any other part of His British Majesty's dominions for the enforcement within British India or such other part of maintenance orders made by Courts in Cochin State, Government may, by notification in the Cochin Government Gazette, declare that this Act applies in respect of British India or such other part of His British Majesty's dominions and thereupon it shall apply accordingly.
- (2) Government may by like notification declare that this Act applies in respect of any British Protectorate or in respect of any State in India and where such a declaration has been made this Act shall apply as if such Protectorate or State were a reciprocating territory.

**Registration
in Cochin
State of
maintenance
orders made
in a recipro-
cating
territory.**

4. (1) Where a maintenance order has, whether before or after the passing of this Act, been made against any person by any Court in any reciprocating territory and a certified copy of the order has been transmitted by the proper authority of that territory to

Government, Government shall send a copy of the order to the prescribed officer of a Court for registration, and on receipt thereof, the order shall be registered in the prescribed manner.

- (2) The Court in which an order is to be so registered as aforesaid shall, if the Court by which the order was made was, in the opinion of Government, a Court of superior jurisdiction be a District Court, and, if the Court was not, in their opinion, a Court of superior jurisdiction, be a Court of summary jurisdiction.

5. Where a Court in Cochin State has, whether before or after the commencement of this Act made a maintenance order against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory the Court shall send to Government for transmission to the proper authority of that territory a certified copy of the order.

Transmission of maintenance orders made in Cochin State.

6. (1) Where application is made to a Court of summary jurisdiction in Cochin State for a maintenance order against any person, and it is proved that that person is resident in a reciprocating territory, the Court may in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person had wilfully neglected to attend the Court but in such case the order shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory.

Powers of summary courts to make provisional maintenance orders against persons resident in a reciprocating territory.

- (2) The evidence of every witness who is examined on any such application shall be reduced to writing, and such deposition shall be read over to, and signed by him.

- (3) Where such an order is made, the Court shall send to Government for transmission to the proper authority of the reciprocating territory in which the person against whom the order is made is alleged to reside, the depositions so taken and a certified copy of the order together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing and such information as the Court possesses for facilitating the identification of that person and ascertaining his whereabouts.
- (4) Where any such provisional order has come before a Court in a reciprocating territory for confirmation, and the order has by that Court been remitted to the Court of summary jurisdiction which made the order for the purpose of taking further evidence, that Court shall, after giving the prescribed notice, proceed to take the evidence, in like manner and subject to the like conditions as the evidence in support of the original application.
- (5) If it appears to the Court hearing such evidence that the order ought not to have been made, the Court may rescind the order but in any other case the depositions shall be sent to Government and dealt with in like manner as the original depositions.
- (6) The confirmation of an order made under this section shall not affect any power of a Court of summary jurisdiction to vary or rescind that order :

Provided that, on the making of a varying or rescinding order the Court shall send a certified copy thereof

to Government for transmission to the proper authority of the reciprocating territory in which the original order was confirmed, or to which it was sent for confirmation and that, in the case of an order varying the original order the order shall not have any effect unless and until confirmed in like manner as the original order.

7. (1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in Cochin State and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to Government and it appears to Government that the person against whom the order has been made is resident in Cochin State, Government may send the said documents to the prescribed officer of the Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.
- (2) A summons issued under sub-section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.
- (3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the Court which made the provisional order stating the grounds on

Power of court of summary jurisdiction to confirm maintenance order made out of Cochin State.

which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings, shall be conclusive evidence that those grounds are grounds on which objection may be taken.

- (4) If at the hearing the person served with the summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in Cochin State, confirm the order either without modification or with such modifications as to the Court after hearing the evidence may seem just :

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

- (5) If the person to whom the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the Court which made the provisional order for the taking of any further evidence the Court may for that purpose send a certified copy of the record to Government for transmission to that Court through the proper authority of the reciprocating territory and may adjourn the proceedings.
- (6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming Court, and where on an application for rescission or variation the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence,

the Court may for that purpose, send a certified copy of the record to Government for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

8. (1) Subject to the provisions of this Act where an order has been registered under this Act in a District Court, the order shall, from the date of such registration, be of the same force and effect, and all proceedings may be taken thereon as if it had been an order originally obtained in the District Court in the exercise of its civil jurisdiction, and that Court shall have power to enforce the order accordingly.

Enforcement of maintenance orders.

- (2) A Court of summary jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act and the officers of such Court, shall have such powers and perform such duties, for the purpose of enforcing the order, as may be prescribed.

9. A Court in registering or confirming an order for maintenance in accordance with the provisions of this Act shall direct that the charges for the transmission to the Court from which the order has been received or in which the provisional order has been made as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as such other costs and charges as may be awarded or levied by the Court.

Payment of charge for transmission of sums awarded as maintenance and other costs and charges.

10. For the purposes of this Act any document purporting to be signed by a judge or officer of a Court outside Cochin State, shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person

Proof of documents signed by officers of court.

appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

**Depositions
to be evi-
dence.**

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Act, be received in evidence in proceedings before Courts of summary jurisdiction under this Act.

**Rule making
power.**

12. Government may make rules for the purpose of carrying into effect the purposes of this Act and in particular may make rules for the levy of the costs or charges for anything done under this Act and for all matters which are directed or permitted to be prescribed.

THE COCHIN LIMITATION (AMENDMENT) ACT

(ACT V OF 1118)

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 21.
3. Effect of payment on account of debt or of interest on legacy.

THE COCHIN LIMITATION (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 10th day of Kumbham 1118 corresponding to
the 22nd day of February 1943*

**[Published in the Cochin Government Gazette,
dated 15th Kumbham 1118]**

Preamble.

WHEREAS it is expedient further to amend the Cochin Limitation Act, XII of 1112, for the purpose hereinafter appearing; It is hereby enacted as follows.—

**Short title
and com-
mencement.**

1. This Act may be called the Cochin Limitation (Amendment) Act, V of 1118, and shall come into force at once.

2. In section 21 of the Cochin Limitation Act, XII of 1112, for the substantive part of sub-section (1) the following shall be substituted, namely.—

Amendment
of section 21.

“(1) Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy, or by his duly authorised agent, a fresh period of limitation shall be computed from the time when the payment was made.”

Effect of
payment on
account of
debt or of
interest on
legacy.

**THE COCHIN CODE OF CRIMINAL PROCEDURE
(AMENDMENT) ACT
(ACT VI OF 1118)**

CONTENTS

**Preamble
Sections**

1. Short title and commencement.
2. Substitution of sections 236 and 237.
 - Power to try summarily.
 - Power to invest Magistrates and Bench of Magistrates with summary powers.
 - Procedure of summons and warrant cases applicable.
 - Limit of imprisonment.
3. Amendment of section 238.
4. Amendment of section 240.
5. Amendment of schedule IV.

**THE COCHIN CODE OF CRIMINAL PROCEDURE
(AMENDMENT) ACT**

*Passed by His Highness the Maharaja of Cochin
on the 10th day of Kumbham 1118 corresponding to
the 22nd day of February 1943*

**[Published in the Cochin Government Gazette,
dated 15th Kumbham 1118]**

WHEREAS it is expedient further to amend the Cochin Code of Criminal Procedure, II of 1086; It is hereby enacted as follows.—

Preamble.

28 *Code of Criminal Procedure (Amendment)* [1118: Act VI

Short title
and com-
mencement.

1. (1) This Act may be called the Cochin Code of Criminal Procedure (Amendment) Act, VI of 1118.

(2) It shall come into force at once.

Substitution
of sections
236 and 237.

2. For sections 236 and 237 of the Code of Criminal Procedure, hereinafter referred to as the Code, substitute the following, namely.—

Power to try
summarily.

“236. (1) Notwithstanding anything contained in this Code—

- (a) the District Magistrate,
- (b) any Magistrate of the first class specifically empowered in this behalf by Government, and
- (c) any Bench of Magistrates invested with the powers of a Magistrate of the first class and especially empowered in this behalf by Government,

may, if he or they think fit, try in a summary way all or any of the following offences.—

- (a) offences not punishable with death or imprisonment for a term exceeding six months;
- (b) offences relating to weights and measures under sections 240, 241 and 242 of the Cochin Penal Code;
- (c) hurt, under section 303 of the same Code;
- (d) theft, under section 359, 360 or 361 of the same Code, where the value of the property stolen does not exceed fifty rupees;
- (e) dishonest misappropriation of property under section 383 of the same Code, where the value of

the property misappropriated does not exceed fifty rupees;

- (f) receiving or retaining stolen property under section 391 of the same Code, where the value of such property does not exceed fifty rupees;
- (g) assisting in the concealment or disposal of stolen property, under section 394 of the same Code, where the value of such property does not exceed fifty rupees;
- (h) mischief, under section 407 of the same Code;
- (i) house-trespass, under section 428, and offences under sections 431, 433, 434, 436 and 437 of the same Code;
- (j) insult with intent to provoke a breach of the peace, under section 484, and criminal intimidation, under section 486, of the same Code;
- (k) abetment of any of the foregoing offences;
- (l) an attempt to commit any of the foregoing offences, when such attempt is an offence;
- (m) offences under section 20 of the Cochin Cattle Trespass Act, III of 1071.

- (2) When in the course of a summary trial it appears to the Magistrate or Bench that the case is one which is of a character which renders it undesirable that it should be tried summarily, the Magistrate or Bench shall recall any witnesses who may have been

examined and proceed to re-hear the case in manner provided by this Code.

Power to invest Magistrates and Bench of Magistrates with summary powers.

237. Government may confer on any Magistrate or Bench of Magistrates power to try summarily all or any of the following offences.—

- (a) offences against the Cochin Penal Code, sections 253, 254, 255, 261, 262, 265, 266, 268, 269, 270, 303, 314, 316, 321, 332, 406, 427 and 484;
- (b) offences against the Cochin Municipal Act, XVIII of 1113, the conservancy clauses of the Police Act, I of 1058, the Hackney Carriage Act, II of 1098 and offences under the Nuisances Act, IV of 1098 which are punishable with fine or with imprisonment for a term not exceeding one month with or without fine;
- (c) abetment of any of the foregoing offences;
- (d) an attempt to commit any of the foregoing offences, when such attempt is an offence.

Procedure of summons and warrant cases applicable.

237-A. (1) In trials under this Chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

Limit of imprisonment.

(2) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter”.

Amendment of section 238.

3. To clause (b) of section 238 of the Code, add the following, namely.—

“and in cases coming under clause (d), clause (e), clause (f) or clause (g) of sub-section (1) of section 236 the value of the property in

respect of which the offence has been committed”.

4. Section 240 of the Code shall be re-numbered as sub-section (1) and the following shall be added as sub-sections (2) to (4).—

Amendment
of section
240.

“(2) Government may authorise any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

(3) If no such authorization be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.

(4) If the Bench differ in opinion, any dissentient member may write a separate judgment”.

5. In Schedule IV of the Code—

Under the powers with which a Magistrate of the first, second and third class may be invested by Government, add the following as items (11a), (9a) and (6) respectively.—

Amendment
of Schedule
IV.

“powers to try summarily, section 237”.

THE COCHIN MUNICIPAL (AMENDMENT) ACT (ACT VII OF 1118)

CONTENTS

Preamble Sections

1. Short title and commencement.
2. Amendment of section 51.
3. Amendment of section 54.
4. Amendment of section 82.
5. Insertion of section 93-A.
6. Amendment of section 329.

THE COCHIN MUNICIPAL (AMENDMENT) ACT
*Passed by His Highness the Maharaja of Cochin
on the 10th day of Kumbham 1118 corresponding to
the 22nd day of February 1943*

[Published in the Cochin Government Gazette,
dated 15th Kumbham 1118]

Preamble.

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

Short title and com- mencement.

1. (1) This Act may be called the Cochin Municipal (Amendment) Act, VII of 1118.
- (2) It shall come into force at once.

Amendment of section 51.

2. In sub-section (2) of section 51 of the Cochin Municipal Act, XVIII of 1113 hereinafter referred to as the Act, the words “and no teacher in an aided school” shall be deleted.

Amendment of section 54.

3. In sub-section (1) of section 54 of the Act, after the words “at the request of the Council” the words “or on a direction from the Government” shall be inserted.

Amendment of section 82.

4. In clause (c) of sub-section (2) of section 82 of the Act, for the word “preceding” occurring between the words “half-year” and “the” the word “succeeding” shall be substituted.

Insertion of section 93-A.

5. After section 93 of the Act, the following shall be inserted as section 93-A.

“93-A. If Government are satisfied that the Government of Madras will exempt motor cars on which a composite tax has been levied by the Municipal Council of Ernakulam or Mattancheri from the payment of the tax leviable under the Madras Motor Vehicles Taxation Act, III of 1931, when such cars ply within the Municipal limits of British Cochin, Government may, notwithstanding the provisions contained in section 93, by rules provide for—

Composite
tax and
license.

- (1) the levy of a composite half-yearly tax on cars kept within the Municipalities of Ernakulam and Mattancheri by the respective Municipalities and the issue of composite licenses therefor;
- (2) the exemption of motor cars kept within the British Cochin Municipality on which a corresponding composite tax has been levied by the Madras Government from payment of tolls established by the Municipalities of Ernakulam and Mattancheri;
- (3) the apportionment of the amount realised as composite tax under clauses (1) and (2) as between the Municipalities of Ernakulam, Mattancheri, the Government of Madras, and the Cochin Port Authority; and
- (4) such other matters as may be necessary to give effect to the reciprocal arrangement herein provided for.

Explanation.—“Motor cars” in this section shall have the meaning assigned to it in the Cochin Motor Vehicles Act, VIII of 1116.”

Amendment
of section
329.

6. Section 329 of the Act shall be renumbered as sub-section (1) and for the proviso to that section the following shall be substituted.—

“(2) Any person aggrieved by any notice or order issued or passed by, or by any other act of a Municipal Council or its Chairman or executive authority under this Act may appeal to the Diwan or such other officer as may be appointed by Government in that behalf. The Diwan or other appellate officer may pass such orders on the appeal as he thinks fit and pending decision may direct the Council, Chairman, or executive authority to keep the proceedings in abeyance.

(3) An appeal under sub-section (1) or (2) shall be presented within 30 days from the date of the act or the promulgation or service of the order or notice complained of. 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”.

PROCLAMATION (XI of 1118)

THE ALLIED FORCES ORDINANCE PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 10th day of Kumbham 1118
corresponding to the 22nd day of February 1943*

[Published in the Cochin Government Gazette, dated 15th
Kumbham 1118]

WHEREAS it is deemed expedient to apply to Cochin State provisions of the Allied Forces Ordinance, 1942, and the Allied Forces (United States of America) Ordinance, 1942, promulgated in British India for the purpose of making certain provisions respecting the armed forces in Cochin State of foreign Powers allied with His Majesty and of certain foreign Authorities, WE are

hereby pleased to command that the Allied Forces Ordinance, 1942 (LVI of 1942) and the Allied Forces (United States of America) Ordinance, 1942 (LVII of 1942) 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.

3rd March 1943 (19th Kumbham 1118)

No. 32.—The Allied Forces Ordinance, 1942, and the Allied Forces (United States of America) Ordinance, 1942, issued by the Government of India and made applicable to this State by Proclamation XI of 1118, dated 22nd February 1943 (10th Kumbham 1118) are republished for general information.

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

New Delhi, the 26th October, 1942

ORDINANCE No. LVI of 1942

AN

ORDINANCE

to make certain provisions respecting the armed forces in British India of foreign Powers allied with His Majesty; and of certain foreign Authorities.

WHEREAS an emergency has arisen which renders it necessary to make certain provisions respecting the armed forces in British India of foreign Powers allied with His Majesty, and of certain foreign Authorities;

Now, THEREFORE, in exercise of 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
26 Geo. 5, c. 2. make and promulgate the following Ordinance.—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Allied Forces Ordinance, 1942.

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

(3) It shall come into force at once.

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

(a) “foreign force” means any naval, military or air force for the time being present in British India or on board any ship or aircraft of His Majesty’s Indian forces, or of forces serving in association with His Majesty’s Indian forces, belonging to—

(i) a foreign Power allied with His Majesty to which this Ordinance is for the time being applicable, or

(ii) a foreign Authority recognised by His Majesty as competent to maintain naval, military or air forces for service in association with His Majesty’s forces to which this Ordinance is for the time being applicable;

(b) "court", used with reference to a naval, military or air force court exercising jurisdiction by virtue of section 3, or by virtue of the Naval Discipline Act, the Army Act, or the Air Force Act, as the case may be, includes a court of inquiry, and any officer who is empowered to review the proceedings of any such court or court of inquiry or to investigate charges or himself to dispose of charges; and the expressions "order" and "sentence" shall be construed accordingly.

29 & 30 Vict., c. 109.
44 & 45 Vict., c. 58.

3. Powers of naval, military and air force courts and authorities.—(1) Where any naval, military or air forces of any foreign Power allied with His Majesty, to which this Ordinance is for the time being made applicable by the Central Government by notification in the official Gazette, are for the time being present in British India or on board any ship or aircraft of His Majesty's Indian forces, or of forces serving in association with His Majesty's Indian forces, the naval, military and air force courts and authorities of that Power may, subject to the provisions of this Ordinance, exercise within British India, in relation to members of those forces of that Power in matters concerning discipline and internal administration, all such powers as are conferred upon them by the law of that Power.

(2) When any foreign Authority is recognised by His Majesty as competent to maintain naval, military or air forces for service in association with His Majesty's forces, and the Central Government has, by notification in the official Gazette, made this Ordinance applicable for the time being to that Authority, the said Authority may, by order made with the concurrence of the Central Government, confer, whether by reference to the present or former national law of the Authority or otherwise, upon naval, military and air force courts and authorities constituted in accordance with the order all such powers as may be necessary to secure the discipline and internal administration of any forces so maintained which are for the time being present in British India, or on board any ship or aircraft of His Majesty's Indian forces, or of forces serving in association with His Majesty's Indian forces.

(3) An order made under sub-section (2) or any order varying or revoking such an order may be proved by the production of a copy of that order published in the *Gazette of India*.

4. Privileges and immunities of foreign courts and witnesses before them.—A naval, military or air force court exercising jurisdiction by virtue of section 3, and witnesses appearing before any such court, shall enjoy the like immunities and privileges as are enjoyed by a court exercising jurisdiction by virtue of the Naval Discipline Act, the Army Act, or the Air Force Act, as the case may be, and by witnesses appearing before such a court.

29 & 30 Vict., c. 109.
44 & 45 Vict., c. 58.

5. Validity of proceedings in and action taken by foreign courts.—When any order or sentence has, whether within or without British India, been passed by a court which is empowered by virtue of section 3 to exercise jurisdiction in British India, then for the purposes of any legal proceedings within British India the court shall be deemed to have been properly constituted, and its proceedings shall be deemed to have been regularly conducted, and the order or sentence shall be deemed to be within the jurisdiction of the court and in accordance with the law of

the Power or followed by the foreign Authority by which the court was constituted, and a sentence if executed according to the tenor thereof shall be deemed to have been lawfully executed, and any person who is detained in custody in pursuance of any sentence of such a court or pending the determination by such a court of a charge brought against him shall, for the purposes of any such proceedings as aforesaid, be deemed to be in legal custody.

6. Proof of certain facts by certificate of officer commanding foreign force.—(1) For the purposes of any legal proceedings in British India a certificate signed by the officer commanding any foreign force that a member of that force is being detained for either of the causes referred to in section 5 shall be conclusive evidence of the cause of his detention; and a certificate signed by such an officer that the persons specified in the certificate are sitting or sat as a court exercising jurisdiction by virtue of section 3 shall be conclusive evidence of that fact.

(2) Any document purporting to be a certificate issued for the purposes of this section and to be signed by such an officer as is referred to in sub-section (1) shall be received in evidence and shall, unless the contrary is proved, be presumed to be a certificate by such officer.

7. Arrest of persons charged with offences.—(1) On application made by or under the authority of the officer commanding any foreign force to a magistrate in British India for the arrest of a member of such force alleged to have been guilty of an offence against the law of the power or followed by the Authority to which such force belongs, the magistrate may issue a warrant for the arrest of such member, and such warrant may direct his delivery when so arrested to the appropriate authorities of the force of which he is a member.

(2) On request made by or under the authority of the officer commanding any foreign force to the Central Government the Central Government may, by general or special orders to any naval, military or air force of His Majesty in India, direct the members thereof to arrest members of such first mentioned force alleged to have been guilty of offences against the law of the Power or followed by the Authority to which that force belongs and to hand over any person so arrested to the appropriate authorities of that force.

8. Securing attendance of witnesses before a foreign court.—On application made under the authority of a foreign court exercising jurisdiction by virtue of section 3 to a magistrate in British India to secure the attendance before it of a person required as a witness, the magistrate may take any such steps, whether by the issue of a summons or a warrant for arrest or otherwise, directed to secure the attendance or production of such person before the foreign court and his attendance or production at any adjourned hearing until he is released from such attendance by the foreign court, as such magistrate could take for the attendance or production before himself of a witness, and if any person fails without reasonable excuse to comply with any requirement of a summons issued under this section he shall be liable to the like processes and punishable in the like manner as if he had failed to comply with a summons to appear before the magistrate himself.

9. Detention and imprisonment in British India of persons detained or imprisoned by order of a foreign court.—(1) Where a court exercising jurisdiction by virtue of section 3 orders the detention in custody or the imprisonment of a member of a foreign force, the Central Government may upon the request of the officer commanding the force order the said member to be temporarily detained or imprisoned in a military prison or detention barrack in India or to be detained or imprisoned during the whole or any part of the term of his sentence in a military prison or detention barrack in British India.

(2) If where an order of detention or imprisonment such as is referred to in sub-section (1) has been made the officer commanding the force does not require that the detention or imprisonment should be in a military prison or detention barrack, the Central or a provincial Government may, upon the request of such officer, order the person concerned to be detained or imprisoned in a prison in British India.

(3) The Central Government and, in the case referred to in sub-section (2) a Provincial Government also, may, after consultation with the officer commanding the foreign force concerned, by general or special order, make such provision as it thinks necessary for the purpose of giving effect to the provisions of this section, including provision with respect to the reception of persons to be detained or imprisoned, their return to the officer commanding the force to which they belong, their treatment while so detained or imprisoned (including their treatment in the event of unsoundness of mind, and the adjustment to the terms of any sentence passed of the normal conditions governing such detention or imprisonment) and the circumstances under which they are to be released.

10. Relations of foreign forces to civil power.—The Central Government may authorise any authority or person in British India to perform, at the request of the officer commanding any foreign force, but subject to such limitations as may be specified in the authorisation, any function in relation to that force and members thereof which such authority or person performs or could perform in relation to or to the members of a naval, military or air force of His Majesty in India of like nature to that force, and for the purpose of the exercise of any such function any power exercisable by virtue of any enactment by such authority or person in relation to or to the members of a naval, military or air force in India shall be exercisable in relation to the said foreign force and members thereof.

11. Application to foreign forces of certain laws applicable to His Majesty's forces.—(1) Any enactment for the time being in force in British India which—

(a) exempts, or provides for the exemption of any vessel, vehicle, aircraft, machine or apparatus of, or employed for the purposes of, His Majesty's forces or any of them from the operation of any enactment; or

(b) in virtue of a connection with His Majesty's forces or any of them, confers a privilege or immunity on any person; or

(c) in virtue of such a connection, excepts any property, trade or business, in whole or in part, from the operation of any enactment or from any tax, rate, imposition, toll or charge; or

(d) imposes upon any person or undertaking obligations in relation to His Majesty's forces or any of them, or any member or service court thereof; or

(e) penalises misconduct by any person in relation to His Majesty's forces or any of them, or any member or service court thereof, shall, with necessary modifications, apply in relation to a foreign force as it would apply in relation to a force of His Majesty of a like nature to the foreign force ;

Provided that the Central Government may, by notification in the official Gazette, direct that any such enactment either shall not apply or shall apply with such exceptions and subject to such adaptations or modifications as may be specified in the notification.

(2) A notification under this section may apply either generally or in relation to any particular foreign force or in relation to any particular place.

12. Saving of limitation of jurisdiction of British Indian courts.—(1) Nothing in section 3 shall affect the jurisdiction of any criminal court in British India to try a member of a foreign force for any act or omission constituting an offence against the law of British India.

(2) If a person sentenced by a court exercising jurisdiction by virtue of section 3 to punishment for an offence is afterwards tried by a criminal court in British India in respect of any act or omission which constituted that offence, such criminal court shall, in awarding punishment in respect of that act or omission, have regard to any punishment imposed on him by the said sentence.

(3) A court shall not have jurisdiction by virtue of section 3 to try any person for any act or omission constituting an offence for which he has been acquitted or convicted by a criminal court in British India:

Provided that nothing in this sub-section shall apply to any proceedings, whether by way of trial or otherwise, taken in such a court against a member of a foreign force convicted by a criminal court in British India where such proceedings are by the law of the foreign Power or foreign Authority concerned necessary for the making against such member of an order of dismissal from service or degradation in consequence of such a conviction.

(4) No proceedings in respect of the pay, terms of service or discharge of a member of a foreign force shall be entertained by any court in British India.

LINLITHGOW

Viceroy and Governor-General

GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT

New Delhi, the 26th October 1942

ORDINANCE No. LVII OF 1942

AN
ORDINANCE

to make certain provisions respecting the military and naval forces in British India of the United States of America.

WHEREAS an emergency has arisen which renders it necessary, in order to give effect to an agreement recorded in Notes exchanged between the Central Government in British India and the Government of the United States of America relating to jurisdiction over members of the military and naval forces of the United States of America to make certain provisions respecting those forces 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.—

1. Short title, extent and commencement.—(1) The Ordinance may be called the Allied Forces (United States of America) Ordinance, 1942.

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

(3) It shall come into force at once.

2. Bar of criminal proceedings in British Indian Courts.—(1) Notwithstanding anything contained in section 12 of the Allied Forces Ordinance, 1942, or elsewhere in any law in force in British India, no criminal proceedings shall, subject as hereinafter provided, be prosecuted in British India before any Court of British India against a member of the Military or naval forces of the United States of America :

Provided that, upon representation made to it on behalf of the Government of the United States of America in any particular case, the Central Government may by order direct that the provisions of this sub-section shall not apply in that case.

(2) Nothing in sub-section (1) shall affect any powers of arrest, search, entry or custody exercisable under the law in force in British India with respect to offences committed or believed to have been committed against that law, but where a person against whom proceedings cannot, by virtue of that sub-section, be prosecuted before a Court of British India is in the custody of any authority of British India he shall, in accordance with such general or special directions as may be given by or under the authority of the Central Government for the purpose of

giving effect to any arrangements made by the Central Government with the Government of the United States of America, be delivered into the custody of such authority of the United States of America as may be provided by the directions :

Provided that the powers of arrest, search and entry saved by this sub-section shall not be exercised on or in respect of any premises occupied or used by the military or naval forces of the United States of America unless application is first made to the officer commanding the forces occupying or using such premises.

3. Nothing contained in this Ordinance shall render any person subject to any liability whether civil or criminal in respect of anything done by him to a member of the said forces in good faith and without knowledge that he was a member of those forces.

3. Membership of military and naval forces and proof thereof.—

(1) For the purposes of this Ordinance and of the Allied Forces Ordinance, 1942, in its application to military and naval forces of the United States of America, all persons who are by the law of the United States of America for the time being subject to the military or naval law of that country shall be deemed to be members of the said forces :

LVI of 1942.

Provided that no person employed in connection with the said forces, not being a citizen or national of the United States of America, shall be deemed to be a member of those forces unless he entered into that employment outside British India.

(2) For the purposes of any proceedings in any Court of British India a certificate issued by or on behalf of such authority as may be appointed for the purpose by the Government of the United States of America stating that a person of the name and description specified in the certificate is, or was at the time so specified, subject to the military or naval law of the United States of America, shall be conclusive evidence of that fact.

(3) For the purposes of any proceedings in any Court of British India in which the question is raised whether a party to the proceedings is or was at any time a member of the military or naval forces of the United States of America, any such certificate as aforesaid relating to a person bearing the name in which that party is charged or appeared in the proceedings shall, unless the contrary is proved, be deemed to relate to that party.

(4) Any document purporting to be a certificate issued for the purposes of this section, and to be signed by or on behalf of an authority described as appointed by the Government of the United States of America for the purposes of this section, shall be received in evidence and shall, unless the contrary is proved, be deemed to be a certificate issued by or on behalf of an authority so appointed.

LINLITHGOW

Viceroy and Governor-General

PROCLAMATION**(XII of 1118)****THE PALLIPPURATH PAZHUR ILLOM
ASSUMPTION OF MANAGEMENT PROCLAMATION*****Promulgated by His Highness Sree Kerala Varma
Maharaja of Cochin******on the 10th day of Kumbham 1118 corresponding
to the 22nd day of February 1943*****[Published in the Cochin Government Gazette,
dated 15th Kumbham 1118]**

WHEREAS all the members of the Pallipurath Pazhur Illom also known as Nedunthuruthi Illom in Kanayannur Village, Cochin-Kanayannur Taluk, have requested OUR Government to assume management of certain items of immovable properties belonging to their Illom and have executed an Agreement in that behalf;

AND WHEREAS WE are satisfied that it is necessary that OUR Government should assume such management;

AND WHEREAS the interests of OUR Government have to be effectively protected on account of the assumption of such management; WE are pleased to command as follows.—

1. The management of the immovable properties specified in the Schedule hereto annexed (hereinafter referred to as “the Estate”) shall be assumed forthwith by OUR Government and such management by OUR Government shall be continued until such time as OUR Government may deem fit.

2. During the period of the management of the Estate by OUR Government the members of the Illom now living or to be born hereafter shall have no manner of right to alienate the whole or any portion of the Estate and alienations, if any, made in contravention of this Proclamation shall be void.

3. During the period of such management of the Estate, OUR Government shall have plenary powers to alienate the whole or any portion of the Estate, to advance or borrow funds for the re-payment of the debts of the Illom, to compromise claims in respect of arrears of rent, michavaram and kindred dues accruing and accrued due and to exercise all rights of management in general and to do all that

OUR Government consider necessary for the efficient administration and management of the Estate.

4. OUR Government may, by notification published in OUR Government Gazette, appoint a person or persons to manage the affairs of the Estate and OUR Government may delegate, by notification published in OUR Government Gazette, to the person or persons so appointed all or any of the powers conferred upon them by clause 3.

5. OUR Government may frame such rules, as may, from time to time, be deemed necessary for managing the affairs of the Estate. Such rules, when framed and published in OUR 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 grounds.

6. All suits on behalf of or against the Estate shall, during the period of management of the Estate by OUR Government, be brought in the name of OUR Government or in the name of any officer or person as OUR Government may, generally or specially, by rules framed under this Proclamation, appoint.

7. All acts done by OUR Government or by the person or persons appointed to manage the affairs of the Estate in pursuance of the powers conferred by this Proclamation during the period of management by OUR Government shall be accepted without question by the members of the aforesaid Illom and all accounts of management maintained by OUR Government or the persons appointed by OUR Government to manage the affairs of the Estate and all items of expenditure incurred by them for and on behalf of the Estate during such period shall also be accepted without question by the members of the aforesaid Illom.

8. The provisions of the Cochin Revenue Recovery Act, IV of 1083, shall apply for the recovery of dues already accrued due or accruing due in future in respect of the Estate during the period of its management by OUR Government.

9. Every Officer or servant employed by OUR Government in relation to the management of the Estate shall be deemed to be a public servant within the meaning of section 15 of the Cochin Penal Code.

SCHEDULE

കൊച്ചികണയന്നൂർ			താലൂക്കു	
ഞാറക്കൽ			ഡിസ്ട്രിക്ട്	
കടമക്കടി			വില്ലേജ്	
വലിയ കടമക്കടി		ചെറിയ കടമക്കടി		ദേശം
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൩	൨	൧		
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൨ ൫	൭ ൨	൩ ൪		
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സെറ്റ് ൯ ൨ ൩-ാംനമ്പ് പറമ്പ്	സെറ്റ് ൯ ൨ ൦, ൯ ൧ ൯, ൯ ൨ ൧ നമ്പ് വഹകളും പുഴയും	പുഴ		
പുഴ	പുഴ	സെറ്റ് ൭ ൪ ൩-ാംനമ്പ് നിലം		
സെറ്റ് ൯ ൨ ൧/൨-ാംനമ്പിൽ പെട്ട വഹകൾ	സെറ്റ് ൯ ൧ ൪, ൯ ൧ ൭, ൯ ൧ ൩, ൯ ൧ ൨ നമ്പ് വഹകൾ	സെറ്റ് ൭ ൪ ൪-ാം നമ്പ് ഭൂമി		

കൊച്ചികണയന്നൂർ

ഞാറക്കൽ

കടമക്കടി

വലിയ കടമക്കടി

അനൂ മ വീതം 9	അനൂ ൨ നൂ	അനൂ ൨ വീതം ൫	അനൂ ൩ ൪
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വലിയ കടമക്കടി			
മ ൦ ൫൩	മ ൦ ൨ ൯	മ ൦ ൨ ൯	മ ൦ ൨ ൩
൩	൩	൧	൦
൧ ൫	൧ ൪	൧ ൩	൧ ൨
മററം നിലം ഇടങ്ങഴി നാലു	കിഴക്കുപുറം പാടത്ത് നിലം ആറു പറ ഏഴര	കിഴക്കുപുറം പാടത്ത് നിലം ഇരുപത്തിമൂന്നു പറ ഒന്നര ഇ ടങ്ങഴി	കിഴക്കുപുറം പാടത്ത് നിലം ഇരുപത്തിത്തൊമ്പതു പറ
൦	൦	൨	൨
൪	൩ ൯	൩ ൩	൪ ൩
സെറ്റ് മ ൦ ൫൩/൨-ാം ന സ്ത്ര നിലം	പുഴയും സെറ്റ് മ ൦ ൨ ൩-ാം ന സ്ത്ര നിലവും	സെറ്റ് മ ൧ ൧ ൩-ാം മ ൦ ൩ ൦-ാം നസ്ത്ര ചാലും പുഴയും	സെറ്റ് മ ൦ ൨ ൪-ാം മ ൦ ൨ ൧-ാം നസ്ത്ര വഹകൾ
സെറ്റ് മ ൦ ൫൩/൪-ാം ന സ്ത്ര നിലം	സെറ്റ് മ ൦ ൨ ൭-ാം നസ്ത്ര നിലം	തോട്ടം സെറ്റ് മ ൦ ൨ ൮-ാം നസ്ത്ര നിലവും	സെറ്റ് മ ൦ ൨ ൨-ാം നസ്ത്ര ഭൂമി
സെറ്റ് മ ൦ ൫൩/൪-ാം ന സ്ത്ര നിലം	സെറ്റ് മ ൦ ൨ ൭-ാം നസ്ത്ര നിലം	സെറ്റ് മ ൦ ൨ ൭-ാം മ ൦ ൨ ൮-ാം വു ൨ ൯-ാം നസ്ത്ര വഹകൾ	സെറ്റ് വു ൩ ൯-ാം വു ൩ ൭-ാം നസ്ത്ര വഹകൾ
സെറ്റ് മ ൦ ൫൩/൧-ാം ന സ്ത്ര ഭൂമി	തോട്ട	സെറ്റ് വു ൨ ൭, വു ൨ ൫, വു ൨ ൩ നസ്ത്ര വഹകൾ	സെറ്റ് മ ൦ ൨ ൭-ാം മ ൦ ൨ ൩-ാം നസ്ത്ര ഭൂമികൾ

കൊച്ചികണയന്നൂർ			
ഞാറക്കൽ			
കടമക്കടി			
വലിയകടമക്കടി		ചെറിയകടമക്കടി	വലിയകടമക്കടി
നന്മ @	നന്മ	എ @ എ	നന്മ @
മ വീതം	വ വീതം	വ	മ വീതം
മൻ	മവ	മ എ	മനു
കിഴക്കുപുറം പാടത്ത് മേൽ നമ്പ് നിലത്തിൽ തെക്കുഭാഗം നിലം ഒരു പറ രണ്ടിടങ്ങഴി	നിലംനികത്തു പറമ്പ്	പുലിമാടപാടത്ത് നിലം ഒരു പറ മൂന്നിടങ്ങഴി	മാടമനക്കാട്ടു പറമ്പു മുറിക്കുന്ന്
o	o	o	o
മവ	നന്മ	ന	@ o
സെറ്റ് നന്മ @/ മ-ാം നമ്പ്രിൽപെട്ട ഭൂമി	സെറ്റ് നന്മ o-ാം നമ്പ്ര് പറമ്പ്	സെറ്റ് എ @ൻ-ാം നമ്പ്ര് ഭൂമി	വഴി
തോട്ട്	സെറ്റ് നന്മ o-ാം നന്മ മ/വ-ാം നമ്പ്രിൽപെട്ട ഭൂമിയും	സെറ്റ് ഒരവ-ാം, ഒര എ/നു-ാം നമ്പ്ര് ഭൂമികൾ	മറപ്പറമ്പും നികത്തും
തോട്ട്	സെറ്റ് നന്മ o-ാം നന്മ മ/ന-ാം നമ്പ്ര് നിലങ്ങൾ	പഴ	സെറ്റ് നന്മ മ-ാം നന്മ മൻ-ാം നമ്പ്ര് പറമ്പുകൾ
സെറ്റ് നന്മ @/ മ-ാം നമ്പ്രിൽപെട്ട ഭൂമി	സെറ്റ് നന്മ മൻ-ാം നന്മ o-ാം നമ്പ്ര് ഭൂമികൾ	സെറ്റ് എ നു വ-ാം ഒരവ/മ-ാം നമ്പ്ര് ഭൂമികൾ	സെറ്റ് നന്മ വ-ാം നന്മ മ-ാം നമ്പ്ര് പറമ്പുകൾ

കൊച്ചികണയന്നൂർ			
ഞാറക്കൽ			
കടമക്കടി			
ചെറിയകടമക്കടി			
എ ൫൯	എ ൫൯	എ ൫൪	എ ൪൩
൪	൧	൫	൦
൨൩	൨൨	൨൧	൨൦
മടത്തിപ്പറമ്പും മറ്റും നി ലവും	മറ്റും വട്ടക്കണ്ടം ഇതുകൾ നി കുത്തി തൈവച്ചിട്ടുള്ള പാ മ്പും കരിവേലിപറമ്പു മുറി ക്കണം കൂടി ഒന്നായികിട്ടപ്പ പറമ്പു	എടക്കാട്ടുപറമ്പു തുണ്ടിപ്പറ മ്പു മുതലായതു ഒന്നായികിട പ്പു വഹകൾ	നിലംനികത്തും ചിറപ്പറമ്പും കൂടി ഒന്നായികിട്ടപ്പു വഹ കൾ
൦	൦	൨	൧
എ ൫	എ ൪	എ ൩	എ ൨
സെറ്റ് എ ൦-൦ എ ൪-൦ നമ്പ് ഭൂമികൾ	സെറ്റ് എ ൦-൦ നമ്പ് വ ഹകൾ	സെറ്റ് ഏഴ്/൨-൦ എ ൪-൦ നമ്പ് വഹകൾ	സെറ്റ് എ ൪-൦ എ ൨-൦ നമ്പ് നിലങ്ങൾ
സെറ്റ് എ ൪-൦ എ ൫-൦ നമ്പ് ഭൂമികൾ	സെറ്റ് എ ൫-൦/൨-൦, ഏഴ്-൦ നമ്പ് വഹകൾ	സെറ്റ് എ ൫-൦ എ ൫-൦ നമ്പ് ഭൂമികൾ	പുഴ
സെറ്റ് എ ൫-൦ എ ൫-൦ നമ്പ് ഭൂമികൾ	സെറ്റ് എ ൫-൦ എ ൫-൦ എ ൧-൦ നമ്പ് ഭൂമികൾ	സെറ്റ് എ ൫-൦ എ ൫-൦ നമ്പ് വഹകൾ	പുഴ
സെറ്റ് എ ൫-൦/൩-൦ നമ്പ് ഭൂമി	സെറ്റ് എ ൧-൦ നമ്പ് ഭൂമി	സെറ്റ് ഏഴ്/൩-൦ എ ൪-൦ നമ്പ് വഹകൾ	സെറ്റ് എ ൪-൦ നമ്പ് വഹകൾ

കൊച്ചികണയന്തർ			
ഞാറക്കൽ			
കടമക്കടി			
വലിയകടമക്കടി			
ഞ ട മ വീതം ട ട	ഞ ട ട ട ന്ന	ഞ ട മ ട ട	ഞ ട ന്ന ട വീതം ട ട
ടി നമ്പ്രിൽ തെക്ക കിഴക്കെ ഭാഗം പറമ്പ്	തറപ്പറമ്പും പാലത്തിങ്കൽ പറമ്പും കളം തൈവപ്പുപറമ്പും കൂടി ഒന്നായികിടപ്പു വഹകൾ	തറപ്പറമ്പും പാലത്തിങ്കൽ പറമ്പും കളം തൈവപ്പുപറമ്പും കൂടി ഒന്നായി കിടപ്പു വഹകൾ	ടി നമ്പ്രിൽ വടക്കെഭാഗം വട്ടയ്ക്കാട്ടു പറമ്പു മുറി ഒന്ന്
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മ ട	വ	ട 0	0
വഴി	സെട്ടു ഞ ട-ാം നമ്പ്ര് ഭൂമി	വഴി	വഴി
സെട്ടു ഞ ട-ാം നമ്പ്ര് പറമ്പും വഴിയും	സെട്ടു ഞ ട/ന്-ാം നമ്പ്ര് ഭൂമി	സെട്ടു ഞ മ-ാം നമ്പ്ര് വഹകൾ	സെട്ടു ഞ ട ന്ന/ട-ാം നമ്പ്ര് ഭൂമികൾ
സെട്ടു ഞ മ-ാം നമ്പ്ര് ഭൂമി	സെട്ടു ഞ ട-ാം നമ്പ്ര് ഭൂമി	സെട്ടു ഞ ട-ാം നമ്പ്ര് ഭൂമി	സെട്ടു ഞ ട-ാം നമ്പ്ര് നിലം
സെട്ടു ഞ ട/മ-ൽപെട്ട മാടമനക്കാട്ടു പറമ്പ്	സെട്ടു ഞ ട/ട-ാം നമ്പ്ര് ഭൂമി	സെട്ടു ഞ ട-ാം നമ്പ്ര് ഭൂമി	സെട്ടു ഞ ട-ാം നമ്പ്ര് പറമ്പ്

കൊച്ചി കണയന്നൂർ	തൊറകൽ	കടമക്കടി	വലിയ കടമക്കടി	അറ	മ വീതം	പറ	ടി നമ്പിൽ തെക്കേക്കോണം മറപ്പറമ്പു മുറി കണം നാലു കെട്ടു മറവും അറപ്പറമ്പും	പ	എ	വഴി	സരവ്വ അറനം നമ്പ് പ റമ്പും വഴിയും	സരവ്വ അറനം നമ്പ് ഭൂമി	സരവ്വ അറനം / മ-ൽപെട്ട മാടമനക്കാട്ടു പറമ്പ്
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THE COCHIN VERUMPATTOMDARS ACT
(ACT VIII OF 1118)
(As amended by Act XV of 1118)
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THE COCHIN VERUMPATTAMDARS ACT

*Passed by His Highness the
Maharaja of Cochin,
on the 19th day of Kumbham 1118
corresponding to the 3rd day of March 1943*

[Published in the Cochin Government Gazette,
dated 22nd Kumbham 1118]

Preamble.

WHEREAS it is deemed expedient to confer on certain terms and conditions, fixity of tenure to *verumpattom* tenants; It is hereby enacted as follows.—

Short title, extent and commencement.

1. (1) This Act may be called the Cochin *Verumpattomdars* Act, VIII of 1118.

(2) It extends to the whole of Cochin and shall come into force at once.

Definitions.

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

(a) “*Kudikidappukaran*” means a person who has been permitted to have the use and occupation of a portion of a property for the purpose of erecting a homestead with or without an obligation to pay rent for the use and occupation of the site so given;

(b) “*Kudiyiruppu*” means the site of any residential building, the site or sites of other buildings appurtenant thereto, such other lands as are necessary for the convenient enjoyment of such residential building and the easements attached thereto;

(c) “*pattam*” includes *puravaka* dues, if any, payable under the contract of tenancy and the enhanced revenue, cess, tax or other special charges mentioned in section 6; and

(d) “*verumpattomdar*” means a lessee or sub-lessee of immoveable property who has

Proclamation I of 1119 extends the time for the payment of *pattam* till the last day of Thulam 1119, in respect of cocoanut gardens.

contracted to hold the same under a lease with or without *muppattam* either as a tenant at will or for a term and includes a *Tharikuthukaran* of the Chittur Taluk, but does not include a holder of a *kanam*, *nerkanam*, *otti*, *adima*, *anubhogam* and other cognate tenures or a person who cultivates land under *varam* or *pankupattam* agreement or a *Kudikidappukaran*.

3. This Act shall not apply to—

Application.

- (a) lands owned by Government; or
- (b) leases granted by a usufructuary mortgagee or by any person holding under or deriving interest from him; or
- (c) leases of any building owned by a landlord including a house, shop or warehouse and the site thereof, together with the garden or land appurtenant thereto; or
- (d) leases of land or of buildings or of both for industrial or commercial purposes; or
- (e) leases of land or buildings or of both in the Willingdon Island; or
- (f) leases of land situate within the limits of the Municipalities constituted under the Cochin Municipal Act, XVIII of 1113: Provided that the restriction contained in this clause shall not apply to—
 - (i) lands used for the cultivation of paddy within the limits of the Municipalities; and
 - (ii) lands held in *Tharikuthu* right within the Municipal areas in the Chittur Taluk.

4. Notwithstanding any law, custom or contract to the contrary, every *verumpattomdar* shall have fixity of tenure in respect of his holding and shall not be evicted therefrom except as provided in section 8 of this Act.

Verumpat-
tomdar to
have fixity of
tenure.

Pattam
payable by a
verumpat-
tomdar.

5. (1) Subject to sub-section (2) and to any remission to which a *verumpattomdar* may be entitled under the provisions of this Act, the *pattom* payable by him in respect of his holding under the contract of tenancy shall not be enhanced or reduced.

(2) Where cocoanut is the major produce of a garden land and the *pattom* fixed therefor under the contract of tenancy is payable in money, it shall be obligatory on the part of the *verumpattomdar* to give and the lessor to accept the *pattom* accruing due after the commencement of this Act in kind computed on the basis of the market value of cocoanuts prevailing on the date of the contract of tenancy or the money value thereof computed at the market rate prevailing on the date on which such *pattom* accrues due.

¹ [(3) The market rate for cocoanuts for the purpose of sub-section (2) shall be such rates as Government or such other officer specially authorised may by notification in the Cochin Government Gazette specify in this behalf.]

(4) In the absence of any express stipulation to pay rent in the contract of tenancy, a *Tharikuthukaran* of the Chittur Taluk shall be liable to pay to his lessor an annual *pattom* calculated at the rate of one anna per cent of land comprised in his holding.

Liability for
tax, etc.

6. As between a *verumpattomdar* and his lessor, the latter shall, in the absence of any custom or contract to the contrary, be liable for the revenue, cess or tax payable to Government or to any local authority; but the former shall be liable for—

(a) any enhancement subsequent to the commencement of this Act in the revenue, cess,

¹ Substituted by section 2 of Act XV of 1118.

or tax payable to Government or to any local authority;

(b) any special charges leviable by Government for special or additional crops raised on *nilams*;

(c) any special charges payable to Government in connection with survey or settlement operations or for the maintenance of survey marks.

7. (1) Where the land revenue payable for any year in respect of any land comprised in a *verumpattom* holding is remitted in whole or in part by Government, the *verumpattomdar* shall be entitled to a remission of the *pattom* payable by him for that year in the same proportion. If the *verumpattomdar* is liable under the contract of tenancy to pay the land revenue he shall also be entitled to a remission of the land revenue remitted by Government.

Verumpat-
tomdar's
right to
remission of
pattom in
proportion
to remission
of revenue.

(2) If no land revenue is payable to Government in respect of any land comprised in the holding, the Diwan Peishkar, on an application made to him by the *verumpattomdar* may order the remission of so much of the *pattom* as would have been remitted under sub-section (1) had such land been charged with the payment of land revenue. The decision of the Diwan Peishkar shall be final and the *verumpattomdar* shall be entitled to get the benefit of the remission so ordered from his lessor.

8. (1) No suit for eviction of a *verumpattamdar* from his holding or any portion thereof shall lie except on the following grounds—

Grounds for
eviction of
verumpat-
tamdar.

(a) that he has wilfully denied the title of the *jenmi* or of any inter-

mediate landlord between himself and the *jenmi* before the date of such suit;

Explanation.—A denial of title under a *bonafide* mistake of fact is not wilful within the meaning of this clause.

- (b) that he has intentionally and wilfully committed such acts of waste as are calculated to impair materially and permanently the value or utility of the holding;
- (c) that he has not paid the *pattam* due in respect of the holding or the revenue, cess, tax or special charges, if any, specified in section 6 within three months of the due date as provided in the contract of tenancy or where no date is fixed in the contract, within three months from the due date specified in section 38 of the Cochin Tenancy Act, XV of 1113;
- (d) that he has not paid within six months from the commencement of this Act the entire arrears of *pattam*, if any, due in respect of the holding ¹[at the commencement of this Act]:

Provided that a *verumpattamdar* whose arrears of *pattam* has been scaled down under section 16 of the Cochin Agriculturists' Relief Act, XVIII of 1114, shall be liable to be evicted on this ground only if the arrears are not paid on or before the date fixed for the payment of each instalment by the Cochin Agriculturists' Relief Act, XVIII of 1114, as modified by Proclamation, III of 1117.

¹ Substituted by section 3 of Act XV of 1118.

- (e) that he has intentionally or otherwise allowed a stranger to encroach on the holding or part thereof adversely to the interests of the *jenmi* or any intermediate landlord between himself and the *jenmi*.
- (f) that at the end of the agricultural year the *jenmi* or any intermediate landlord requires the holding or part thereof, except the *Kudiyiruppu*, *bonafide* for building residential quarters for the use of himself or for any member of his family or *tarwad* or *thavazhi* who has a beneficial or proprietary interest therein :

Provided that in cases falling under clauses (e) and (f) where only a part of the holding has been encroached upon or is required, as the case may be, the eviction shall be from such part of the holding only.

Explanation : The wife or husband and the children of the lessor shall be deemed to be members of the lessor's family having a beneficial and proprietary interest in the holding.

- (2) When the eviction of a *verumpattamdar* is sought on the ground specified in clause (c) or (d) of sub-section (1), the court shall not either extend the time for or condone the delay in the payment of such *pattam* or arrears, but shall be bound to order the eviction of the *verumpattamdar* from the holding.
- (3) (i) In any case in which eviction has been obtained on the ground mentioned in clause (f) of sub-section (1), the *verumpattamdar* shall be entitled to sue for the restoration to him of the possession of all

the lands from which he has been evicted and to hold them with all the rights and subject to all the liabilities of a *verumpattamdar* if the lessor who has obtained such eviction transfers any of the land to any person on any kind of lease or mortgage with possession or on *kanam* within five years of such eviction or if the building for constructing which the eviction was obtained is not erected on the land within five years of the eviction.

- (ii) A suit for restoration on the ground of failure to erect the building shall be instituted within one year from the date of the expiry of five years after eviction and a suit for restoration on the ground of transfer of possession shall be instituted within one year from the date of the transfer.

9. (1) Any person having an interest in the holding of a *verumpattomdar* by virtue of a title acquired by act of parties or by operation of law shall—

(a) where such interest has been acquired prior to the date of the commencement of this Act, within a month from such date, and

(b) where such interest is acquired after the commencement of this Act within a month from the date of such acquisition,

give registered notice of his interest in the holding to the *jenmi* and to all the intermediate landlords between the *jenmi* and the *verumpattomdar* whose interest he has acquired. The said notice shall contain particulars of the property, its extent, the nature of the interest acquired and the date of acquisition of such interest. Failure

Notice to
jenmi and
landlord for
sub-leasing
a verumpat-
tom holding.

to give the notice shall disentitle such person to relief against forfeiture under sub-section (2).

- (2) Where default is made by a *verumpattomdar* in the payment of *pattom* or arrears of *pattom* under clauses (c) and (d) of sub-section (1) of section 8, his lessor shall give registered notice of the default to the persons ¹ [who have acquired an interest in the holding prior to the date of such default and] who have notified the existence of their interest under sub-section (1). The sub-lessees in the order of priority of their leases and the other persons having an interest in the holding shall be entitled to relief against forfeiture on payment of the arrears within a period of one month from the date of service of the notice of default. The lessor shall be bound to receive such payment and the liability of the sub-lessee to his lessor for the payment of *pattom* or arrears shall be reduced to the extent of the payment made by him :

Provided that where a person has acquired interest only in a portion of the holding, such person shall be bound to pay only so much of the *pattom* or arrears of *pattom* as will on apportionment fall on such portion of the holding. In the absence of agreement such apportionment shall be made by the court on application made to it by such person within one month from the date of service of the notice of default. The time between the date of the petition and the date of the final order shall be excluded from the period of one month specified in sub-section (2).

- (3) All applications for apportionment under the proviso to sub-section (2) ² [shall, notwithstanding anything contained in the Cochin

¹ Inserted by section 4 of Act XV of 1118.

² Substituted by section 4 of Act XV of 1118.

Civil Courts Act, III of 1076, be made] to the court of the District Munsiff within whose jurisdiction the property is situate.

Provided that where Government is a party, all such applications shall be made to the District Court within whose jurisdiction the property is situate.

The order of apportionment shall have the force of a decree and be appealable as such.

- (4) The sub-lessee who makes payment under sub-section (2) shall have a charge in respect of the amount paid by him over the interest of the lessee who committed the default and the interests of all intermediate landlords between such lessee and himself.

Conditions of
surrender of
holding.

10. A *verumpattomdar* may surrender the holding to his lessor where he has not sub-leased the holding, provided.—

- (1) one month's notice of his intention to do so has been given in writing to the landlord;
- (2) no portion of the holding is excluded except as the result of irresistible force;
- (3) the arrears of *pattom* and other accrued dues are tendered;
- (4) the value or utility of the holding has not been materially and permanently impaired during the tenancy by acts of waste.

The lessor shall be bound to accept the surrender after giving credit to the *muppattom*, if any, received but shall not be liable to pay the value of improvements, which he would otherwise be bound to pay under the provisions of the Cochin Tenancy Act, XV of 1113.

Annulment
of subsisting
decrees for
eviction on
certain
conditions.

11. All decrees subsisting at the commencement of this Act for the eviction of a *verumpattomdar* from his holding shall be annulled if—

- (1) the entire arrears of *pattom* due in respect of the holding is paid within the time and

in accordance with the provisions contained in clause (d) of sub-section (1) of section 8, and

- (2) the costs awarded under the decree and the costs, if any, incurred in execution proceedings are paid within six months from the commencement of this Act or where the decree is for the arrears of *pattom* scaled down under section 16 of the Cochin Agriculturists' Relief Act, XVIII of 1114, on or before the date specified for the payment of the last instalment of such arrears by the said Act as modified by Proclamation III of 1117.

12. All suits and appeals for eviction instituted against *verumpattomdars* and stayed by Proclamation VI of 1117 shall be proceeded with only if default is made by the *verumpattamdar* to pay the arrears of *pattom* and costs of the plaintiff within the time and in accordance with the provisions contained in clause (d) of sub-section (1) of section 8.

Suits and appeals stayed to be proceeded with only on failure to comply with section 8.

13. Notwithstanding any contract to the contrary express or implied, no *verumpattomdar* shall be liable to pay to his lessor anything more than what is payable under the provisions of this Act.

Invalidity of claim for anything more than *pattom* under Act.

14. Every *verumpattam* lease if reduced to writing and its counterpart, if any, shall contain.—

Contents of lease and counterpart.

- (a) the name, if any, and description and extent of the holding;
- (b) the Government revenue, cesses and taxes, if any, payable in respect of the holding;
- (c) the amount of *pattom* payable in respect of the holding;
- (d) the relation that any *para* or other measure according to which the rent has to be paid bears to the standard measure prescribed by Government.

Stamp and
Registration
fees of leases
and counter-
parts.

15. The Stamp and Registration charges for any lease deed and for the counterpart, if any, of such lease shall be borne by the *verumpattomdar* and the lessor respectively.

Apportion-
ment of land
value in case
of acquisi-
tion.

16. Where land comprised in the holding of a *verumpattomdar* is acquired under the provisions of the Cochin Land Acquisition Act, II of 1070, the land value inclusive of the fifteen per cent thereon awarded under sub-section (2) of section 22 of the said Act shall be apportioned in the proportion of seven-eighths and one-eighth between the *jenmi* and the *verumpattomdar* respectively.

The provi-
sions of this
Act to pre-
vail in cases
of conflict.

17. Where there is any conflict or inconsistency between the provisions of this Act and the provisions of the Cochin Transfer of Property Act, XVII of 1111, or the Cochin Tenancy Act XV of 1113, the provisions of this Act shall prevail.

Amendment
to section 25
of the Co-
operative
Land Mort-
gage Bank
Act.

18. For section 25 of the Cochin Co-operative Land Mortgage Bank Act, XXV of 1111, the following shall be substituted, namely.—

Bank's right
to improve-
ments effect-
ed by lessee.

“The improvements, if any, made subsequent to the date of the mortgage by a lessee of property mortgaged to the bank shall be treated as accession to the mortgaged property and shall be available to the bank for the realisation of the mortgaged amounts.”

THE COCHIN INCOME-TAX (AMENDMENT) ACT

(ACT IX OF 1118)

CONTENTS

Preamble Sections

1. Short title and commencement.
2. Amendment of section 3.
3. Amendment of section 12.
4. Amendment of section 38.
5. Amendment of section 44.
6. Amendment of section 52.
7. Amendment of section 107.

THE COCHIN INCOME-TAX (AMENDMENT) ACT
Passed by His Highness the Maharaja of Cochin
on the 3rd day of Meenam 1118
corresponding to the 16th day of March 1943
[Published in the Cochin Government Gazette,
dated 7th Meenam 1118]

Whereas it is expedient further to amend the Cochin Income-tax Act, VI of 1117, for the purposes hereinafter appearing;

Preamble.

It is hereby enacted as follows.—

1. (1) This Act may be called the Cochin Income-tax (Amendment) Act, IX of 1118.

Short title and commencement.

(2) It shall be deemed to have come into force on the 1st day of Chingam 1118.

2. In sub-section (5) of section 3 of the Cochin Income-tax Act, VI of 1117, hereinafter referred to as the Act, between the words “the Indian Companies Act, 1913” and “as made applicable to Cochin” the words “or the said Act” shall be inserted.

Amendment of section 3.

3. In clause (vii) of sub-section (1) of section 12 of the Act, for the words “the net annual value after deducting the foregoing allowances” in both the places where they occur, the words “the annual value” shall be substituted.

Amendment of section 12.

4. In sub-section (5) of section 38 of the Act, for the words “a Commissioner” the words “the Commissioner” shall be substituted.

Amendment of section 38.

5. In the proviso to sub-section (2) of section 44 of the Act, for the words and figures “section 42 or section 109” the words and figures “section 42, section 43 or section 109” shall be substituted.

Amendment of section 44.

6. In section 52 of the Act, for sub-section (3), the following shall be substituted, namely.—

Amendment of section 52.

“(3) In the case of a business of which all the operations are not carried out in Cochin, the profits and gains of the business deemed

under this section to accrue or arise in Cochin shall be only such profits and gains as are reasonably attributable to that part of the operations carried out in Cochin".

Amendment
of section
107.

7. In section 107 of the Act, after sub-section (4), the following sub-section shall be added, namely.—

“(5) The provisions of sub-section (1) and sub-section (2) shall not apply and shall be deemed never at any time to have applied to any assessee where by any direction given or any distribution or allocation of work made by the Government under sub-section (2) or by the Commissioner under sub-section (4) of section 8 a particular Income-tax Officer has been charged with the functions of assessing that assessee”.

THE COCHIN EXCESS PROFITS TAX (AMENDMENT) ACT (ACT X OF 1118)

CONTENTS

Preamble Sections

1. Short title and commencement.
2. Amendment of section 5.
3. Addition of a new section.
Power to make exemption, etc.
4. Amendment to schedule II.

THE COCHIN EXCESS PROFITS TAX (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 3rd day of Meenam 1118, corresponding
to the 16th day of March 1943*

[Published in the Cochin Government Gazette,
dated 7th Meenam 1118]

Preamble.

Whereas it is expedient further to amend the Excess Profits Tax Act, II of 1117, for the purposes hereinafter appearing;

It is hereby enacted as follows.—

1. (1) This Act may be called the Cochin Excess Profits Tax (Amendment) Act, X of 1118. Short title and commencement.

(2) It shall be deemed to have come into force on the 1st day of Chingam 1118.

2. In section 5 of the Cochin Excess Profits Tax Act, II of 1117, hereinafter referred to as the Act, after the second proviso, the following proviso shall be added, namely.— Amendment of section 5.

“Provided further that this Act shall not apply to any business the whole of the profits of which accrue or arise in British India or an Indian State other than Cochin; and where the profits of a part of a business accrue or arise in British India or an Indian State other than Cochin, such part shall, for the purpose of this provision, be deemed to be a separate business the whole of the profits of which accrue or arise in British India or an Indian State other than Cochin, and the other part of the business shall, for all the purposes of this Act, be deemed to be a separate business”.

3. After section 28 of the Act, the following shall be added as section 29. Addition of a new section.

“29. Government may, by notification in the Cochin Government Gazette, make an exemption, reduction in rate or other modification in respect of excess profits tax in favour of any business or in regard to the whole or any part of the income of any person”. Power to make exemption, etc.

4. In rule 7 of schedule II to the Act for the word “proviso” the words “second or third proviso” shall be substituted. Amendment to schedule II.

**THE COCHIN (KEROSENE) EXCISE DUTY ACT
(ACT XI OF 1118)**

CONTENTS

Preamble

Sections

1. Short title, extent and commencement.
2. Definitions.
3. Imposition of excise duty on kerosene manufactured in Cochin State.
4. Issue of kerosene after commencement of Act.
5. Application of the Cochin Sea Customs Act, XII of 1109 and rule-making power.

THE COCHIN (KEROSENE) EXCISE DUTY ACT

*Passed by His Highness the Maharaja of Cochin
on the 3rd day of Meenam 1118 corresponding
to the 16th day of March 1943*

**[Published in the Cochin Government Gazette,
dated 7th Meenam 1118]**

Preamble.

WHEREAS it is expedient to impose an excise duty on kerosene ; It is hereby enacted as follows.—

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

1. (i) This Act may be called the Cochin (Kerosene) Excise Duty Act, XI of 1118.
- (ii) It extends to the whole of Cochin State.
- (iii) It shall come into force on such date as Government may notify in that behalf in the Cochin Government Gazette.

Definitions.

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

(a) “Kerosene” means any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which—

(i) is made from petroleum as defined in section 2 of the Cochin Petroleum Act, XXXVI of 1112, and

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(ii) is intended to be or is ordinarily, used in liquid form for purposes of illumination or for producing power

(b) "Manufactory" means any place where kerosene is refined or otherwise prepared.

3. (i) There shall be levied and collected at every manufactory in Cochin State on all kerosene produced in such manufactory a duty at such rates not exceeding eight annas on each imperial gallon, as Government may specify from time to time by notification in the Cochin Government Gazette.

Imposition of excise duty on kerosene manufactured in Cochin State.

Explanation.—Kerosene is said to be produced within the meaning of this section, when it is issued out of the premises of the manufactory.

- (ii) If any duty payable under sub-section (i) is not paid within the time fixed by a notice issued in accordance with any rules made under this Act, the authority to which such duty is payable may, in lieu thereof, recover any sum not exceeding four times the amount of the duty so unpaid, which such authority may in its discretion think it reasonable to require.
- (iii) Any sum recoverable under this section shall be recoverable under the Cochin Revenue Recovery Act, IV of 1083 as if it were an arrear of revenue and shall be recoverable in addition to and not in substitution of any other penalty incurred under this Act.
4. (i) After the commencement of this Act, no person shall issue any kerosene out of the premises of any manufactory except in accordance with the provisions of rules made under this Act in that behalf, or until

Issue of kerosene after commencement of Act.

such rules are made, in accordance with the general or special orders of Government.

- (ii) Whoever contravenes the provisions of subsection (i) shall be punishable with fine which may extend to rupees one thousand or to a sum four times the amount of the duty payable on any kerosene so issued, whichever is greater.

Application
of the Cochin
Sea Customs
Act, XII of
1109 and
rule-making
power.

5. (1) Government may by notification in the Cochin Government Gazette, declare that any of the provisions of the Cochin Sea Customs Act, XII of 1109 relating to the levy of and exemption from Customs duties, draw-back of duty, warehousing, offences and penalties, confiscation, and the procedure relating to offences and appeals shall, with such modifications and alterations as they may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty on kerosene imposed by section 3, and may further, for the purpose of providing for the assessment and collection of the said duty and for the purposes ancillary thereto, make rules—

(i) imposing on owners of manufactories the duty of furnishing returns and keeping records and books, prescribing the forms of such returns, records and books and the particulars to be contained therein respectively and the manner in which the same are to be verified and all such other conditions thereof as may be necessary;

(ii) providing for the regulation of the issue of kerosene out of manu-

factories, the assessment of the duty and the issue of notices requiring payment and for the recovery of unpaid duty;

(iii) providing for the inspection of manufactories and for the taking of samples, and for the making of tests of any substance produced therein and

(iv) for generally carrying into effect the purposes hereinbefore specified.

(2) In making any rule under the rule-making power hereinbefore conferred the Government may declare that any breach thereof shall be punishable with fine which may extend to rupees five hundred.

PROCLAMATION

(XIII of 1118)

THE COLLECTIVE FINES (AMENDMENT) PROCLAMATION CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 2.

THE COLLECTIVE FINES (AMENDMENT) PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,*

on the 3rd day of Meenam 1118

corresponding to the 16th day of March 1943

[Published in the Cochin Government Gazette,
dated 7th Meenam 1118]

WHEREAS it is necessary further to amend the Preamble.
Collective Fines Proclamation, XXIII of 1117; We are
hereby pleased to command as follows.—

Short title
and commen-
cement.

1. This Proclamation may be called the Collective Fines (Amendment) Proclamation, XIII of 1118 and shall come into force at once.

Amendment
of section 2.

2. For sub-section (4) of section 2 of the Collective Fines Proclamation, XXIII of 1117, the following sub-section shall be substituted namely.—

“(4) the portion of such fine payable by any person (including a Hindu undivided family) may be recovered—

(a) in the manner provided by the Code of Criminal Procedure, II of 1086, for the recovery of fines imposed by a Court, as if such portion were a fine imposed by the District Magistrate acting as a Court :

Provided that the Government may in lieu of the rules referred to in sub-section (2) of section 299 of the Code of Criminal Procedure, II of 1086, make rules under this Proclamation regulating the manner in which warrants under clause (a) of sub-section (1) of the said section of the said Code are to be executed, and for the summary determination of any claims made by any person other than the person liable to pay the fine in respect of any property attached in execution of the warrant ; or

(b) as arrears of land revenue.”

THE COCHIN VILLAGE COURTS ACT (ACT XII OF 1118)

CONTENTS

Preamble

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1. Short title, extent and commencement.
2. Application of Act to suits or decrees pending.
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THE COCHIN VILLAGE COURTS ACT

*Passed by His Highness the Maharaja of Cochin
on the 30th day of Meenam 1118 corresponding to
the 12th day of April 1943*

**[Published in the Cochin Government Gazette,
dated 4th Medam 1118]**

Preamble.

Whereas it is necessary to consolidate and amend the law relating to Village Panchayat Courts; It is hereby enacted as follows.—

CHAPTER I**Preliminary**

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

1. (1) This Act may be called the Cochin Village Courts Act, XII of 1118, and shall come into force on such date as Government may by notification in the Cochin Government Gazette appoint.

- (2) Government may, from time to time by notification in the Cochin Government Gazette, specify the villages or areas to which this Act shall apply and may by a like notification withdraw any of such villages or areas from its operation.

**Application
of Act to
suits or
decrees
pending.**

2. (1) All suits and proceedings commenced in the Village Panchayat Courts or Group Panchayat Courts prior to the date of coming into force of this Act shall be continued and depend in the Village Court having jurisdiction under this Act as if they had commenced in such Village Court after such date.

(2) All such decrees passed by the Panchayat or Group Panchayat Courts and all proceedings in respect of any decree or order passed by such Courts may be executed or commenced in the respective Village Courts as if such decrees or orders were passed by the respective Village Courts.

3. (1) When any village or area is withdrawn from the operation of this Act, all suits pending in a Village Court therein shall be heard and determined, and all decrees passed by such Courts and remaining unexecuted shall be executed by the Civil Court which, if the suit were about to be instituted, would have jurisdiction to try it.
- (2) Such suits shall be tried and such decrees shall be executed as suits instituted in, and decrees passed by, such Civil Court.
- (3) When a Village Court is established for an area within the local limits of the jurisdiction of a District Munsiff, all suits cognisable by a Village Court under this Act and pending in the Munsiff's Court on that date, shall be transferred by the District Munsiff to the Village Court and the Village Court shall proceed with such suits as if they had been instituted in that Court.

Procedure for suits and decrees pending in courts withdrawn from Act or pending in District Munsiffs' Court when Village Court is established for area within its jurisdiction.

4. In this Act, unless there be anything repugnant in the subject or context—

Interpretation.

- (i) "Village" means a local area recognised by Government from time to time as a village for purposes of land revenue administration.
- (ii) "Village Court" means a Civil Court of original jurisdiction established under this Act;
- (iii) "Registrar" means the Registrar of Village Courts appointed under this Act.

CHAPTER II

Establishment and Constitution of Village Courts

Establishment of Village Courts.

5. Government may, from time to time, by notification in the Cochin Government Gazette—

- (a) group two or more villages and establish one Village Court for them all; or
- (b) constitute divisions in any village and establish a Village Court for each of such divisions; or
- (c) establish a Village Court for a village or any specified area.

Constitution of Village Courts.

6. A Village Court established under this Act shall consist of five Judges, one of whom shall be styled the President and another, the Senior Judge. Every suit instituted in and every proceeding before a Village Court shall be disposed of by a Bench of three Judges. In case of difference, the opinion of the majority shall prevail.

Appointment of President and other Judges.

7. The President, the Senior Judge and the other Judges of the Village Court shall be nominated by Government in accordance with such rules as may be prescribed by Government in this behalf, and shall hold office for a period of three years:

Provided that, as and when casual vacancies arise, Government shall, in like manner, fill up the vacancies for the unexpired portion of the said term of three years:

Provided further that every President, Senior Judge and Judge shall notwithstanding the expiry of three years from his appointment remain in office, unless Government otherwise direct, until his successor assumes charge of his duties.

Suspension and removal of Judge.

8. Government may suspend or remove the President, Senior Judge or other Judges of a Village Court for neglect of duty, misconduct, non-attendance, or for such disqualifications as may be prescribed in this behalf incurred either before or after the nomination or for other just and sufficient cause.

9. Subject to such rules as may be prescribed by Government, the administrative control and the adjustment of the work of the Court shall be exercised by the President and in his absence by the Senior Judge.

Power and duties of the President and Senior Judge.

CHAPTER III

Jurisdiction and Res-judicata

10. The following are the suits which shall be cognizable by Village Courts, namely—claims for money due on contract or for personal property or for the value of such property, when the debt or demand does not exceed in amount or value the sum of fifty rupees, whether on balance of account or otherwise:

Courts in which suits to be instituted.

Provided that no action shall be brought in any such Court—

- (1) on a balance of partnership account, unless the balance shall have been struck by the parties or their agents,
- (2) for a share or part of a share under an intestacy or for a legacy under a will,
- (3) for rent for houses, unless such rent be due upon a written contract signed by the defendant,
- (4) by or against Government or public officers in their official capacity,
- (5) by or against minors or persons of unsound mind.

11. With the written consent of both parties executed before the Court, a Village Court may hear and determine suits of the nature described in section 10, the amount or value of which shall not exceed Rs. 200.

Cognizance of suits by Village Court.

12. Notwithstanding anything contained in the Civil Courts Act, III of 1076, every suit falling within section 10 shall be instituted in the Village Court within the local limits of whose jurisdiction the defendant or where there are more defendants than one the majority of them at the time of the commencement of the suit actually or voluntarily reside or carry on business or personally work for gain, and where there is no such majority, the plaintiff may at his

Jurisdiction up to Rs. 200 with consent of parties.

option file the suit in any Court within whose jurisdiction any of the defendants resides or carries on business or personally works for gain.

Explanation I.—Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.

Explanation II.—A corporation shall be deemed to carry on business at its sole or principal office in Cochin State or in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Objection to jurisdiction.

13. No objection as to the place of suing shall be allowed by any Court of Revision unless such objection was taken on or before the date on which the statement is made or written statement is filed in the Village Court and unless there has been a consequent failure of justice.

Suit in which Judge is personally interested.

14. (1) No Judge of a Village Court shall try any suit in which he is personally interested or shall adjudicate upon any proceeding connected with or arising out of such suit.

(2) When any Judge of a Village Court is a party to or where more than two Judges of a Village Court are personally interested in any suit or proceeding before such Court, the Registrar shall, on requisition by the President of the Village Court or on application made to him by any party to such suit or proceeding, transfer the same to any other Village Court.

Res-judicata.

15. No Village Court shall try any suit brought on a cause of action, which has been heard and determined by a Court of competent jurisdiction in a former suit between the same parties or those under whom they claim.

Suits to include the whole claim.

16. (1) Every suit instituted in a Village Court shall include the whole of the claim, which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of the claim in order to bring the suit within the jurisdiction of such Court.

(2) If a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall be precluded from bringing a fresh suit for, or in respect of, the portion so omitted or relinquished.

Relinquish-
ment of part
of claim.

17. If, in the decision of a suit cognizable by a Village Court, it becomes necessary to decide incidentally any matter in dispute between the parties to the suit concerning title to immovable property, or the legal character of either of them or of those under whom they claim, or the existence of any contract or obligation, which, if it had been the immediate subject matter of the suit, would not be cognizable under this Act by a Village Court, it shall be competent to the Village Court to decide such question of title, legal character, contract or obligation, as far as may be necessary for the determination of such suit ; but such decision shall not be evidence of such title, legal character, contract or obligation in any other action though between the same parties or their representatives.

Incidental
determina-
tion of mat-
ters not
cognizable
by Village
Court.

18. The provisions of the Cochin Limitation Act, XII of 1112, shall apply to suits and applications under this Act.

Limitation.

19. The Registrar may transfer any suit or proceeding to any other Village Court.

Transfer of
suits.

CHAPTER IV

The Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on parties, Adjournments and Consequences of non-appearance

20. Every suit under this Act shall be instituted by presenting a plaint to the Village Court, together with as many copies thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided, together with the copy of the summons.

Suits to be
commenced
by plaint.

21. The plaint shall be written in Malayalam and signed by the plaintiff, or in his absence, by an agent duly authorised by him, and it shall contain the following particulars.—

Particulars
to be con-
tained in
plaint.

- (a) the name, description and residence of the plaintiff and defendant,
- (b) a concise statement of the cause of action and when it arose, and
- (c) the relief prayed for and the total amount or value of the claim.

Appearance
in person or
by agent.

22. (1) No legal practitioner, whether qualified or unqualified, shall be allowed to appear before a Village Court on behalf of any party to a suit or proceeding but any party may authorise in writing an agent licensed in accordance with such rules as may be prescribed by Government to appear and plead for him:

Provided that it shall be competent to the Village Court, whenever it thinks it necessary for the ends of justice, to order the personal attendance of any of the parties to the suit, and if the party so ordered does not attend in person, he shall be subject to the same consequences as if he did not appear either in person or by an agent.

(2) No Village Court shall allow agent's fee in any suit tried by it in excess of such amount as may be prescribed and no licensed agent shall be entitled to recover from his party a fee in excess of such amount.

Summons to
defendant
how served.

23. When the plaint has been duly presented, the Village Court shall cause the same to be registered, and shall, by a summons in writing, require the defendant to appear and answer the claim on a specified day. The summons shall be served on the defendant personally and his signature taken thereon by any person appointed for the purpose and a copy thereof delivered to him.

Mode of
service when
defendant
evades ser-
vice.

24. If the Village Court is satisfied that the defendant is evading service of the summons, or has refused to affix his signature to the summons, or for any other sufficient reason the summons cannot be served in the manner provided for in section 23, the Court may order that it be served upon, and a copy thereof delivered to, an adult male member of the family of the defendant, residing with him, or that a copy thereof be affixed upon some

conspicuous part of the house in which he generally resides.

25. Whenever it may be necessary to serve the summons upon a defendant beyond the local jurisdiction of the Village Court, it shall be forwarded to the President of the Village Court within whose jurisdiction the defendant resides who shall cause it to be served as if it had been a summons issued by himself and shall then return it to the Village Court, together with a report of such service. Such report shall be *prima facie* evidence of the facts stated therein. Where there is no Village Court for the area within which the defendant resides, the summons shall be served through registered Anchal or Post and the return made by the service peon shall be *prima facie* evidence of the facts stated therein.

Mode of service when defendant is beyond local jurisdiction of Court.

26. (1) If a defendant does not appear in person or by agent on the day fixed and it be proved that the summons was duly served, the Village Court may proceed *Ex-parte*. If it is not proved that the summons was duly served, the Village Court shall issue a fresh summons.

Procedure if defendant does not appear.

(2) Every defendant may claim two clear days' notice of suit, and if the summons was not served in sufficient time to enable him to answer on the day fixed, the hearing shall be adjourned to a future day, of which written notice shall be given to the defendant.

Defendant can claim two days' notice of suit.

27. If, on the day fixed for the defendant to appear—

- (1) neither party appears, or
 - (2) the plaintiff does not appear and the defendant appears and does not admit the claim, or
 - (3) the summons has not been served owing to the plaintiff's default and the defendant does not appear,
- the suit shall be dismissed unless the Court otherwise directs.

Procedure where the plaintiff does not appear and defendant does not admit claim or where summons not served through plaintiff's default.

28. If the plaintiff does not appear, but the defendant appears and admits the claim wholly or in part, the Village Court shall pass decree against the defendant in accordance with such admission, provided, the Court may adjourn the hearing to a future day.

Procedure when the plaintiff does not appear and defendant admits claim.

Setting aside
order under
section 27 or
28 on cause
shown.

29. Whenever a suit is dismissed under clause (1) or clause (3) of section 27, the plaintiff may bring a fresh suit, and if within thirty days from the date of an order under clause (2) of section 27 dismissing the suit, or of a decree passed for only a part of the claim under section 28 the plaintiff satisfies the Court that he was prevented by any sufficient cause from appearing, the Court shall set aside the dismissal or the decree, and shall appoint a day for proceeding with the suit.

Setting aside
ex-parte de-
cree against
defendant.

30. In any case in which a decree is passed *Ex-parte* against a defendant, he may apply to the Village Court for an order to set it aside, and if he satisfies the Court that the summons was not duly served, or that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall make an order, setting aside the decree as against him upon such terms as it thinks fit, and shall appoint a day for proceeding with the suit:

Provided that, where the decree is of such a nature that it cannot be set aside as against such defendant only, it may be set aside against all or any of the other defendants also.

No decree to
be set aside
without
notice to op-
posite party.

31. No decree shall be set aside on any application under section 29 or section 30 unless notice has been served on the opposite party.

CHAPTER V

The Hearing, Withdrawal or Compromise of Suits and the Summoning and Examination of Witnesses

Procedure
on appear-
ance of both
parties.

32. When the defendant appears, the Court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim or if the suit be compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the Court shall pass a decree in accordance therewith. If he does not admit the claim, he shall be required to state his objections either orally or in writing, and the Court may, if it thinks

fit, adjourn the case to enable him to file a written statement.

33. If the plaintiff wishes to withdraw a suit, he shall signify the same in writing to the Court, which shall strike the suit off the file, and no fresh suit shall be brought on the same cause of action. **Withdrawal of suit.**

34. (1) If the parties agree to have the suit or any part of it decided by an oath taken by one of them in Court or elsewhere and tender a written agreement signed by both of them setting forth the terms of the oath and the place where it is to be taken, the Court may accept such agreement. After the oath has been taken in the manner proposed, the Court shall decide the case in terms of the agreement. **When suit may be settled by oath.**

(2) After the agreement has been accepted by the Court, it shall not be competent to any of the parties to withdraw therefrom without the leave of the Court. If any party so withdraws or refuses to take the oath without lawful excuse, the Court may decide the case against him or pass such other order as it deems proper.

35. The defendant may set off any amount legally due to him by the plaintiff, for which he could bring a suit in a Village Court. If such set off is established, the decree shall be for any sum which finally appears to be due to either party. **Set-off.**

36. When the defendant's statement has been made, the Village Court shall proceed to examine the truth of the claim and shall take all such evidence as may be produced on behalf of the plaintiff and of the defendant. The Court need not frame issues nor post the case for the filing of affidavit or for production of documents. **Witnesses not present to be summoned.**

The Court may, if it thinks fit, on the application of the plaintiff or defendant, issue process to compel the attendance of any witness or the production of any document.

The Court shall, before summoning any witness on such application, require that his reasonable expenses

incurred in attending for the purposes of the trial, be deposited in Court.

**Summoning
of witnesses.**

37. Any witness residing within the jurisdiction of the Village Court may be summoned in writing by such Court. Any witness residing beyond the Court's jurisdiction may be summoned in writing, and such summons shall be served through the Village Court or the Parvathyakaran within whose jurisdiction he resides or in such other manner as Government may by rules prescribe.

**Summons to
appear and
give evidence
or produce
document.**

38. A summons may direct the party summoned either to appear and give evidence, or to produce or cause the production of any document.

**Exemption of
certain
women and
other persons
from
personal
appearance.**

39. (1) Women, who according to the customs and manners of the country ought not to be compelled to appear in public, persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure for the time being in force and any person who, by reason of sickness or bodily infirmity, cannot attend without inconvenience, shall not be summoned; but when the evidence of any such person is necessary, the Village Court shall itself or by Commission examine such person at his or her residence:

(2) The Court may, in any case where a woman who is not a party to the suit or proceeding is cited as a witness, order her examination by the issue of a commission at the expense of the party who requires her evidence if an application is made in this behalf by the witness.

**Witnesses to
be examined
in open
Court.**

40. The evidence of witnesses in attendance shall be taken in open Court orally on oath or affirmation in the presence and superintendence of the Court.

**How evidence
shall be
taken.**

41. (1) The evidence of each witness shall be taken down in writing in Malayalam by one of the Judges constituting the Bench, not ordinarily in the form of question and answer, but in that of a narrative and when completed shall be read over in the presence of such Judges and of the witness and the Judges constituting the Bench shall sign it.

- (2) The Court shall require the witness to sign the deposition taken down in a language understood by the witness. In case of refusal, the Court shall ascertain and record the reasons assigned by the witness for refusing to sign the deposition.
- (3) When the evidence is given in a language other than Malayalam and the witness does not know Malayalam the evidence as taken down shall be interpreted to him in the language in which it is given.

42. If it appears likely that the parties will settle the matter amicably or for any other sufficient cause, the Court may adjourn the hearing to a day to be fixed in the presence of the parties, or in cases in which the defendant does not appear, in the presence of the plaintiff. If, on such day, the parties or any one of them fail to appear, the Court may proceed to dispose of the suit in one of the modes prescribed in that behalf by sections 26, 27 and 28 or make such other order as it thinks fit.

Adjournment in view to amicable settlement or for other cause.

CHAPTER VI

The Decree and its Execution

43. The Bench which heard the argument shall, after the arguments are closed, prepare and sign the decree to be passed in the case as shall appear to it to be just and equitable. Such decree shall be pronounced in open Court by the Bench which drew up the decree or by any other Bench at the next sitting of the Court and where there is no quorum for that sitting by any one or more of the Judges present on that day. The Bench or Judge pronouncing the decree shall sign the decree. The decree shall bear the date on which it is pronounced and the period of limitation for all purposes in respect of the decree shall be computed from the date on which it was so pronounced.

On conclusion of hearing Court to pass decree.

44. (1) The decree shall be in Malayalam and shall contain the number of the suit, the name of the parties the particulars of the claim, the

Contents of decree.

names of the witnesses examined, the titles of the exhibits read, the decision in the case and the reasons for such decision.

- (2) The decree shall specify the sum of money adjudged, the movable property to be delivered, the sum to be paid in default of delivery, and the amount of costs and by what parties and in what proportion such costs shall be paid.
- (3) Any Judge dissenting from the decree of the Court shall state in writing the decision which he thinks should be passed and state his reasons for the same.
- (4) Each party, upon application, shall be entitled to receive a copy of the decree.

In suits for money, decree may order interest.

45. (1) In suits for money, the Village Court may, in addition to any interest adjudged on the principal sum for any period prior to the institution of the suit, order in the decree interest at such rate not exceeding six per cent per annum as the Court deems reasonable on such principal sum from the date of the suit to the date of payment.
- (2) Where such decree is silent with respect to the payment of interest as aforesaid the Court shall be deemed to have refused such interest and a separate suit therefor shall not lie.
- (3) When a Village Court decrees the payment of a sum of money it may direct that it be paid by instalments with or without interest at the above rate.

Procedure in case of clerical or arithmetical error found in the decree.

46. If any clerical or arithmetical error be found in the decree, the Court shall of its own motion or on that of any of the parties, amend the decree so as to correct such error, provided that reasonable notice has been given to the parties of the proposed amendment.

47. The decree shall be executed by the Village Court which passed it or by a Village Court or District Munsiff to whom it is sent for execution under the provisions hereinafter contained.

Court by which decree may be executed.

48. If the decree be for any specific movable, it may be enforced by the seizure of the property and its delivery to the decree-holder. If the seizure of the property be not practicable the decree shall be executed by enforcing payment of the sum decreed in the alternative.

Decree for specific movable how executed.

49. (1) Satisfaction of decrees passed by a Village Court shall be made by—

Payment of money under a decree or adjustment to be made or recorded in open Court.

(a) payment of the decree amount into the Court whose duty it is to execute the decree, and

(b) payment to the decree-holder or his agent duly authorised in writing to receive such payment, or otherwise as the Court which passed the decree directs.

(2) Payments made to the decree-holder or his agent shall be made in open Court and the fact that such payment was made shall be recorded in writing and signed by the decree-holder or his agent in open Court and attested by the Judges then constituting the Bench.

(3) If the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing and signed by him and attested by his agent. Where the party is not represented by an agent such adjustment shall be recorded and signed by him in open Court and attested by the Judges then constituting the Bench.

(4) All payments or adjustments shall be endorsed by the Court on the decree and recorded in the register of suits.

- (5) No payment under a decree and no adjustment of a decree in whole or in part shall be recognised unless it has been made or recorded in the Court of the District Munsiff executing the decree or in the manner prescribed by this section.

Money realised under decree and not claimed by decree-holder.

50. (1) If any money due under a decree is received or recovered by the Court and such money is not claimed by the decree-holder within a week from the date of such receipt or recovery, the Court shall issue a notice to the decree holder requiring him to take payment of such money.
- (2) If the money is not claimed within a fortnight from the date of issue of the notice aforesaid it shall be deposited in the nearest Treasury and credited to the Civil Court deposit of the Village Court and shall be paid to the decree-holder on his application.

Judgment-debtor not to be arrested nor immovable property attached.

51. (1) Subject to the provisions of sub-section (3) no judgment-debtor shall be arrested by a Village Court.
- (2) No immovable property of a judgment-debtor shall be attached or sold by a Village Court.
- (3) Government may, by notification in the Cochin Government Gazette and subject to the provisions contained in sections 106, 107 and 129 of the Cochin Code of Civil Procedure, XXIX of 1111, and the provisions hereinafter contained, empower a Village Court or its President to order on the application of the decree-holder, execution of the decree by the issue of a warrant directed against the person of the judgment-debtor, if he is within the local limits of the jurisdiction of that Court, and prescribe the jail in which any person so arrested shall be imprisoned: Provided that where the decree is for the payment of money, execution by detention in

prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court for reasons recorded in writing is satisfied—

(a) that the judgment-debtor with the object or effect of obstructing or delaying the execution of the decree—

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or

(ii) has after the institution of the suit in which the decree was passed dishonestly transferred, concealed or removed any part of his property or committed any other act of bad faith in relation to his property; or

(b) that the judgment-debtor has or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same; or

(c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

Explanation.—In the calculation of the means of the judgment-debtor for the purposes of clause (b) there shall be left out of account any property which by or under any law or custom having the force of law for the time being

in force is exempt from attachment in execution of the decree.

**Arrest and
detention**

52. (1) A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall, as soon as practicable, be brought before the Court ; and his detention may be in any civil prison or any other place which Government may appoint for the detention of persons ordered by such Court to be detained :

Provided, firstly, that for the purpose of making an arrest under this section, no dwelling house shall be entered after sunset and before sunrise :

Provided, secondly, that no outer door of a dwelling house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto, but when the officer authorised to make the arrest has duly gained access to any dwelling-house, he may break open the door of any room in which he has reason to believe the judgment-debtor is to be found :

Provided, thirdly, that, if the room is in the actual occupancy of a woman, the officer authorised to make the arrest shall give notice to her that she is at liberty to withdraw, and, after allowing a reasonable time for her to withdraw and giving her reasonable facility for withdrawing, may enter the room for the purpose of making the arrest :

Provided, fourthly, that, where the decree in execution of which a judgment-debtor is arrested is a decree for the payment of money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

- (2) Government may, by notification in the Cochin Government Gazette, declare that any person or class of persons whose arrest might be attended with danger or inconvenience to the public shall not be liable to arrest in execution of a decree otherwise than in accordance with such procedure as may be prescribed by Government in this behalf.
- (3) Where a judgment-debtor is arrested in execution of a decree for the payment of money and brought before the Court, the Court shall inform him that he may apply to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of the application and if he complies with the provisions of the law of insolvency for the time being in force.
- (4) Where a judgment-debtor expresses his intention to apply to be declared an insolvent and furnishes security to the satisfaction of the Court that he will within one month so apply and that he will appear, when called upon, in any proceeding upon the application or upon the decree in execution of which he was arrested, the Court shall release him from arrest, and, if he fails so to apply and to appear, the Court may either direct the security to be realised or commit him to the civil prison in execution of the decree.
- (5) Where the judgment-debtor applies for time to enable him to pay the judgment-debt the Court may leave the judgment-debtor in the custody of an officer of the Court for a specified period not exceeding fifteen days or release him on his furnishing security to the satisfaction of the Court for his appearance

at the expiration of the specified period if the decree be not sooner satisfied.

Prohibition
of arrest or
detention of
women in
execution of
decree for
money.
Subsistence
allowance.

53. Notwithstanding anything contained in this Chapter, the Court shall not order the arrest or detention in the civil prison of a woman in execution of a decree.

54. Government may fix scales, graduated according to rank, race and nationality, of monthly allowances payable for the subsistence of judgment-debtors.

Detention
and release.

55. (1) Every person detained in the civil prison by a Village Court in execution of a decree shall be so detained,—

(a) where the decree is for the payment of a sum of money exceeding fifty rupees, for a period of three months; and

(b) in any other case, for a period of six weeks:

Provided that he shall be released from such detention before the expiration of the said period of three months or six weeks, as the case may be,—

(i) on the amount mentioned in the warrant for his detention being paid to the officer in charge of the civil prison, or

(ii) on the decree against him being otherwise fully satisfied, or

(iii) on the request of the person, on whose application he has been so detained, or

(iv) on the omission by the person, on whose application he has been so detained, to pay subsistence allowance:

Provided also, that he shall not be released from such detention under clause (ii) or clause (iii) without the order of the Court.

(2) A judgment-debtor released from detention under this section shall not merely by reason of his release be discharged from his debt, but he shall not be liable to be rearrested

under the decree in execution of which he was detained in the civil prison.

56. (1) At any time after a warrant for the arrest of a judgment-debtor has been issued, the Court may cancel it on the ground of his serious illness. **Release on grounds of illness.**
- (2) Where a judgment-debtor has been arrested the Court may release him if, in its opinion, he is not in a fit state of health to be detained in the civil prison.
- (3) Where a judgment-debtor has been committed to the civil prison, he may be released therefrom—
- (a) by Government, on the ground of the existence of any infectious or contagious disease, or
 - (b) by the committing Court, or any Court to which that Court is sub-ordinate, on the ground of his suffering from any serious illness.
- (4) A judgment-debtor released under this section may be re-arrested, but the period of his detention in the civil prison shall not in the aggregate exceed that prescribed by section 55.
57. (1) Notwithstanding anything contained in this Chapter where an application is for the execution of a decree for the payment of money by the arrest and detention in the civil prison of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court shall, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to the civil prison: **Power to permit judgment-debtor to show cause against detention in prison.**

Provided that such notice shall not be necessary if the Court is satisfied, by affidavit or otherwise, that, with the object of delaying execution of the decree, the judgment-debtor is likely to abscond or leave the local limits of the jurisdiction of the Court.

- (2) Where appearance is not made in obedience to the notice, the Court shall, if the decree-holder so requires, issue warrant for the arrest of the judgment-debtor.

Warrant for arrest to direct judgment-debtor to be brought up.

58. Every warrant for the arrest of a judgment-debtor shall direct the officer entrusted with its execution to bring him before the Court with all convenient speed, unless the amount which he has been ordered to pay, together with the interest thereon and the costs (if any) to which he is liable, be sooner paid.

Subsistence allowance.

59. (1) No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into Court such sum as the Court thinks sufficient for the subsistence of the judgment-debtor from the time of his arrest until he can be brought before the Court.

(2) Where a judgment-debtor is committed to the Civil prison in execution of a decree, the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the scales fixed under section 54, or where no such scales have been fixed, as it considers sufficient with reference to the class to which he belongs.

(3) The monthly allowance fixed by the Court shall be supplied by the party, on whose application the judgment-debtor has been arrested by monthly payment in advance before the first day of each month.

(4) Such sum, if any, as the Court thinks fit, sufficient for the subsistence and cost of

conveyance of the judgment-debtor for his journey from the Court-house to the civil prison and from the civil prison, on his release, to his usual place of residence together with the first of the payments in advance under sub-section (3) for such portion of the current month as remains unexpired, shall be paid to the proper officer of the Court before the judgment-debtor is committed to the civil prison, and the subsequent payments, if any, shall be paid to the officer in charge of the civil prison.

- (5) Sums disbursed under this rule by the decree-holder for the subsistence and cost of conveyance, if any, of the judgment-debtor shall be deemed to be costs in the suit.
60. (1) When a judgment-debtor appears before the Court in obedience to a notice issued under section 57, or is brought before the Court after being arrested in execution of a decree for the payment of money, the Court shall proceed to hear the decree-holder and take all such evidence as may be produced by him in support of his application for execution and shall then give the judgment-debtor an opportunity of showing cause why he should not be committed to the civil prison.
- Proceedings on appearance of judgment-debtor in obedience to notice or after arrest.**
- (2) Pending the conclusion of the inquiry under sub-section (1) the Court may, in its discretion, order the judgment-debtor to be detained in the custody of an officer of the Court or release him on his furnishing security to the satisfaction of the Court for his appearance when required.
- (3) Upon the conclusion of the inquiry under sub-section (1) the Court may, subject to

the other provisions of this Chapter, make an order for the detention of the judgment-debtor in the civil prison and shall in that event cause him to be arrested if he is not already under arrest:

Provided that in order to give the judgment-debtor an opportunity of satisfying the decree, the Court may, before making the order of detention, leave the judgment-debtor in the custody of an officer of the Court for a specified period not exceeding fifteen days or release him on his furnishing security to the satisfaction of the Court for his appearance at the expiration of the specified period if the decree be not sooner satisfied.

(4) A judgment-debtor released under this section may be re-arrested.

(5) When the Court does not make an order of detention under sub-section (3), it shall disallow the application and, if the judgment-debtor is under arrest, direct his release.

(6) No judgment-debtor shall be committed to the civil prison or brought before the Court from the custody to which he has been committed pending the consideration of any of the matters mentioned in sub-section (1) unless and until the decree-holder pays into Court the sum sufficient to meet the travelling and subsistence expenses of the judgment-debtor and the escort according to such scale as Government may by rules prescribe. Sub-section (5) of section 59 shall apply to such payments.

**Arrest and
release of
debtors when
the Court is
not sitting.**

61. When the Court is not sitting, the President or in his absence the Senior Judge or in the absence of both the President and the Senior Judge, any Judge duly empowered in this behalf by the President or the Senior Judge, may—

(1) subject to the provisions of this Chapter, issue a warrant under section 52 for commitment to the Civil prison of any judgment-debtor,

- (2) release persons arrested on civil process where no detention batta is paid, and
- (3) detain an arrested person in the custody of an officer of the Court for a period not exceeding seven days in the aggregate if the requisite batta is paid.

62. On the application of the decree-holder, the Village Court, or, on days when the Court does not sit, the President or in his absence the Senior Judge may order attachment of any movable property within its jurisdiction belonging to the judgment-debtor to the value of the sum payable under the decree:

Attachment
of movable
property.

Provided that the following particulars shall not be liable to such attachment, namely.—

- (a) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;
- (b) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;
- (c) the materials of houses and other buildings belonging to and occupied by an agriculturist;
- (d) books of account;
- (e) a mere right to sue for damages;
- (f) any right of personal service;
- (g) stipends and gratuities allowed to pensioners of Government, compassionate gratuities

allowed to the families of deceased Government servants under the Cochin Service Regulations and political pensions;

(h) allowance (being less than salary) of any public officer or of any servant of a local authority while absent from duty or any dearness or famine allowance ;

(i) the salary or allowances equal to salary of any such public officer or servant as is referred to in clause (h), while on duty, to the extent of—

(i) the whole of the salary, where the salary does not exceed twenty rupees monthly ;

(ii) twenty rupees monthly where the salary exceeds twenty rupees and does not exceed forty rupees monthly ;

and

(iii) one moiety of the salary in any other case ;

(j) the pay and allowances of persons to whom the Indian Articles of War apply ;

(k) the wages of labourers and domestic servants whether payable in money or in kind ;

(l) an expectancy of succession by survivorship or other merely contingent or possible right or interest ;

(m) right to future maintenance ;

(n) where the judgment-debtor is a person liable for the payment of land revenue, any movable property which, under any law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue ; and

(o) amounts subscribed in the Government Provident Fund or in any Fund to which

the Provident Funds Act, XXIII of 1111, is made applicable.

Explanation.—The particulars mentioned in clauses (g), (h), (i), (j) and (k) are exempt from attachment or sale whether before or after they are actually payable.

63. Government may, by general or special order published in the Cochin Government Gazette, declare that such portion of agricultural produce, or of any class of agricultural produce, as may appear to Government to be necessary for the purpose of providing until the next harvest for the due cultivation of the land and for the support of the judgment-debtor and his family, shall, in the case of all agriculturists or of any class of agriculturists, be exempted from liability to attachment or sale in execution of a decree.

Partial
exemption of
agricultural
produce .

64. (1) No person executing any process under this Chapter directing or authorising seizure of movable property shall enter any dwelling house after sunset and before sunrise.
- (2) No outer door of a dwelling house shall be broken open unless such dwelling house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto, but when the person executing any such process has duly gained access to any dwelling house, he may break open the door of any room in which he has reason to believe any such property to be.
- (3) Where a room in a dwelling-house is in the actual occupancy of a woman, the person executing the process shall give notice to such woman that she is at liberty to withdraw and, after allowing reasonable time for her to withdraw and giving her reasonable facility for withdrawing he may enter such room for the purpose of seizing the property using at the same time every precaution, consistent with these provisions, to prevent its clandestine removal.

Seizure of
property in
dwelling
house.

Seizure how
made if pro-
perty in
possession
of judgment-
debtor.

65. If the property be in the possession of the judgment-debtor, it shall be attached by actual seizure, and the Court shall provide for its safe custody. It may be left in the custody of the judgment-debtor upon sufficient security being given in writing for its production when required. On default, the decree may be executed against the surety to the extent of the value of the property not produced.

Seizure how
made if pro-
perty not in
possession
of judgment-
debtor.

66. If the property be not in the possession of the judgment-debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment-debtor.

Debts how
attached.

67. Debts and moneys due to the judgment-debtor, shall be attached by a written order prohibiting the judgment-debtor from recovering the sum of money, and the debtor from making payment thereof, until the further order of the Court. Nothing in this section shall be held to authorise a Village Court to attach or sell a debt charged on immovable property.

Private
alienation of
property
after attach-
ment void.

68. When an attachment has been made by actual seizure or by a written order, any private alienation of the property attached, whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment-debtor, during the continuance of the attachment shall be void as against all claims enforceable under the attachment.

Investigation
of claims to
attached
property.

69. If any claim be preferred to the property attached in execution of a decree, the Village Court shall investigate the claim, and if it appears that the judgment-debtor has no saleable interest therein, such property shall be released from attachment.

Property to
be sold not
less than 15
days after
attachment
and sale to be
proclaimed.

70. As soon as possible after attachment, the Village Court shall fix a day, not less than 15 days from the date of attachment, for the sale of the property attached and shall cause a written proclamation of the intended sale to be affixed outside the Court, and such sale shall be further proclaimed by beat of drum previous thereto:

Provided that where a claim has been preferred to the property attached under section 69, the Court may

postpone the sale of the property pending adjudication on the claim:

Provided further that the Court may on other sufficient grounds adjourn the sale from time to time for a period not exceeding 3 months in the aggregate from the date of attachment:

Provided further that (1) with the consent in writing of the judgment-debtor, or (2) when the property seized is subject to speedy and natural decay, or (3) when the expense of keeping it in custody may exceed its value, the Court may, after giving due notice by beat of drum, sell the attached property at any time within fifteen days from the date of attachment. In such case, the Court shall hold the sale proceeds, subject to the provisions hereinafter made for payment of moneys attached in execution of decrees.

71. (1) On the day fixed for the sale, the property shall be put up for sale by public auction in open Court and sold to the highest bidder. The price shall be paid without delay, and in default, the property shall again be put up for sale. Procedure in sale.

(2) On payment of the purchase money, the Court shall grant a receipt for the same, and the sale shall become absolute and no petition for setting aside such sale shall lie.

(3) Any loss on resale shall, at the instance of either the judgment-creditor or judgment-debtor, be recoverable from the defaulter as if a decree has been passed against him for the same.

72. Subject to the provisions contained in section 70 any sale advertised under this Act may, at the discretion of the Court, be adjourned to a specified day, public notice thereof being given in the manner prescribed by the said section. Power to adjourn sale.

73. No Judge of a Village Court or other officer having any duty to perform in connection with any sale under this Act or any licensed agent ordinarily practising in that Court shall, either directly or indirectly, bid for or acquire any interest in any property sold at such sale. Judge and other officers not to bid for or buy property sold.

Stoppage of sale on tender of debt and cost.

74. Every sale of property under this Act shall be stopped if, before the lot is knocked down, the amount due under the decree and the costs of the sale are tendered to the Court.

Division of proceeds of sale.

75. Out of the moneys realised in execution, the cost of execution shall first be defrayed and then the amount due to the decree-holder. Any surplus which may remain shall be paid to the judgment-debtor.

Property actually seized to be delivered to purchaser.

76. When the property sold is one of which actual seizure has been made, the property shall be delivered to the purchaser.

In other cases how property delivered to purchaser.

77. When the property sold is in the possession of any person other than the judgment-debtor or is a debt due by any person to the judgment-debtor, delivery thereof to the purchaser shall be made by a written notice to such person prohibiting him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser.

Decree may be transmitted for execution to another Village Court or to the District Munsiff.

78. (1) Any decree passed by a Village Court may, on the application of the decree-holder, be transmitted for execution to any Village Court within whose jurisdiction the judgment-debtor resides or to any other Village Court within whose jurisdiction the judgment-debtor owns movable property.

(2) A Village Court may, on application made to it by the decree-holder, transmit the decree for execution to the District Munsiff who may then execute the decree as if it were a decree passed by himself.

CHAPTER VII

Miscellaneous

If on death of party to suit application is made legal representative may be entered on record.

79. If a plaintiff or a defendant dies before decree, his legal representative shall after due notice to the parties be brought on record on the application of any party or of such legal representatives, but no decree shall be passed against the legal representative of the deceased defendant

beyond the value of the assets derived from him and not duly accounted for.

80. If no such application be made within sixty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed, and no fresh suit shall be allowed to be brought on the same cause of action.

If no application made suit to be dismissed.

81. When there are more plaintiffs and defendants than one and any of them dies and where the right to sue survives to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the Court shall cause an entry to that effect to be made on the record and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs or against the surviving defendant or defendants.

If more than one plaintiff or defendant sue suit to proceed at instance of or against survivor.

82. If a decree-holder dies before the decree has been fully executed, his legal representative may apply to the Village Court to substitute his name as the decree-holder in the place of the deceased, and if the Court be satisfied after giving notice to the judgment-debtor that the applicant is the legal representative of the deceased, it shall substitute his name on the record as the decree-holder.

If decree holder dies, his legal representative may be substituted.

83. If a judgment-debtor dies before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor, to the extent of assets derived from him and not duly accounted for.

If judgment-debtor dies decree may be executed against his legal representative.

84. The Registrar shall exercise all the powers of a Court of Revision and shall have powers of superintendence and inspection over the Village Courts and to call for returns from them. With the previous sanction of Government he may prescribe forms and registers and the books and accounts to be kept in his Court and in the Village Courts. The Registrar shall conduct annual inspection of the Village Courts and submit to Government a report on the working of the Village Courts.

Powers of the Registrar.

Reference of
question to
Registrar.

85. (1) Where, before or on the hearing of a suit, or where, in the execution of any decree, any question of law or usage having the force of law arises, on which the Village Court trying the suit or executing the decree, entertains reasonable doubt, that Court may, either of its own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement with its own opinion on the point for the decision of the Registrar. When a reference is made to the Registrar the Court shall stay the suit or proceedings pending the decision of the Registrar on the point referred.

Judgment of
Registrar to
be transmit-
ted, and case
disposed of
accordingly.

(2) The Registrar, after hearing the parties, if they appear and desire to be heard, shall decide the point so referred, and shall transmit a copy of his judgment, under his signature, to the Court by which the reference was made, and such Court shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision.

Cost of re-
ference to
Registrar.

(3) The costs (if any) consequent on a reference for the decision of the Registrar shall be costs in the case.

Revision by
Registrar of
Village Court
Proceedings.

86. (1) The Registrar may, on a petition being presented within 60 days from the date of any decree or order of a Village Court by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground of corruption, gross partiality or misconduct of any of the Judges of the Village Court or of the Court having exercised a jurisdiction not vested in it by law or otherwise acted illegally and may pass such other decree or order as he deems

fit. No decree or order of a Village Court shall be set aside without notice to the opposite party. Pending disposal of any such petition, the Registrar may stay execution of the decree or order:

Provided that the time requisite for obtaining a copy of the decree or order shall be excluded in computing the period of limitation.

(2) The Registrar may, if he is satisfied with the cause shown for the delay, entertain a petition after 60 days.

87. Petitions and applications to be presented to the Court of the Registrar and documents or other papers to be produced in that court may be sent by registered Anchal or Post, and the same shall be deemed to have been duly presented on the day on which they have been so registered.

Petitions and applications to Registrar may be sent registered.

88. (1) All petitions for revising decrees or orders of Village Panchayat Courts or Group Panchayat Courts, pending in the Court of District Munsiffs at the commencement of this Act shall be transferred to the Registrar by the District Munsiffs for disposal. The Registrar shall, on receipt of the records exercise all the powers vested in him under section 86 as if such decrees or orders were passed by a Village Court.

Revision petitions pending with District Munsiffs to be transferred to Registrar.

(2) Petitions for revising decrees or orders passed prior to the commencement of this Act by Village Panchayat Courts or Group Panchayat Courts shall lie to the Registrar and section 86 shall apply to such petitions.

89. Whenever the Registrar sets aside a decree or order of a Village Court on the ground of corruption, gross partiality or misconduct of any of the Judges he shall report every such case to Government.

Registrar of Village Courts to report to Government in certain cases.

Power of
High Court
to call for
record of
cases from
the Registrar.

90. The High Court may call for the record of any case in which the Registrar has in the exercise of his powers of revision under this Act exercised a jurisdiction not vested in him by law or failed to exercise a jurisdiction so vested or acted in the exercise of the jurisdiction illegally or passed an order contrary to law or set aside the decree on the ground of corruption, gross partiality or misconduct of any of the Judges of the Village Court and may pass such order in the case as the High Court thinks fit.

Decree of
Village Court
to be final.

91. Except as provided in this Act, every decree and order of a Village Court shall be final.

Legal practi-
tioners in
District
Munsiffs'
Courts
entitled to
practice in
Court of
Registrar.
Court Fee.

92. All legal practitioners entitled to practise in the Courts of District Munsiffs by any law in force shall as of right be entitled to practice in the Court of the Registrar.

93. (1) A fee of five per centum of the value of the suit shall be paid on its institution in the Village Court and notwithstanding anything contained in the Cochin Court Fee Act, II of 1080, a court fee of one anna shall be paid on every petition presented to a Village Court:

Provided that fractions of an anna payable as fee shall be treated as one anna:

Provided further that when a decree is transferred for execution from a Village Court to the Court of a District Munsiff under the provisions hereinbefore contained the rules in regard to the levy of process and other fees with respect to proceedings in execution obtaining in the District Munsiff's Court shall become applicable.

(2) Every petition presented before the Registrar shall bear a court fee label of eight annas.

(3) No copy of the decree or any other record in the suit shall be supplied to either party, except at the expense of the part making the application.

94. The provisions contained in the Cochin Code of Civil Procedure, XXIX of 1111, shall to the extent they are not inconsistent with the provisions of this Act apply to suits and proceedings in the Village Courts and in the Court of the Registrar.

Provisions of Cochin Code of Civil Procedure to apply.

95. (1) Government may make rules to carry out all or any of the provisions of this Act.

Power to make rules.

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

- (a) provide for the nomination of the President, the Senior Judge and other Judges of the Village Court;
- (b) provide for the suspension or the removal of the President, the Senior Judge and other Judges for non-attendance;
- (c) provide for the exercise of the administrative control and the adjustment of the work of the Court by the President and the Senior Judge;
- (d) regulate any matter connected with the procedure of Village Courts and the Court of the Registrar;
- (e) provide for the licensing of agents entitled to appear and plead in Village Courts and to prescribe the fees payable to them;
- (f) provide for the mode of service of summons of witnesses;
- (g) prescribe forms and registers for use in the Village Courts and in the Court of the Registrar;
- (h) fix the scale of allowances payable for the subsistence of judgment-debtors and of the travelling

expenses of the judgment-debtors and their escorts;

- (i) provide for the superintendence and inspection of the Village Courts and the Court of the Registrar and the submission of returns by such Courts;
- (j) provide for the mode of serving notices and other processes issued from the Court of the Registrar,
- (k) prescribe the disqualifications for nomination or for continuing as a Judge; and
- (l) provide for removing any difficulty in giving effect to the provisions of this Act.

Repeal.

96. The provisions contained in the Cochin Village Panchayat Act, V of 1089, in so far as they relate to the establishment, constitution and working of the Village Panchayat Courts are hereby repealed.

PROCLAMATION (XIV of 1118)

THE ESSENTIAL SERVICES (MAINTENANCE) AMENDMENT PROCLAMATION

CONTENTS

Preamble Sections

1. Short title and commencement.
2. Amendment of section 7.

THE ESSENTIAL SERVICES (MAINTENANCE) AMENDMENT PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 30th day of Meenam 1118
corresponding to the 12th day of April 1943*

[Published in the Cochin Government Gazette,
dated 4th Medam 1118]

Preamble.

WHEREAS it is deemed necessary further to amend the Essential Services (Maintenance) Proclamation, IX of 1117; WE are hereby pleased to command as follows.—

1. This Proclamation may be called the Essential Services (Maintenance) Amendment Proclamation, XIV of 1118, and shall come into force at once. Short title and commencement.

2. In sub-section (3) of section 7 of the Essential Services (Maintenance) Proclamation, IX of 1117, for the words "a person" the words "an officer" shall be substituted. Amendment of section 7.

PROCLAMATION (XV of 1118)

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 30th day of Meenam 1118
corresponding to the 12th day of April 1943*

[Published in the Cochin Government Gazette
dated 4th Medam 1118]

WHEREAS it is necessary to provide that the officers and servants employed by or under the authority of Our Government in the management of estates assumed by them shall be deemed to be public servants; We are pleased to command that the Proclamations specified in the Schedule shall stand amended to the extent and in the manner mentioned in the third column thereof.

Schedule

(1) <i>No. and year of Proclamation</i>	(2) <i>Date of Proclamation</i>	(3) <i>Amendment</i>
1104	12— 6—1104 25— 1—1929	Add the following as Clause 6: "Every officer or servant employed by Our Government in relation to the management of the Estate shall be deemed to be a public servant within the meaning of section 15 of the Cochin Penal Code".
1111	15— 3—1111 1—11—1935	Add the following as Clause 9: "Every officer or servant employed by Our Government in relation to the management of the Estate shall be deemed to be a public servant within the meaning of section 15 of the Cochin Penal Code".

I of 1114	17— 1—1114	Add the following as Clause 8: “Every officer or servant employed by Our Government in relation to the management of the Estate shall be deemed to be a public servant within the meaning of section 15 of the Cochin Penal Code”
	2— 9—1938	
V of 1117	13— 4—1117	Add the following as Clause 9: “Every officer or servant employed by Our Government in relation to the management of the Estate shall be deemed to be a public servant within the meaning of section 15 of the Cochin Penal Code”.
	28—11—1941	

THE COCHIN STATE SOLDIERS (LITIGATION)
AMENDMENT ACT

(ACT XIII OF 1118)

CONTENTS

Preamble
Sections

1. Short title and commencement.
2. Amendment of section 3.
3. Amendment of section 6.
4. Amendment of section 9.
5. Amendment of section 10.
6. Substitution of new section for section 11.
Modification of law of limitation where State soldier or his legal representative is a party.
7. Substitution of new section for section 12.
Power of Court to refer questions to prescribed authorities.

THE COCHIN STATE SOLDIERS (LITIGATION)
AMENDMENT ACT

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 24th day of Medam 1118 corresponding
to the 7th day of May 1943*

[Published in the Cochin Government Gazette
dated 1st Edavam 1118]

Preamble.

WHEREAS it is necessary to amend the Cochin State Soldiers Litigation Act, I of 1116; We are hereby pleased to command as follows.—

1. This Act may be called the Cochin State Soldiers (Litigation) Amendment Act, XIII of 1118, and shall come into force at once.

Short title
and com-
mencement.

2. To section 3 of the Cochin State Soldiers (Litigation) Act, I of 1116 (hereinafter referred to as the Act), the following explanation shall be added, namely.—

Amendment
of section 3.

“*Explanation.*—For the purposes of this section and with effect from the 3rd day of September, 1939, a soldier who is or has been a prisoner of war shall be deemed to be or to have been serving under war conditions.”

3. Section 6 of the Act shall be renumbered as sub-section (1) of that section and the following sub-section shall be added, namely.—

Amendment
of section 6.

“(2) If it appears to the Court before which any proceeding is pending that a State soldier though not a party to the proceeding is materially concerned in the outcome of the proceeding, and that his interests are likely to be prejudiced by his inability to attend, the Court may suspend the proceeding and shall give notice thereof in the prescribed manner to the prescribed authority.”

4. In section 9 of the Act, for the word and figure “section 6” the words, brackets and figures “sub-section (1) of section 6” shall be substituted.

Amendment
of section 9.

5. In section 10 of the Act,—

Amendment
of section 10.

(a) in sub-section (1)—

(i) the words and figures “whilst he was serving under war conditions or at any time after the commencement of this Act” shall be omitted;

(ii) between the words “the soldier” and the words “may apply” the words “or, if he is dead, his legal representative” shall be inserted;

(b) for sub-section (2) the following sub-section shall be substituted, namely.—

“(2) The period of limitation for an application under sub-section (1) shall be ninety days from the date of the decree or order, or, where the summons or notice was not duly served on the soldier in the proceeding in which the decree or order was passed, from the date on which the applicant had knowledge of the decree or order; and the provisions of section 5 of the Cochin Limitation Act, XII of 1112, shall apply to such applications.”

Substitution
of new
section for
section 11.
Modification
of law of
limitation
where State
soldier or his
legal repre-
sentative is
a party.

6. For section 11 of the Act the following section shall be substituted, namely.---

“11. In computing the period of limitation prescribed by sub-section (2) of section 10 of this Act, the Cochin Limitation Act, XII of 1112, or any other law for the time being in force, for any suit, appeal or application to a Court, any party to which is or has been a State soldier, or is the legal representative of a State soldier the period during which the soldier has been serving under any special conditions, and, if the soldier has died while so serving, the period from the date of his death to the date on which official intimation thereof was sent to his next of kin by the authorities in India, shall be excluded:

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption.”

Substitution
of new
section for
section 12.

Power of
Court to
refer ques-
tions to
prescribed
authorities.

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

“12. If any Court is in doubt whether, for the purpose of section 10 or section 11, a State soldier is or was at any particular time serving under special conditions, or has died while so serving, or as to the date of such death or as to the date on which official intimation of such death was sent to his next of kin by the authorities

in India, the Court may refer the point for the decision of the prescribed authority, and the certificate of that authority, shall be conclusive evidence on the point."

PROCLAMATION (XVI of 1118)

THE COLLECTIVE FINES (AMENDMENT) PROCLAMATION CONTENTS

Preamble Sections

1. Short title and commencement.
2. Addition of a new section.
3. Bar of legal proceedings.

THE COLLECTIVE FINES (AMENDMENT) PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 24th day of Medam 1118
corresponding to the 7th day of May 1943*

[Published in the Cochin Government Gazette
dated 1st Edavam 1118]

WHEREAS it is necessary further to amend the Collective Fines Proclamation, XXIII of 1117, for the purpose hereinafter appearing; We are hereby pleased to command as follows.—

Preamble.

This Proclamation may be called the Collective Fines (Amendment) Proclamation, XVI of 1118, and shall come into force at once.

Short title and commencement.

2. After section 2 of the Collective Fines Proclamation, XXIII of 1117, the following section shall be added, namely.—

Addition of a new section.

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

Bar of legal proceedings.

PROCLAMATION

(XVII of 1118)

THE WAR RISKS (FACTORIES) INSURANCE PROCLAMATION

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 2.
3. Amendment of section 5.

THE WAR RISKS (FACTORIES) INSURANCE PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 24th day of Medam 1118 corresponding
to the 7th day of May 1943*

[Published in the Cochin Government Gazette
dated 1st Edavam 1118]

Preamble.

WHEREAS it is expedient further to amend the War Risks (Factories) Insurance Proclamation, XXIV of 1117; WE are hereby pleased to command as follows.—

Short title and commencement.

1. This Proclamation may be called the War Risks (Factories) Insurance Amendment Proclamation, XVII of 1118, and shall come into force at once.

Amendment of section 2.

2. In section 2 of the War Risks (Factories) Insurance Proclamation, XXIV of 1117, hereinafter referred to as the Proclamation, after clause (h) the following clause shall be inserted, namely.—

“(hh) ‘Quarter’ means a period of 3 months commencing on the first day of March, June, September or December;”.

Amendment of section 5.

3. In sub-section (1) of section 5 of the Proclamation, after the words “by notification in the Cochin Government Gazette” the following shall be inserted namely.—

“or, in respect of premises becoming a factory after that date or in a case to which sub-section (2) refers, before the commencement of the quarter next following that in which the premises become a factory, or as the case may be, in which the reconstruction of the factory is completed.”

**PROCLAMATION
(XVIII of 1118)**

THE ENEMY AGENTS PROCLAMATION

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Definitions.
3. Penalty for aiding the enemy.
4. Offences triable under this Proclamation.
5. Appointment and jurisdiction of Special Judges.
6. Transfer of cases from one Special Judge to another.
7. Procedure of Special Judges.
8. Sentences by Special Judges.
9. Review of convictions.
10. Hearing of proceedings *in camera*.
11. Limitation on appearance of pleaders.
12. Special rule of evidence.
13. Special rule of procedure.
14. Exclusion of interference of other Courts.
15. Application of ordinary law.
16. Disclosure of information relating to proceedings under this Proclamation.
17. Power to make rules.

THE ENEMY AGENTS PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 24th day of Medam 1118 corresponding
to the 7th day of May 1943*

**[Published in the Cochin Government Gazette
dated 1st Edavam 1118]**

WHEREAS an emergency has arisen which makes it necessary to provide for the trial and punishment of enemy agents and persons committing certain offences with intent to aid the enemy; We are hereby pleased to command as follows.—

1. (1) This Proclamation may be called the Enemy Agents Proclamation, XVIII of 1118.

**Short title
and com-
mencement.**

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

(3) It shall come into force at once.

Definitions.

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

(a) “enemy” means any State at war with His Majesty;

(b) “enemy agent” means a person, not operating as a member of an enemy armed force, who is employed by, or works for, or acts on instructions received from, the enemy.

Penalty for aiding the enemy.

3. Whoever is an enemy agent, or, with intent to aid the enemy, does, or attempts or conspires with any other person to do, any act which is designed or likely to give assistance to the naval, military or air operations of the enemy or to impede the naval, military or air operations of His Majesty's Forces or to endanger life, shall be punishable with death.

Offences triable under this Proclamation.

4. (1) Any offence punishable under section 3 committed at any time after the 2nd day of September, 1939, whether committed before or after the commencement of this Proclamation, shall be triable under the provisions of this Proclamation.

(2) Where a person is charged before a Special Judge with an offence punishable under section 3, he may be charged with and tried at the same trial for any other offence with which he might, under the Code of Criminal Procedure, II of 1086, be charged at one trial, and the procedure of this Proclamation shall apply to the trial of any such other offence.

Appointment and jurisdiction of Special Judges.

5. (1) For the trial of offences punishable under section 3, Government may appoint as Special Judges, having jurisdiction throughout Cochin State any persons who have acted for a period of not less than two years in the exercise of the powers of a Sessions Judge

under the Code of Criminal Procedure, II of 1086.

- (2) A Special Judge shall try any offence punishable under section 3 which Government by general or special order in writing directs to be tried by him, and may hold his sittings for the trial of any case in any place fixed by Government.
6. (1) Government may, at any stage of the proceedings before a Special Judge, transfer the case to another Special Judge. Transfer of cases from one Special Judge to another.
- (2) Notwithstanding anything contained in the Code of Criminal Procedure, II of 1086, when a case is transferred under sub-section (1), the Special Judge to whom the case is transferred shall not be bound to resummon or rehear the witnesses or any of them unless he is satisfied that such a course is necessary in the interests of justice.
7. (1) A special Judge may take cognisance of an offence without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, II of 1086, for the trial of warrant cases by Magistrates: Procedure of Special Judges.

Provided that a Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose unless such adjournment is in his opinion necessary in the interests of justice.

- (2) In matters not coming within the scope of sub-section (1) the provisions of the Code

of Criminal Procedure, II of 1086, so far as they are not inconsistent with this Proclamation, shall apply to the proceedings of a Special Judge; and for the purposes of the said provisions the Court of the Special Judge shall be deemed to be a Court of Session.

**Sentences by
Special
Judges.**

8. A Special Judge may pass any sentence authorised by law.

**Review of
convictions.**

9. If in any proceedings before a Special Judge—
- (a) a person convicted is sentenced to death, or to imprisonment for life, or
 - (b) though no person is so sentenced, the Special Judge certifies that in his opinion the case has involved questions of special difficulty, whether of law or fact, or is one which for any other reason ought properly to be reviewed,

the proceedings shall be submitted for review by a person appointed in this behalf by Government, which person shall be chosen from the Judges of the High Court and the decision of that person shall be final.

**Hearing of
proceedings
in camera.**

10. If, as respects any proceedings before a Special Judge or before a Judge reviewing under section 9 the proceedings of a Special Judge, the Special Judge or reviewing Judge, as the case may be, is satisfied that it is expedient in the interests of the public safety or of defence so to do, such Judge may give directions that throughout or during any part of the proceedings such persons or classes of persons as the Judge may determine shall be excluded.

**Limitation on
appearance
of pleaders.**

11. (1) In any proceedings before a Special Judge, and in proceedings before a Judge reviewing under section 9 the proceedings of a Special Judge when the reviewing Judge grants permission in this behalf, a person accused of an offence triable under this Proclamation may of right be defended by a pleader but such pleader shall be a person whose name

is entered in a list prepared in this behalf by Government or who is otherwise approved by Government.

- (2) A Special Judge, or a Judge reviewing under section 9 the proceedings of a Special Judge, may appoint a pleader whose name is entered in the list referred to in sub-section (1) or who is otherwise approved by Government to defend at any stage of the proceedings a person accused of an offence triable under this Proclamation who has not himself engaged a pleader.
- (3) A Special Judge shall not be required to grant an adjournment for the purpose of securing the attendance of a pleader, if in the opinion of the Special Judge such adjournment would cause unreasonable delay in the disposal of the case.

12. Notwithstanding anything contained in the Indian Evidence Act, 1872, as made applicable to Cochin when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before a Special Judge, if such person is dead or cannot be found or is incapable of giving evidence.

Special rule of evidence.

13. (1) When any accused in a trial before a Special Judge has by his voluntary act rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing, made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit and proceed with the trial in this absence.

Special rule of procedure.

- (2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section

(1), such accused shall be deemed not to plead guilty.

- (3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial, or being present in person if he has become capable of appearing or appears in Court and undertakes to behave in an orderly manner.
- (4) Notwithstanding anything contained in the Code of Criminal Procedure, II of 1086, no finding, sentence or order passed in a trial before a Special Judge shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

**Exclusion of
interference
of other
Courts.**

14. Notwithstanding the provisions of the Code of Criminal Procedure, II of 1086, 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 made or passed by a Special Judge or a reviewing Judge under this Proclamation and, save as provided in this Proclamation, no Court shall have authority to revise such order or sentence or to transfer any case from the Court of a Special Judge, or have any jurisdiction of any kind in respect of any proceedings under this Proclamation.

**Application
of ordinary
law.**

15. The provisions of the Code of Criminal Procedure, II of 1086, and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Proclamation, shall apply to all matters connected with, arising from, or consequent upon, a trial under this Proclamation.

16. Any person who, without the previous authorisation of Government, discloses or publishes any information with respect to any proceedings or with respect to any person proceeded against under this Proclamation, shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Disclosure of information relating to proceedings under this Proclamation.

17. Government may make rules providing for any matter necessary to carry into effect the purposes of this Proclamation.

Power to make rules.

PROCLAMATION (XIX of 1118)

PROCLAMATION PROVIDING FOR PENAL ASSESSMENT OF LANDS CONTENTS

Preamble

Sections

1. Extent and commencement.
2. Definition.
3. Power to impose penal assessment.
4. Penal assessment to be first charge and recoverable as arrears of revenue.
5. Diwan Peishkar's order to be final.

PROCLAMATION PROVIDING FOR PENAL ASSESSMENT OF LANDS

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 1st day of Edavam 1118, corresponding to
the 15th day of May 1943*

[Published in the Cochin Government Gazette
dated 1st Edavam 1118]

WHEREAS it is necessary that all lands fit for the raising of food crops should be brought under cultivation and whereas the planting of sugar-cane on lands hitherto used for the cultivation of paddy should be discouraged; We are hereby pleased to command as follows.—

Preamble.

1. (1) This Proclamation shall extend to the whole of Cochin State.

Extent and commencement.

- (2) It shall come into force at once and shall continue to be in force until such time as Government may, by notification in the Cochin Government Gazette, deem fit to withdraw this Proclamation.

Definition.

2. "Food crops", for the purpose of this Proclamation shall include paddy, tapioca, banana, ragi and other articles of food ordinarily grown in Cochin State.

Power to impose penal assessment.

3. (1) So long as this Proclamation is in force, no person in possession of lands fit for the raising of food crops shall, without reasonable excuse being shown to the satisfaction of the Diwan Peishkar, leave such lands uncultivated with food crops.

(2) No person shall after the coming into force of this Proclamation plant sugar-cane in any land in his possession on which paddy used to be cultivated prior to the 1st day of Chingam 1118.

(3) The Diwan Peishkar may levy from any person who contravenes the provisions of sub-section (1) or sub-section (2) of this section an annual penal assessment at a rate not exceeding 25 times the land revenue assessment on the lands left uncultivated or on which sugar-cane is planted.

Penal assessment to be first charge and recoverable as arrears of revenue.

4. The penal assessment leviable under sub-section (3) of section 3 shall also be a first charge on the interests of the person over such lands and the said sum shall be recoverable as arrears of revenue under the provisions of the Cochin Revenue Recovery Act, IV of 1083.

Diwan Peishkar's order to be final.

5. The order of the Diwan Peishkar imposing a penal assessment shall be final and not liable to be called in question in any of Our Civil Courts.

PROCLAMATION

(XX of 1118)

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 1st day of Edavam 1118 corresponding
to the 15th day of May 1943*

[Published in the Cochin Government Gazette dated 1st Edavam 1118]

WHEREAS it is necessary to remove all doubts regarding the validity of orders made under rule 26 of the Defence of India Rules as made applicable to Cochin by Our Proclamation VIII of 1115;

We are hereby pleased to command that no order heretofore made against any person under rule 26 of the Defence of India Rules as made applicable to Cochin by Our Proclamation VIII of 1115 shall be deemed to be invalid or shall be called in question on the ground merely that the said rule purported to confer powers in excess of the powers that might at the time the said rule was made be lawfully conferred by a rule made or deemed to have been made under section 2 of the Defence of India Act, 1939 as made applicable to Cochin by the said Proclamation.

PROCLAMATION

(XXI of 1118)

THE WAR RISKS (GOODS) INSURANCE AMENDMENT
PROCLAMATION

CONTENTS

Preamble Sections

1. Short title and commencement.
2. Insertion of a new section.
Recovery of premiums unpaid.
3. Amendment to section 7.

THE WAR RISKS (GOODS) INSURANCE AMENDMENT
PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 1st day of Edavam 1118 corresponding
to the 15th day of May 1943*

[Published in the Cochin Government Gazette,
dated 8th Edavam 1118]

Preamble.

WHEREAS it is necessary to amend the War Risks (Goods) Insurance Proclamation, XXVII of 1117, for the purposes hereinafter appearing; We are hereby pleased to command as follows.—

**Short title
and com-
mencement.**

1. This Proclamation may be called the War Risks (Goods) Insurance(Amendment)Proclamation, XXI of 1118 and shall come into force at once.

**Insertion of a
new section.**

2. After section 6 of the Cochin War Risks (Goods) Insurance Proclamation, XXVII of 1117, hereinafter referred to as the Proclamation, the following section shall be inserted, namely.—

**Recovery of
premiums
unpaid.**

“6 A. (1) Without prejudice to the provisions of sub-section (2) of section 6, where any person has failed to insure as, or to the full amount, required by this Proclamation, and has thereby evaded the payment by way of premium of any money which he would have had to pay but for such failure, an officer authorised in this behalf by this Government or the Government of India may determine the amount payment of which has been so evaded. The amount so determined shall be payable by such person and shall be recoverable from him as an arrear of land revenue and shall be a first charge on the property in respect of which the default was made.

(2) A person against whom a determination is made under sub-section (1) may, within the prescribed period, appeal against such determination to this Government or the Government of India whose decision shall be final.”

3. In sub-section (1) of section 7 of the Proclamation, for the words "any person has insured any goods against war risks, and, if so, for what value" the words "the requirements of this Proclamation have been complied with" shall be substituted.

**THE COCHIN REGISTRATION OF LITERARY,
SCIENTIFIC AND CHARITABLE SOCIETIES
(AMENDMENT) ACT**

(ACT XIV OF 1118)

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment to the Preamble.
3. Amendment to section 2.
4. Addition of sections 13-A, 13-B, and 13-C.
 - Power to call for accounts and inspection of books, etc.
 - Power to fine any member of the governing body or servant of the society and dismiss him for disobedience.
 - Government to fill up any vacancy in accordance with the rules and regulations of the society.
5. Amendment to section 15.
6. Addition of section 15-A, 15-B and 15-C.
 - Application to court for dissolution, framing a scheme, etc.
 - Handing over of surplus assets by Court.
 - Appeals against orders under section 15-A.
7. Amendment of Schedule II of the Court Fees Act.

**THE COCHIN REGISTRATION OF LITERARY, SCIENTIFIC
AND CHARITABLE SOCIETIES (AMENDMENT) ACT**

*Passed by His Highness the Maharaja of Cochin
on the 6th day of Mithunam 1118
corresponding to the 20th day
of June 1943*

**[Published in the Cochin Government Gazette,
dated 12th Mithunam 1118]**

WHEREAS it is expedient to amend the Act for the Registration of Literary, Scientific and Charitable Societies in Cochin, Act II of 1088, for the purposes hereinafter appearing; It is hereby enacted as follows.—

Preamble.

126 *Registration of Literary, Scientific and Charitable Societies (Amendment)* [1118: Act XIV]

Short title
and com-
mencement.

1. This Act may be called the Cochin Registration of Literary, Scientific and Charitable Societies (Amendment) Act, XIV of 1118 and shall come into force at once.

Amendment
to the
Preamble.

2. In the preamble to the Cochin Registration of Literary, Scientific and Charitable Societies Act, II of 1088, hereinafter referred to as the Act, after the word "purposes" the words "and for bringing such societies under the control and supervision of Government" shall be added.

Amendment
to section 2.

3. In section 2 of the Act—

(a) the following proviso shall be added after re-numbering it as sub-section (1).—

"Provided that associations having such number of members or a minimum starting fund as may be prescribed by Government, shall be bound to register as aforesaid".

(b) The following shall be added as sub-section (2), namely.—

"(2) If an association does not register under the proviso to sub-section (1), the association and every member thereof who is knowingly and wilfully in default shall be liable to a fine not exceeding ten rupees for every day during which the default continues."

Addition of
sections
13-A, 13-B
and 13-C.
Power to call
for accounts
and inspec-
tion of books,
etc.

4. After section 13 of the Act, the following shall be added as sections 13-A, 13-B and 13-C.

"13-A. (1) Government may at any time call upon the governing body of any society registered under this Act, to submit periodically accounts of income and expenditure and of the assets and liabilities of the society. The Superintendent of Registration or any other officer authorised by Government shall periodically examine the accounts and other

books of the society and submit to Government a report on the result of such inspection. The Inspecting Officer may enter the premises of the society and the governing body and the servants of the society shall furnish him with all information he may call for and shall also render him all the assistance necessary to enable him to conduct the examination and make the report. It shall be the duty of the governing body and of all persons who are or have been servants of the society to produce before the officer so deputed all books and documents in their custody or power relating to the society and to answer any question relating to the affairs of the society.

- (2) Whenever the Inspecting Officer has reason to believe that the accounts or other books or documents of the society are withheld without sufficient excuse, he may after recording the reasons and the grounds of his belief enter and search or cause to be searched any place or may seize any such accounts, books or documents.
- (3) Government may for the efficient and better management of the society review the reports submitted under sub-section (1) and pass such orders as they deem fit other than those referred to in clauses (a) to (c) of section 15-A.

- 13-B. (1) Government may fine any member of the governing body or servant of the society who wilfully or contumaciously disobeys any order passed by them under section 13-A in an amount not exceeding fifty rupees for each act of disobedience. If the said member or servant fails to carry out the said order within one week from the date of receipt by
- Power to fine any member of the governing body or servant of the society and dismiss him for disobedience

him of the order imposing the fine, Government may dismiss him. The governing body of the society shall be bound to give effect to the order passed by Government under this section in respect of any servant of the society and any failure on their part to give effect to such order shall be deemed disobedience within the meaning of this section.

- (2) A person dismissed under sub-section (1) shall be disqualified to be elected or nominated as a member of the governing body for a period of 5 years from the date of such removal unless the disqualification is removed by Government.

Government to fill up any vacancy in accordance with the rules and regulations of the society.

13-C. In cases in which a member of the governing body is removed or dismissed under section 13-B, the vacancy shall be filled up in accordance with the rules and regulations of the society :

Provided that Government may fill up such vacancy otherwise than in accordance with the rules and regulations of the society if in their opinion such a deviation is necessary in the interests of the society."

Amendment to section 15.

5. In section 15 of the Act for the words "to some other society" the words "to Government upon such terms and conditions as may be mutually agreed upon or to some other society registered under this Act which has for its object the furtherance of aims similar as near as may be, to the objects of the dissolved society" shall be substituted and shall be deemed always to have been substituted.

Addition of section 15-A, 15-B and 15-C.

Application to court for dissolution, framing a scheme, etc.

6. After section 15 of the Act the following shall be added as sections 15-A, 15-B and 15-C.

"15-A. (1) When an application is made by Government or 10 per cent of the members on the rolls of a society to the District Court within the jurisdiction of which the society is registered, the Court may, after enquiry and

on being satisfied that it is just and equitable, pass any of the following orders.—

- (a) removing the existing governing body and appointing a fresh governing body ; or
- (b) framing a scheme for the better and efficient management of the society ; or
- (c) dissolving the society.

- (2) Where the application under sub-section (1) is by the members of the society, the applicant shall deposit in Court along with the application the sum of rupees one hundred in cash as security for costs.

15-B. When a society is dissolved under section 15-A, the Court may, if Government are willing to accept the management of the society, order that such management shall be handed over to Government or that any surplus assets remaining after the satisfaction of the debts and liabilities of the society may be given to some other society registered under this Act, which has for its object, the furtherance of aims similar, as near as may be, to the objects of the dissolved society.

Handing over
of surplus
assets by
Court.

15-C. Appeals shall lie to the High Court from orders passed under section 15-A as if they were decrees in suits and shall be presented within the time prescribed therefor."

Appeals
against
orders under
section 15-A.

7. In Schedule II of the Cochin Court Fees Act, II of 1080, the following shall be added as item 10, namely.—

Amendment
of Schedule II
of the
Court Fees
Act.

"(10) Application under section 15-A and appeals under section 15-C of the Registration of Literary, Scientific and Charitable Societies Act, II of 1088."

**THE COCHIN VERUMPATTAMDARS
(AMENDMENT) ACT
(ACT XV OF 1118)**

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 5.
3. Amendment of section 8.
4. Amendment of section 9.

THE COCHIN VERUMPATTAMDARS (AMENDMENT) ACT

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 6th day of Mithunam 1118
corresponding to the 20th day of June 1943*

[Published in the Cochin Government Gazette,
dated 12th Mithunam 1118]

Preamble.

WHEREAS it is necessary to amend the Cochin Verumpattamdars Act, VIII of 1118, for the purpose hereinafter appearing; We are hereby pleased to command as follows.—

**Short title
and com-
mencement.**

1. This Act may be called the Cochin Verumpattamdars (Amendment) Act, XV of 1118 and shall come into force at once.

**Amendment
of section 5.**

2. For sub-section (3) of section 5 of the Cochin Verumpattamdars Act, VIII of 1118, hereinafter referred to as the Act, the following shall be substituted, namely.—

“(3) The market rate for cocoanuts for the purpose of sub-section (2) shall be such rates as Government or such other officer specially authorised may by notification in the Cochin Government Gazette specify in this behalf.”

**Amendment
of section 8.**

3. In clause (d) of sub-section (1) of section 8 of the Act, for the words and figures “on the 1st day of Chingam 1118” the words “at the commencement of this Act” shall be substituted and shall be deemed always to have been substituted.

4. In section 9 of the Act—

Amendment
of section 9.

(a) in sub-section (2) between the words “persons” and “who” occurring in the first sentence, the words “who have acquired an interest in the holding prior to the date of such default and” shall be inserted; and

(b) in sub-section (3) for the words “shall be made” the words “shall, notwithstanding anything contained in the Cochin Civil Courts Act, III of 1076, be made” shall be substituted.

THE COCHIN AMENDING ACT (ACT XVI OF 1118)

CONTENTS

Preamble Sections

1. Short title and commencement.
2. Amendment of certain enactments.

THE COCHIN AMENDING ACT

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 6th day of Mithunam 1118
corresponding to the 20th day of June 1943*

[Published in the Cochin Government Gazette,
dated 12th Mithunam 1118]

WHEREAS it is necessary to amend certain enactments for the purposes hereinafter appearing; It is hereby enacted as follows.— Preamble.

1. This Act may be called the Cochin Amending Act, XVI of 1118 and shall be deemed to have come into force on 22nd Kumbham 1118. Short title
and com-
mencement.

2. The enactments specified in the second column of the Schedule hereto annexed are hereby amended to the extent and in the manner mentioned in third column thereof. Amendment
of certain
enactments.

Schedule

Serial No.	Enactment	Amendment
1	2	3
1	The Cochin Nayar Act, XXIX of 1113	In section 53 for the words "mortgage or pledge tarwad properties, movable or immovable, or lease it for a period of more than six years" the words "lease, mortgage or pledge tarwad properties, movable or immovable," shall be substituted.
2	The Cochin Marumakka-thayam Act, XXXIII of 1113	In section 33— (i) for the words "mortgage or pledge tarwad properties, movable or immovable, or lease it for a period of more than 6 years" the words "lease, mortgage or pledge tarwad properties, movable or immovable," shall be substituted; and (ii) after the word "pattam" the words "michavaram, renewal fees or interest" shall be added.
3	The Cochin Namboodiri Act, XVII of 1114	(a) In clause (b) of section 1 (2) for the words "to all persons referred to in clause (a) of this section" the words "to all Namboodiries" shall be substituted. (b) In section 9 for the words "mortgage or pledge illom property, movable or immovable, or lease it for a period of more than six years" the words "lease, mortgage or pledge illom property, movable or immovable," shall be substituted.

PROCLAMATION
(XXII of 1118)

**THE INDIAN STANDARD TIME (INTERPRETATION OF
REFERENCES) PROCLAMATION**

CONTENTS

Preamble
Sections

1. Short title and commencement.
2. Interpretation of reference to Indian Standard Time.

**THE INDIAN STANDARD TIME (INTERPRETATION OF
REFERENCES) PROCLAMATION**

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 6th day of Mithunam 1118
corresponding to the 20th day of June 1943*

[Published in the Cochin Government Gazette,
dated 12th Mithunam 1118]

WHEREAS an emergency has arisen which makes it necessary to provide for the interpretation in enactments in force in Cochin State of references to Indian Standard Time ; WE are hereby pleased to command as follows.—

1. (1) This Proclamation may be called the Indian Standard Time (Interpretation of References) Proclamation, XXII of 1118.

(2) It shall come into force at once.

2. While any order of Government is in force fixing Indian Standard Time by reference to Greenwich Mean Time as being in advance of Greenwich Mean Time by an interval other than five and one-half hours, any reference in any enactment in force in Cochin State to Indian Standard Time shall notwithstanding that such reference may define Indian Standard Time as being five and one-half hours in advance of Greenwich Mean Time, be interpreted as a reference to Indian Standard Time as fixed for the time being by the order of Government.

**THE DEVASWAM VERUMPATTAM (SETTLEMENT) PROCLAMATION
(XXIII of 1118)**

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 10th day of Karkadagam 1118 corresponding to
the 26th day of July 1943*

**[Published in the Cochin Government Gazette Extraordinary,
dated 10th Karkadagam 1118]**

WHEREAS We think it expedient to confer certain special rights to pattadars of lands held on verumpattom under Devaswams and to fix in perpetuity the rent payable by them, We are pleased to command as follows.—

1. This Proclamation may be cited as “The Devaswam Verumpattam (Settlement) Proclamation, XXIII of 1118” and shall be deemed to have come into force on the 22nd day of Kumbham 1118.

2. In this Proclamation unless a contrary intention appears from the context—

(a) “Devaswams” mean the Incorporated and Un-incorporated Devaswams specified in Schedules I and II respectively;

(b) “Pattadar” means the holder of a patta for lands held on verumpattam under Incorporated Devaswams and the holder of a sub-patta from Un-incorporated Devaswams for lands held on Verumpattam under such Devaswams and includes a person entitled to the grant of a patta or sub-patta, as the case may be, but shall not include holders of Devaswam lands under tenures which partake of the nature of grants made wholly or partly as remuneration for the performance of services even though the documents evidencing the grant describe the tenure as verumpattam;

(c) “Rent” means the pattam or michavaram payable by the pattadar in money or in kind or both to the Devaswam and includes—

- (i) puravaka dues, if any, specified in the patta;
- (ii) the tax on the lands comprised in the holding, where by custom, law or contract the pattadar is bound to pay the tax.

3. Every pattadar shall have a permanent right of occupancy in respect of his holding :

Provided that where the pattadar commits default in the payment of rent or of any tax or cess or other dues in respect of the holding, the pattadar and the lands comprised in his patta shall be liable to be proceeded against under the laws for the time being in force for the recovery of such sums.

4. The rent payable by a pattadar in respect of his holding shall not be enhanced or reduced.

But the pattadar shall be liable for—

- (a) any enhancement subsequent to the commencement of this Proclamation in the revenue, cess or tax payable to Government or to any local authority ;
- (b) any special charges leviable by Government for special or additional crops raised on nilams ;
- (c) any special charges payable to Government in connection with survey or settlement operations or for the maintenance of survey marks.

5. Where the land revenue payable for any year in respect of any land comprised in the holding of a pattadar is remitted in whole or in part by Government, the pattadar shall be entitled to a remission of the rent payable by him for that year in the same proportion. If the pattadar is liable to pay the land revenue, he shall also be entitled to a remission of the land revenue remitted by Government.

6. The pattadar shall not from the commencement of this Proclamation be liable to pay any seigniorage fee for the felling of trees owned by him :

Provided that the Devaswam shall be entitled to and the pattadar shall be bound to pay the seigniorage fees which have accrued due prior to the commencement of the Proclamation.

7. Where land comprised in the holding of a pattadar is acquired under the provisions of the Cochin Land Acquisition Act, II of 1070, the Devaswam shall be entitled to—

- (i) one half of the land value inclusive of the compensation money of 15 per cent thereon awarded under sub-section (2) of section 22 of the said Act or to an amount equivalent to 33 1/3 times the rent of the land acquired, whichever is less; and
- (ii) the full value of improvements, if any, which belong to the Devaswam but not to any share in the value of the improvements which belong to the pattadar or to any tenant under him.

8. A pattadar may surrender the holding to the Devaswam where he has not sub-leased the holding:

Provided that—

- (i) one month's notice of his intention to do so has been given in writing to the Devaswam;
- (ii) no portion of the holding is excluded except as the result of irresistible force;
- (iii) the arrears of rent and other accrued dues are tendered;
- (iv) the value or utility of the holding has not been materially and permanently impaired during the tenancy by acts of waste.

The Devaswam shall accept the surrender but shall not be liable to pay the value of improvements or the premium, if any.

9. The Cochin Verumpattamdars Act, VIII of 1118, shall not apply to a pattadar; but the said Act excepting section 16 thereof shall apply to verumpattamdars as defined therein holding under a pattadar.

10. In clause 9 of the Proclamation dated the 29th day of Makaram 1085—

- (i) for the words “and procedure” the words “in respect of lands owned or held by Devaswams and the procedure” shall be substituted and
- (ii) the words “or held by” shall be inserted between the words “to” and “all”.

SCHEDULE I

INCORPORATED DEVASWAMS

I. Chittur Taluk

- | | |
|--|-------------------|
| 1. Chittur Pazhayannur and subordinate Devaswams | 4. Nellikulangara |
| 2. Kakuruchi and its subordinate Devaswams | 5. Pothundi |
| 3. Aiylur | 6. Kozhikattukavu |
| | 7. Kiliyil |

II. Talappalli Taluk

- | | |
|--|-------------------------------------|
| 8. Thiruvilluamala and its subordinate Devaswams | 21. Erattakulangara |
| 9. Pazhayannur and its subordinate Devaswams | 22. Rudhiramahakalikavu |
| 10. Kizhur | 23. Thurvanoor |
| 11. Arthat | 24. Emur |
| 12. Mathur | 25. Kurumala |
| 13. Peruvanmala and its subordinate Devaswams | 26. Kodathur |
| 14. Mullakkal | 27. Kalappara |
| 15. Thoombil | 28. Pandarathil |
| 16. Karumarakat | 29. Parakkode |
| 17. Panamkunnu | 30. Pattadi |
| 18. Pulachikat | 31. Thrikkanavu |
| 19. Mayannur Vettekkorumakankavu | 32. Malachy |
| 20. Angalurkavu | 33. Muntrakode |
| | 34. Pazhayannur Vettekkorumakankavu |
| | 35. Thrithamthali |
| | 36. Pariharam |

III. Trichur Taluk

- | | |
|---|--------------------------------------|
| 37. Asokeswaram | 54. Kuttumukku |
| 38. Bhaktapriyam | 55. Naithalakavu |
| 39. Keeramkulam | 56. Srikrishnapuram |
| 40. Poonkunnu | 57. Navathrikovil |
| 41. Kottappuram | 58. Cheruthrikovil |
| 42. Chirakkal | 59. Puthisseri |
| 43. Lalur | 60. Vadakkunnathan and its Kizhedams |
| 44. Ayyanthole | 61. Moorkanad |
| 45. Manathitta | 62. Cheriyaikulam |
| 46. Kolasseri | 63. Edathiri |
| 47. Karamukku (Kanimangalam) | 64. Sathram |
| 48. Chembukavu | 65. Karamukku (Enamavu) |
| 49. Pookkattikara | 66. Thoniakavu |
| 50. Sreedharamangalam | 67. Pathiala |
| 51. Kulamittam | 68. Viyyur |
| 52. Puranattukara | 69. Valiparamba |
| 53. Ramanchira and its subordinate Devaswam | 70. Thiruvanikkavu |

- | | |
|------------------|-------------------------|
| 71. Chazhiyur | 78. Vatakkekkara |
| 72. Pullu | 79. Valiakovilagam |
| 73. Manavancode | 80. Tathampilli |
| 74. Koottala | 81. Thiruvenkilam |
| 75. Patavarat | 82. Chengazhithrikovil. |
| 76. Avilasserri | 83. Choolissery |
| 77. Mithunapilli | |

IV. Mukundapuram Taluk

- | | |
|----------------------|--|
| 84. Parijatapuram | 98. Nandikeswaram |
| 85. Murkkanad | 99. Ngalakulam |
| 86. Edathrakavu | 100. Spatikam |
| 87. Edathoottu | 101. Kanjirapilli |
| 88. Kumaranchira | 102. Sridaramangalam |
| 89. Krishnaswami | 103. Thirumukkulam |
| 90. Chattanur | 104. Ashtamichira |
| 91. Ponjanam | 105. Ana Urully |
| 92. Pathiyamkulam | 106. Kallisseri |
| 93. Nambiankavu | 107. Kunna Thrikkovil |
| 94. Shankaramangalam | 108. Puvvasserikavu |
| 95. Rameswaram | 109. Vattaparambu |
| 96. Ittikulam | 110. Edayattu |
| 97. Vatilmattam | 111. Thiruvanchikulam and
Kizhedams |

V. Cochin-Kanayaanur Taluk

- | | |
|--|--|
| 112. Kanayaanur Temple | 127. Puthiyedam and its subordinate
Devaswams |
| 113. Karikkode | 128. Chowwara and its subordinate
Devaswams |
| 114. Thiruvankulam | 129. Chidambareswaram |
| 115. Perunninakulam | 130. Erayampur |
| 116. Makaliyam | 131. Malayattur Pantakkal |
| 117. Trikkattara | 132. Chowwara Puthiakavu |
| 118. Kapaleswaram | 133. Cochin Pazhayannur and its
subordinate Devaswams |
| 119. Putiatrikovil | 134. Mulavukad |
| 120. Pishariyil and its subordinate
Devaswams | 135. Narakkal Puthiedam |
| 121. Nettur | 136. Aniyil |
| 122. Iyniyil | 137. Arangil <i>alias</i> Kuzhupilli |
| 123. Vyttila | 138. Pallipuram |
| 124. Ananthapuram | |
| 125. Kuttappadi | |
| 126. Ernakulam | |

SCHEDULE II

UNINCORPORATED DEVASWAMS

1. Udayathungeswarath Panditha Sabha and Trikkovil Devaswam.
2. Trippunittura Devaswam and Kizhedams.
3. Venganellur Devaswam and Kizhedams.
4. Ayyampilli Devaswam.
5. Azhakiakavu Devaswam.
6. Kothakulamgara Devaswam.
7. Velappaya Devaswam and Kizhedams.
8. Thanikudam Devaswam.
9. Marathur Devaswam.
10. Perumanam Devaswam and Kizhedams (excluding the Uchappooja service of the Perumanam temple with the Endowments thereof.)
11. Tripayar Devaswam and Kizhedams.
12. Pothani Devaswam.
13. Annamanada Devaswam and Kizhedams.
14. Airanikulam Devaswam and Kizhedams.
15. Kuzhur Devaswam and Kizhedams.
16. Naduvathasseri Devaswam and Kizhedams.
17. Ooragam Devaswam and Kizhedams.
18. Mulakunnathukavu Devaswam and Kizhedams.
19. Kadavallur Devaswam and Kizhedams.
20. Malamakavu Devaswam and Kizhedams.
21. Pathirikattukavu Devaswam.
22. Chottanikkara Devaswam and Kizhedams.
23. Mampra Devaswam.
24. Swarnakavu Devaswam.

PROCLAMATION

(XXIV of 1118)

THE WAR RISKS (FACTORIES) INSURANCE (AMENDMENT)
PROCLAMATION

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 2.
3. Amendment of section 5.
4. Amendment of section 6
5. Amendment of section 7.
Recovery of premiums paid.
6. Amendment of section 11

THE WAR RISKS (FACTORIES) INSURANCE (AMENDMENT
PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 10th day of Karkadagam 1118 corresponding
to the 26th day of July 1943*

[Published in the Cochin Government Gazette
dated 15th Karkadagam 1118]

Preamble.

WHEREAS it is necessary further to amend the War Risks (Factories) Insurance Proclamation, XXIV of 1117; WE are hereby pleased to command as follows.—

**Short title
and com-
mencement.**

1. This Proclamation may be called the War Risks (Factories) Insurance (Amendment) Proclamation, XXIV of 1118 and shall come into force at once.

**Amendment
of section 2.**

2. In section 2 of the War Risks (Factories) Insurance Proclamation, XXIV of 1117 (hereinafter referred to as the Proclamation),—

(a) to clause (a) the words “and boundary walls” shall be added ;

(b) for clause (h) the following clause shall be substituted, namely.—

“(h) ‘property insurable under this Proclamation’ means, in relation to any factory, the factory buildings and, except where they are for the time being goods insurable under the War Risks (Goods) Insurance Proclamation, XXVII of 1117, all plant and machinery in the factory, all materials in the factory for use in the production or transmission of motive power, or in the maintenance of plant and machinery or in the construction or reconstruction or maintenance of factory buildings, and such other plant, machinery or materials as may be prescribed”.

**Amendment
of section 5.**

3. In section 5 of the Proclamation,—
(a) in sub-section (1),—

(i) after the words “becoming a factory”, the following shall be inserted, namely.—

“or property becoming property insurable under this Proclamation”;

(ii) after the words “become a factory”, the following shall be inserted, namely.—

“or the property becomes insurable under this Proclamation”;

(b) to sub-section (4) the following words shall be added, namely.—

“and such punishment shall be without prejudice to any other penalty or liability incurred in consequence of such contravention or failure”;

(c) after sub-section (4), the following sub-section shall be added, namely.—

“(5) Where any offence under sub-section (4) is tried by a Magistrate competent to try such offence, then, notwithstanding anything contained in any other law for the time being in force, the Magistrate trying the offence may pass any sentence authorised by that sub-section”.

4. For sub-section (1) of section 6 of the Proclamation, the following sub-section shall be substituted, namely.—

Amendment
of section 6.

“(1) Any person authorised in this behalf by the Government may, for the purpose of ascertaining whether or not the owner or occupier of any property required to be insured under this Proclamation has taken out a policy of insurance as required by this Proclamation in respect of such property, or for the purpose of investigating the

insurable value of any property insured, or required to be insured, or proposed for insurance under this Proclamation, or for the purpose of estimating the damage suffered by any property insured under this Proclamation,—

(a) require the owner or occupier of the property, or any person carrying on in Cochin State the business of fire insurance in respect of the property, to submit to him such accounts, books or other documents, or to furnish to him such information as he may reasonably think necessary, or

(b) at any reasonable time enter any premises comprising or containing the property, inspect such premises or property and require any person found on such premises whom he believes to be in possession of information relevant to his investigation, to furnish to him such information as he may reasonably think necessary”.

Amendment
of section 7.

5. For section 7 of the Proclamation the following shall be substituted, namely.—

Recovery of
premiums
paid.

“7. (1) Without prejudice to the provisions of subsection (4) of section 5, where any person has failed to insure as, or to the full amount required by this Proclamation, and has thereby evaded the payment by way of premium of any money which he would have had to pay but for such failure, an officer authorised in this behalf by Government may determine the amount payment

of which has been so evaded and the amount so determined shall be payable by such person and shall be recoverable from him as provided in sub-section (2).

(2) Any instalment of premium due on a policy of insurance issued under the War Risks (Factories) Insurance Scheme, operated by the Government of India and any amount determined as payable under sub-section (1) shall be recoverable as an arrear of land revenue and shall be a first charge on the property in respect of which the default was made.

(3) A person against whom a determination is made under sub-section (1) may, within the prescribed period, appeal against such determination to Government whose decision shall be final".

6. (1) Section 11 of the Proclamation shall be re-numbered as sub-section (1) of that section and in the section as so re-numbered for the words beginning with "from the provisions of section 5" and ending with the end of the section the following words shall be substituted, namely. —

Amendment
of section 11.

"from the provisions of this Proclamation requiring such factories or premises to be insured or to continue to be insured under this Proclamation; but such exemption shall not prejudice the infliction of any penalty or the accrual of any liability incurred before the date on which the exemption takes effect".

(2) To the said section as so re-numbered by the foregoing sub-section the following sub-section shall be added, namely.—

"(2) In granting any exemption under this section Government may direct that the exemption shall take effect or be deemed to have taken effect on a specified date after or before the date of the notification".

PROCLAMATION**(XXV of 1118)**

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 10th day of Karkadagam 1118 corresponding
to the 26th day of July 1943*

**[Published in the Cochin Government Gazette
dated 15th Karkadagam 1118]**

WHEREAS it is necessary to amend Proclamation V of 1117;
WE are hereby pleased to command that in Section 1 of the
said Proclamation for the words "Parambanarkulangara Temple"
the words "Parambanarkulangara Temple, the Kandankulangara
Bhagavathi Devaswam" shall be substituted.

APPENDIX

Amendments to the Defence of India Act, 1939

*THE DEFENCE OF INDIA (AMENDMENT) ORDINANCE

(XLVIII of 1942)

The following Ordinance of the Government of India in the Legislative Department, Ordinance No. XLVIII of 1942, making further amendments to the Defence of India Act, 1939, is published for general information.—

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

New Delhi, the 5th September 1942

Ordinance No. XLVIII of 1942

An Ordinance further to amend the Defence of India Act, 1939

Whereas an emergency has arisen which makes it necessary further to amend the Defence of India Act, 1939, for the purpose hereinafter appearing ;

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.—

1. (1) This Ordinance may be called Defence of India (Second Amendment) Ordinance, 1942.

Short title and commencement.

(2) It shall come into force at once.

2. In clause (xx) of sub section (2) of section 2 of the Defence of India Act, 1939, for the words "any trade or industry" the words "agriculture, trade or industry" shall be substituted.

Amendment of section 2, Act XXXV of 1939.

LINLITHGOW

Viceroy and Governor General

THE DEFENCE OF INDIA (AMENDMENT) ORDINANCE

(XIV of 1943)

The following Defence of India (Amendment) Ordinance, 1943 (No. XIV of 1943) of the Government of India is republished for general information.—

*The amendments effected to the Defence of India Act, 1939 are in force here by virtue of the provisions contained in sub-section (1) of section 1 of Proclamation VIII of 1115.

Ordinance No. XIV of 1943

An Ordinance further to amend the Defence of India Act, 1939

Whereas an emergency has arisen which makes it necessary further to amend the Defence of India Act, 1939 (XXXV of 1939), for the purpose hereinafter appearing ;

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 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance.—

1. *Short title and commencement.*—(1) This Ordinance may be called the Defence of India (Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. *Substitution of new clause for clause (x) of section 2 (2), Act XXXV of 1939.*—For clause (x) of sub-section (2) of section 2 of the Defence of India Act, 1939 (XXXV of 1939), the following clause shall be substituted, and shall be deemed always to have been substituted, namely.—

“(x) the apprehension and detention in custody of any person whom the authority empowered by the rules to apprehend or detain as the case may be suspects, on grounds appearing to such authority to be reasonable, of being of hostile origin, or of having acted, acting, being about to act, or being likely to act in a manner prejudicial to the public safety or interest, the defence of British India, the maintenance of public order, His Majesty’s relations with foreign powers or Indian States, the maintenance of peaceful conditions in tribal areas or the efficient prosecution of the war, or with respect to whom such authority is satisfied that his apprehension and detention are necessary for the purpose of preventing him from acting in any such prejudicial manner, 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 ;”.

3. *Validity of orders made under rule 26, Defence of India Rules.*—For the removal of doubts, it is hereby enacted that no order heretofore made against any person under rule 26 of the Defence of India Rules shall be deemed to be invalid or shall be called in question on the ground merely that the said rule purported to confer powers in excess of the powers that might at the time the said rule was made be lawfully conferred by a rule made or deemed to have been made under section 2 of the Defence of India Act, 1939.

LINLITHGOW

Viceroy and Governor-General

G. H. SPENCE

Secretary