VIDHAN SABHA SECRETARIAT
MADHYA PRADESH

REPORT

OF THE

SELECT COMMITTEE

ON

MADHYA PRADESH MUNICIPALITIES BILL, 1960

(No. 6 of 1960)

BHOPAL
GOVERNMENT CENTRAL PRESS
1961

COMPOSITION OF THE SELECT COMMITTEE ON THE MADHYA PRADESH MUNICIPALITIES BILL, 1960

(No. 6, of 1960)

Chairman

1. Shri Manohar Singh, Mehta.

Members

2. Shri B. A. Mandloi, Revenue Minister.
3. Shri Shankar Dayal Sharma, Law Minister.
4. Shri Jagmohandas, Deputy Minister (Revenue).
5. Shri Sagar Singh Sisodia.
6. Shri B. L. Nahta.
7. Shri Yashwant Singh Kushwah.
8. Shri Hiralal Pippal.
9. Shri Vedehicharan Parashar.
10. Shri Nannhelal.
11. Shri Gopal Singh.
12. Shri Kapildeo Narain Singh.
13. Shrimati Ratan Kumari.
14. Shri Raichand Bhai Shah.
15. Swami Krishnanand.
16. Shri Kashiram Tiwari.
17. Shri Rukmani Raman Pratap Singh.
18. Shri Gopal Sharan Singh.
19. Shri Hansraj.
20. Shri Harkishan Singh.
21. Shri Yugal Kishore Saxena.
22. Shri Vasant Rao Pradhan.
23. Shri Vimal Kumar Choradia.
24. Shri Homi. F. Daji.
25. Shri Malojirao Narsinghrao Shitole.

Secretariat

1. Shri Raghunath Singh, *Secretary.*
2. Shri Madan Gopal, *Deputy Secretary.*

REPORT OF THE SELECT COMMITTEE

I, the Chairman of the Select Committee to which the Madhya Pradesh Municipalities Bill, 1960, was referred having been authorised to submit the report on their behalf, present the Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Vidhan Sabha on the 6th April 1960. The motion for reference of the Bill to the Select Committee was moved in the House by Shri B. A. Mandloi and was adopted on the 7th April 1960.

3. The Committee held 21 sittings in all

4. In the first and second meetings of the Committee held on the 26th and 27th May, 1960, the Committee heard evidence tendered by the persons/associations mentioned in the Appendix

4. (*a*) The Committee during their deliberations also took into consideration the various representations received from different bodies, organisations and individuals in connection with the new Bill.

5. At the third sitting held on the 28th May 1960, the Committee had a general review of the provisions of the Bill.

6. The Committee considered the Bill clause by clause at their sittings held on the 18th, 19th and 20th July, 9th, 10th, 11th and 12th August, 12th and 13th September, 25th and 26th November, 13th, 14th and 15th December, 1960 and 18th, 19th and 20th January, 1961.

7. The Report of the Committee was originally to be presented by the end of October, 1960 session. The Committee were granted extension of time on the 4th October 1960 up to the first day of this session.

8. The Committee considered and adopted the Report on the 1st February 1961.

9. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

10. The Committee have recommended the substitution of the designation of the "Chief Executive Officer" as the "Chief Municipal Officer" throughout the Bill.

11. *Clause* 2.—(1) New item (*i-a*).—As a corollary to item (*i*) the Committee feel that the Committees, Councils, sub-committees and boards referred to in that item andt heir office bearers and members, etc., should also continue to function until the expiry of their respective terms under the repealed Acts applicable to them before the commencement of this Act and any vacancy accruing in their office before the expiry of their term should be filled in the manner provided in the repealed Acts. The item has been added accordingly.

New explanation II clarifies that where any authority specified by or under the repealed Acts ceases to exist after the commencement of this Act the powers exercisable by such authority shall, for the purpose of this Act be exercisable by

such authority as may be notified by the Government and the cases pending before the former authorities on such notification shall stand transferred to the specified authorities and disposed of by them in accordance with the provisions of the repealed Acts.

12. *Clause* 3.—The definition of "corrupt practice" has been added under item (5-*a*) which was considered necessary by the Committee. Items 10 and 26 were considered unnecessary and have been deleted. A few minor corrections have also been made in this clause.

13. *Clause* 5.—Sub-clause 3 of clause 5 of the Bill provides a period of 30 days for receiving objections to the notification issued by the State Government under sub-clause (1) declaring their in tention to create, abolish or alter limits of municipalities. This period was considered inadequate and has been amended to 45 days. It has also been specified that the objections should be forwarded by the Collector to the Government with his comments within 45 days.

14. *Clause* 6.—The Committee have added a provision in the clause that the notification under section 5 should also be published at least in one Hindi newspaper having circulation in the area to which it relates.

15. *New Clause* 6 (*A*).—In the event of the Government deciding to replace a Town Area Committee or a Panchayat by a Municipality, so that there is no vacuum, the Committee have introduced this provision which seeks to ensure a smooth transition consequent to their abolition, to validate and save the acts performed by the body so abolished.

16. *Clause* 8.—Item (*b*) of sub-clause (1) has been revised to make the provision more explicit and to provide for cases where the area is also included within the limits of any local authority other than the Council.

To the above clause a new sub-clause (2) has been added which provides that all amounts due to a Council from a local area immediately before its exclusion from the Council on account of tax, toll, etc., or otherwise may continue to be recovered by the Council in respect of such area.

17. *Clause* 15.—In view of clause 314 of the Bill, this clause was considered superfluous and has been deleted.

18. *Clause* 16.—In the original clause it was provided that when an area is declared to be a Municipality for the first time the Collector or other officer appointed by him shall exercise the powers of the Council. The Committee considered that it would be in consonance with democratic principles if these powers and functions are exercised by a Committee to be appointed by the Government.

The clause has been amended accordingly.

19. *Clauses* 20, 20-*A to* 20-*H*.—The existing clause 20 of the Bill did not specify any details of the procedure for the disposal of election petitions and the grounds on which such petitions would lie, and it was intended to leave this to rules to be framed by the Government. The Committee favoured a substantive provision in this regard. Hence the clause has been amended and clause 20-A to 20-H have been added to make comprehensive statutory provisions in this regard on the lines of the Representation of the People Act, 1951.

20. *Clause* 24.—The original provision of sub-clause (3) contemplated an annual revision of the electoral rolls. The Committee, however, considered that a revision of the electoral rolls six months prior to the municipal general election would serve the purpose. The Committee also considered that such revision will not be necessary where the general election takes place upon the dissolution of the Council within two years of the last municipal general election.

Sub-clause (3) has been amended accordingly.

21. *Clause* 34.—The Committee were of the opinion that the Vice-Presidents should be elected from amongst the members of the Council only and that the terms of Office of the President and Vice-Presidents should be two years.

22. *Clause* 37.—The Committee feel that the procedure for tendering resignations should be made more specific. The Committee also thought that the resignation by the President should be addressed to the Vice-President, that of the Vice-President to the President and should be delivered to the Chief Municipal Officer. The resignation should take effect from the date of delivery.

The clause has been amended accordingly.

23. *Clause* 38.—By substituting sub-clause (1) the Committee have tried to make the intention of the provision clearer and also to provide that the office of the President and Vice-President shall become vacant forthwith on a motion of no confidence being carried against them.

In the substituted sub-clause (2), the Committee have endeavoured to make the procedure for the convening and conduct of the special meeting more definite.

24. *Clause* 39.—The amendment in the clause is with a view to allow more discretion to the Council in granting leave of absence to the President or Vice-Presidents.

25. *Clause* 40.—The Committee have added a provision under new sub-clause (4) to the effect that no prosecution under the clause should be instituted without the previous sanction of the State Government.

26. *Clause* 40-*A*.—This clause has been added to provide that the Municipal Government shall vest in the Council. There was no provision to this effect in the original Bill, hence the amendment.

27. *Clause* 41.—Clause 41 has been amended and a new clause 41-A has been added to make the powers and duties of President and the functions of the Vice-Presidents more explicit.

28. *Clause* 44.—The Committee considered that the meeting of a Council for purposes of selecting Councillors as required under section 19 should be called by the Chief Municipal Officer with the prior approval of the authority prescribed under section 24 within one month after the general election.

The Committee also considered that the first meeting of the Council in class I and Class II municipalities should be called and presided over by the Collector and in the case of Class III and Class IV municipalities by the Sub-Divisional officer to elect the President and Vice-Presidents.

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The Committee also considered that the first meeting of the Council in class I and Class II municipalities should be called and presided over by the Collector and in the case of Class III and Class IV municipalities by the Sub-Divisional officer to elect the President and Vice-Presidents.

29. *Clause* 50.—The major amendments in the clause are enhancement of quorum in sub-clause (1) from one-fourth to one-third and the provision that business other than that fixed for the original meeting may be transacted with the consent of two-third the Councillors present.

30. *Clause* 59.—The amendment makes it clear that the election will be in accordance with the system of proportional representation by means of the single transferable vote and that the period of office will be two years instead of one year as in the original provision of the Bill.

31. *Clause* 66.—The procedure of obtaining decisions by circulation was not favoured by the Committee and the clause has therefore been omitted.

32. *Clause* 76, 76-*A*, 76-*B* and 76-*C*.—The existing clause 76 of the Bill provided for the appointment of a Chief Municipal Officer and the creation of a service for such class of officers. The Committee considered this provision to be inadequate and were of the view that it would be desirable in the interest of municipal administration to constitute certain municipal services for the whole State. Provision has, therefore, been made authorising the State Government to constitute three State Municipal Services (Executive, Health and Engineering). The members of the services would be appointed by the State Government but their salaries and allowances would be a charge on the municipal fund. In order to provide minimum administrative control of the local bodies over these municipal services, powers of disciplinary action other than those of dismissal, removal, reduction in rank, etc., have been conferred on the Council and suitable provisions accordingly have been inserted in this clause.

The Committee are also of the view that every Council having an annual income of rupees five lacs or more should have the Health Officer and Engineer drawn from the State municipal Service.

Pending the constitution of the State Municipal Service a provision has been made enabling the Government to make appointments to the posts of Chief Municipal Officer, Health Officer and Engineer.

Substitution of clause 76 and addition of new clauses 76-A, 76-B and 76-C has been made accordingly.

33. *Clause* 80.—The Committee were of the opinion that the power of appointment of officers and servants other than those mentioned in sub-clause (4) should vest in the Standing Committee.

Sub-clause (6) has been amended accordingly.

34. *Clause* 88.—New sub-clause (3) exempts from payment of Stamp Duty all instruments of transfer of land made in favour of a Council.

35. *Clause* 98.—The existing clause made it possible for the Chief Municipal Officer to accept any tender which was not the lowest if such acceptance would be advantageous to the Council. The Committee were of the view that the discretion to accept a tender other than the lowest should only vest in the Council. The proviso has been added accordingly to sub-clasue (2).

36. *Clause* 102.—The Committee feel that the Budget Estimates would receive fuller consideration at the hands of a smaller Committee than the full Council. It has accordingly been suggested that the budget estimates should in the first

instance be laid before the Finance Committee or the Standing Committee, as the case may be. The budget estimates as approved by the above Committee would then be considered by the Council.

In case the Council is not able to approve the budget estimates before the beginning ofthe financial year, to which they relate, the estimates as recommended by the Finance or Standing Committee shall be deemed to be the budget estimates finally adopted by the Council till such time as they are adopted by it.

The Committee also feel that to facilitate the passage of the budget estimates at every stage time limits should be prescribed. Changes have accordingly been made in the clause.

37. *Clause* 104.—The Committee did not consider sub-clause (3) necessary and have omitted it.

38. *Clause* 106.—New sub-clause (4) allows any Councillor with the permission of the President and in the presence of the Chief Municipal Offieer to inspect any documents relating to the accounts of the Council within two days before the meeting of the Council in which they are to be considered.

39. *Clause* 107.—The Committee were of the view that the annual accounts of every Council should be subject to audit under the Madhya Pradesh Local Fund Audit Act, 1933.

40 *Clause* 112 —The Committee feel that there may be cases where the annual rent of any building or land is much lower than the annual rent for which it might reasonably be expected to let at the time of assessment. In such cases, it would be in the interests of the Council to deem such expected rent to be the annual letting value of the building or land. A proviso has, therefore, been accordingly added.

41. *Clause* 117-*A and* 117-*B*.—In view of the importance of growing industrialisattion programmes, the Committee were of the view that sometimes municipal taxation becomes a heavy burden on the proper growth of certain industries, and that there should be a provision for granting exemption in certain cases. However, this power of exemption should not be an unrestricted one, should be well defined. With this purpose in view, the new clause 117-A has been added. A new clause 117-B has also been provided for regulating the procedure for refund of taxes.

42. *Clause* 122-*A*.—There is no provision for appeals against assessment of tax by a Council in the Bill. The Committee feel that in fairness to the assessees a provision should be made so that if there is a dispute as to the liability of any property to assessment or as to the basis or principles of assessment or as to the amount of tax assessed, the aggrieved party may have an opportunity to seek redress in a court of law. The Committee are also of the view that the nearest Civil Judge should have jurisdiction to hear such appeals.

The new clause has been added accordingly.

43. *Clause* 169-*A*—.The Committee feel that if the erection of a building is prohibited by a Council, the latter need not be made responsible for any damage sustained by an owner in consequence of such prohibition. But if the re-erection of any building is prohibited and the owner thereby sustains any damage, a right to compensation does accrue and the Council should make good the damage by paying a reasonable compensation to such an owner.

In view of the above, the new clause has been added.

44. *Clause* 211-*A*.—In the overcrowded areas in a municipality a risk of disease to inhabitants may arise by the crowding together of buildings, the impracticability of cleansing any buildings, want of drainage or scavenging or the narrowness, etc., of the streets or buildings. In such cases, it may become necessary to invest the Council with certain special powers to deal with the situation. The Committee feel that the Government should have power to confer such special powers on a Council.

The new clause has, therefore, been added with this view.

45. *Clauses* 216-*A and* 216-*B*.—These two clauses have been added with a view to enable the Council to prohibit the collection of inflammable materials or the lighting of fires or the cultivation of crops or the use of manure which may be dangerous to life or property or may be injurious to the health of the inhabitants.

46. *Clause* 235-*A*.—Spitting in places other than drains or receptacles provided for the purpose, has been made a penal offence.

47. *Clause* 241-*A*.—Clause 241 provides for fixing places for the slaughter of animals for sale but there is no such provision for the slaughter of animals not meant for sale. This clause has been added in order to regulate such slaughters.

48. *Clause* 257-*A*.—It may be necessary to reserve certain areas in a municipality for use in future for any special purpose of public utility or for the future development of the municipality. The Committee feel that the State Government should have powers to reserve areas for the purposes mentioned above. Provision has accordingly been made by adding this clause.

49. *Clause* 263-*A*.—The new clause makes a special provision for the efficient disposal of the dead bodies of animals.

50. *Clauses* 263-*B*, 263-*C*, 263-*D and* 263-*E*.—The Committee were of the view that besides the provisions contained in Suppression of Immoral Traffic in Women and Grils Act, 1956, a municipal Council should also be fortified and armed with powers to deal with the problem of prostitution and regulate and control prostitution and brothels within the municipal limits so that immoral activities of this type could be effectively checked.

The new clauses have been inserted towards this end.

51. *Clause* 276.—The Committee considered it proper to make a distribution of the powers and functions of the Council under the various clauses of the Bill between the Chief Municipal Officer and the President.

The clause has been substituted accordingly.

52. *Clause* 277.—The Committee were of the view that the Appeal Committee in class I and class II municipalities should hear appeals against the orders of the Chief Municipal Officer and appeals against the orders of the President should lie to the Council.

The clause has been amended accordingly.

53. *Clause* 278.—The Committee considered that in class III and class IV municipalities appeals against the orders of the Council, the President and Chief Municipal Officer should lie to the Collector.

The clause has been amended accordingly.

54. *Clause* 279.—The amendment in the clause lays down definite grounds on which stay can be ordered.

55. *Clause* 300-*A*.—In the original Bill, no power of revision was given to the State Government in the matter of orders passed by subordinate authorities, like the Commissioner, Collector, etc., or the prescribed authority under the Act. The Committee were of the view that such powers should be vested in the State Government. The new clause 300-A seeks to confer this authority on the State Government to call for relevant records and pass appropriate orders in revision, if necessary.

56. *Clause* 300-*B*.—In the original Bill, there is no specific provision under which the State Government or any other subordinate authority under the Act could review its own orders. The Committee were of the view that powers of review were necessary.

The new clause 300-B has been accordingly inserted.

57. *Clause* 306.—The Committee considered the clause redundant and have omitted it.

58. *Clause* 306-*A*.—Public Works in a municipality may be of a nature that require a degree of professional skill which may not be at the disposal of a Council. This clause seeks to empower the Government to carry out such works or to ask any proper agency to do the same. The charges of such works shall be borne by the Council concerned.

The clause has, therefore, been added accordingly.

59. *Clause* 313.—The Bill contemplates the delegation of certain powers of the State Government. The Committee were, however, of the view that these powers which may be delegated should not remain undefined. The Committee have thought it sufficient to indicate in this substituted clause specifically those powers which the State Government should not delegate to any officer or authority subordinate to it.

60. The Select Committee recommend that the Bill as amended by the Select Committee be passed.

BHOPAL :
The 8th February, 1961.

MANOHAR SINGH MEHTA,
Chairman, Select Committee.

MINUTE OF DISSENT

I

For Democracy to be true, greater decentralisation of power is an axiomatic necessity. Therefore, limitations on the powers and scope of Municipalities, Governmental control and an attitude of suspicion is an anarchism from the days of foreign rule, when decentralisation was sought to be effected by a system of check and controls. Though much improved, the Bill is still loaded with some unnecessary, irksome and undemocratic features, with which I strongly dissent.

Some of the main such features are :

Section 86.—Government's refusal to transfer all land within its limits to the Municipalities.

Section 32 *and* 298.—These sections give power to the Government to remove a Councillor on a motion by a simple majority of the Council. The majority can in no case represent the electors of the allegedly defaulting Councillor. A duly elected Councillor can be removable by no one except the electors through a system of Recall. The section is very mischievious as it provides neither objectives of misconducts nor any provision of judicial and impartial decision.

Similarly the power given by section 298 to the Government to dissolve a Council and supercede it for 2 years is excessively arbitrary. Dissolution, if at all, should at least be based on proved gross misconduct, after fair and impartial opportunity and must immediately be followed by a fresh election. The ultimate correction of mistaken democracy is to trust the people and allow them to determine their will. Executive will should in no case be allowed to super-impose itself on popular will. Such powers have been abused as in the cases of Kaleli and Ujjain Municipalities.

Section 116.—Similarly presanction by the Government for variation in taxations is wrong. It is an ingress on the powers of the Local Authority and should be done away with.

Powers.—It is anamoly that while greater powers to the Panchayats is being spoken of the functions of Urban Local Authorities are yet sought to circumscribed to what are known as Municipal functions. There is not even a ray of the Government's willingness to transfer even some of the minor administrative functions. The Local authorities may make mistake, but they shall not come of any worst than the performance of Beaurocracy. I feel that the time has come to make a beginning. Such functions as Housing loans, Industrial loans, Civil supplies, etc., should certainly be transferred to local authorities. The present Bill shows no advance on this very important aspect.

The 27th January 1961. HOMI F. DAJI.

(हिन्दी अनुवाद)

विमति टिप्पण

लोकतन्त्र को सत्य करने के लिये शक्ति का अधिकतर विकेन्द्रीकरण ही एक स्वयंसिद्ध आवश्यकता है. अतः नगरपालिका की शक्तियों और विस्तार पर परिसीमायें, शासकीय नियंत्रण और संदिग्धता की वृत्ति विदेशी शासन के दिनों से ही कालगणना का भ्रम है जबकि विकेन्द्रीकरण रोक और नियंत्रण की पद्धति द्वारा प्रभावी किया जाता था. यद्यपि यह अधिक सुधारा हुआ है, तो भी विधेयक कुछ अनावश्यक, उकता देने वाले और अलोकतंत्री रूपों से लदा हुआ है जिनसे मैं दृढ़तापूर्वक विमत हूं. ऐसे मुख्य रूपों में से कुछ ये हैं :—

धारा ८६—शासन द्वारा उसकी सीमा के भीतर की समस्त भूमि को नगरपालिकाओं को हस्तान्तरण करने से इंकार करना.

धारा ३२ और २९८—ये धारायें शासन को किसी भी पार्षद को प्रस्ताव पर परिषद् की साधारण बहुमत से हटाने की शक्ति प्रदान करती है. यह बहुमत किसी भी मामले में अभिकथित चूक करने वाले पार्षद को निर्वाचित करने वालों का प्रतिनिधित्व कर सकती है. यथोचित रूप से निर्वाचित पार्षद निर्वाचित करने वालों द्वारा प्रत्याव्हान की पद्धति के अतिरिक्त किसी के भी द्वारा हटाया नहीं जा सकता है. धारा बहुत ही कुचेष्टा पूर्ण है क्योंकि यह न तो दुर्व्यवहार के उद्देश्यों का ही उपबंध करती है और न इसमें न्यायिक और निष्पक्ष निर्णय का ही उपबंध है.

इसी तरह धारा २९८ द्वारा शासन को परिषद् को विघटित और उसको दो वर्ष के लिये निष्प्रभाव करने की जो शक्ति दी गई है वह अत्यधिक स्वच्छन्द है. विघटन, यदि कोई हो तो कम से कम वह असभ्य दुर्व्यवहार के लिये प्रमाणित आधार पर होना चाहिये जो उचित और निष्पक्ष अवसर दिये जाने के पश्चात् किया गया हो और उसके तुरंत बाद नया निर्वाचन होना चाहिये. भ्रामक लोकतंत्र का अंतिम शोधक है जनता पर विश्वास करना और उनको उनकी इच्छा निश्चित करने देना है. कार्यकारी इच्छा को किसी भी हालत में लोकप्रिय इच्छा पर अध्यारोप नहीं करने देना चाहिये. ऐसी शक्तियों का दुरुपयोग किया गया है जैसा कि कलेली और उज्जैन नगरपालिकाओं के मामले में हुआ है.

धारा ११६—इसी प्रकार से कराधान में परिवर्तन के लिये शासन द्वारा पूर्व मंजूरी देना गलत है. यह स्थानीय प्राधिकारी की शक्तियों पर एक तरह से प्रभाव है और इसे निकाल देना चाहिये.

अधिकार—यह विषमता है कि जब कि पंचायतों के लिये बड़े अधिकारों की बात की जाती है तब शहरी स्थानीय प्राधिकारों के कार्यों को अभी सीमाबद्ध किया जा रहा है जिन्हें नगरपालिका के कार्य के रूप में जानते हैं. इसमें शासन की केवल कुछ लघु प्रशासकीय कार्यों को भी हस्तांतरण की एक किरण भी नहीं है. स्थानीय प्राधिकार भूल कर सकते हैं. परन्तु वे नौकरशाही का पालन करने से कहीं और बदतर नहीं होंगे. मेरे विचार से आरम्भ करनेका समय अब आगया है. ऐसे कार्य जैसे गृह निर्माण के लिये ऋण, और औद्योगिक ऋण, व्यवहार प्रदाय आदि को निश्चित हो स्थानीय प्राधिकारी को हस्तान्तरित कर देना चाहिये. यह उत्तम विधेयक इस बहुत ही महत्वपूर्ण पहलू पर कोई उन्नति नहीं दर्शाता है.

दिनांक २७ जनवरी १९६१.

होमी. एफ. दाजी.

असहमति पत्र

मध्यप्रदेश नगरपालिका विधेयक, १९६० के लिये सेलेक्ट कमेटी द्वारा जो रिपोर्ट दी जा रही है, उसमें मेरा नम्र असहमति पत्र है.

१. विधेयक की धारा १९ (१) (ख) में महिला सदस्या अनिवार्यतः रखी है, वह जहां तक संभव हो, रखी जाना चाहिये.

२. विधेयक की धारा २१ में पार्षदों की संख्या निश्चित करना तथा वार्डों के विभाजन आदि का काम चुनाव की अपेक्षित तिथि से तीन माह पूर्व हो जाना चाहिये.

३. विधेयक की धारा ३४ (३) में अध्यक्ष का चुनाव प्रति वर्ष होना चाहिये.

४. विधेयक की धारा ३२ बहुत ही व्यापक है. कौन्सिलर को निकालने के लिये कम से कम उचित कारणों का विवरण दिया जाना चाहिये.

५. विधेयक की धारा ४२ में केवल देय-कर की सूची तैयार नहीं की जानी चाहिये. जितनी भी रकम देय है, उस सब की सूची तैयार की जानी चाहिये.

६. धारा ८६ में नजूल भूमियों का आधिपत्य भी नगरपालिका को देना चाहिये.

७. विधेयक की धारा ११६ (१) (दो) में शासन द्वारा नगरपालिका के भेजे गये प्रस्ताव पर स्वीकृति अथवा अस्वीकृति करने के लिये समय का बन्धन होना चाहिये.

८. विधेयक की धारा १४३ द्वारा जो नवीन कर लगाया जा रहा है, वह नहीं लगाया जाना चाहिये.

९. धारा १४४ से नगरपालिका पर शासन द्वारा अनिवार्य रूप से कर लगाने का अधिकार देना अनुचित है.

दिनांक २० जनवरी १९६१ — विमलकुमार चौरडिया.

MINUTE OF DISSENT

[Translated into English from Hindi verson]

I beg to dissent with the recommendations made by the Select Committee on the Madhya Pradesh Municipality Bill, 1960.

1. In Section 19 (1) (*b*) of the Bill a woman member has been compulsorily kept, hence she should be kept as far as possible.

2. In section 21 of the Bill the work of determination of the number of Councillors and the division of the wards should be completed three months before the expected date of election.

3. In section 34 (3) of the Bill, the election of the President should be held every year.

4. Section 32 of the Bill is very exhaustive. For removing a Councillor a statement of at least proper reasons should be given.

5. In section 42 of the Bill only the list of taxes due should not be prepared. The list of all the sums due should be prepared.

6. In section 86 the Municipalities should be given the rights over Nazul Lands also.

7. In section 116 (1) (II) of the Bill there should be a time limit for sanctioning or rejecting the resolution sent by the municipality.

8. The new tax which is being imposed by section 143 of the Bill should not be imposed.

9. By section 144 the giving of the right of imposing tax compulsorily on the municipality by the Government is imporper.

The 20th January 1961. VIMAL KUMAR CHORDIYA

APPENDIX

(*See* Paragraph fourth of the Report)

1. Shri V. V. Sarvate, Chairman, M. P. Local Bodies Federation.
2. Shri Anantraj, President, City Municipality, Ujjain.
3. Shri Akbaralli Arif, President, City Municipality, Ratlam.
4. Shri Thakur Puran Singh, President, City Municipality, Dewas.

[*As amended by Select Committee*]

MADHYA PRADESH BILL

No. 6 OF 1960.

THE MADHYA PRADESH MUNICIPALITIES BILL, 1960

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271. Summary powers regarding certain offences.

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291. Police protection at fairs, etc.

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304. Powers of the [Chief Executive Officer] Chief Municipal Officer to be exercised by the President in certain cases.
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306. Certain services to be essential.
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310. Application of Act to notified areas.
311. Application of funds of areas ceasing to be notified.
312. Declaration of notified area to be municipality and its effect.

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313. Delegation of powers.
[314. Power to remove difficulties.]
314. Power to remove difficulties.
315. Mode of proof of municipal records.
316. Restriction on the summoning of municipal servants to produce documents.
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319. Power of State Government to declare any area to be sanitary zone.
[320. Councillors, etc., to be deemed public servants.]
320. Public servants.
321. Prohibition of remuneration to Councillors.
322. Inspection of municipal works by Councillors.

CHAPTER XV.—RULES AND BYE-LAWS

323. Power to make rules.
324. General provisions regarding rules.
325. General provision regarding byelaws.
[326. Power to make bye-laws.]
326. Power to make byelaws.
327. Model bye-laws.
[328. Copies of rules and byelaws, etc., to be kept for.]
328. Copies of rules and byelaws, etc., to be kept for.

[As amended by the Select Committee]

[Omissions made by Select Committee are enclosed in square brackets and additions and alterations made by it are sidelined or underlined.]

MADHYA PRADESH BILL

No. 6 OF 1960.

THE MADHYA PRADESH MUNICIPALITIES BILL, 1960

A Bill to consolidate and amend the law relating to municipalities and to make better provision for the organisation and administration of municipalities in Madhya Pradesh.

BE it enacted by the Madhya Pradesh Legislature in the [Tenth] Eleventh Year of the Republic of India as follows :—

CHAPTER I.—PRELIMINARY

Short title, extent and commencemen

1. (1) This Act may be called the Madhya Pradesh Municipalities Act, [1960.] 1961.

(2) It extends to the whole of Madhya Pradesh.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

Repeal and Savings.

2. (1) The Central Provinces and Berar Municipalities Act, 1922 (II of 1922), the Madhya Bharat Municipalities Act, 1954 (1 of 1954), the Vindhya Pradesh Municipalities Act, 1946, and the Bhopal State Municipalities Act, 1955 (III of 1956), are hereby repealed.

(2) Notwithstanding such repeal—

(i) all Municipal Committees, Municipal Councils, Municipal Boards and Notified Area Committees constituted, committees or sub-committees constituted or appointed, limits defined, appointments, rules, orders and byelaws made, notifications and notices issued, taxes imposed or assessed, fees fixed, contracts entered into, suits instituted and proceeding undertaken or any other things done or action taken under the said Acts or any enactment thereby repealed shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been respectively constituted, appointed, defined, made, issued, imposed or assessed, fixed, entered into, instituted, undertaken, done or taken under this Act;

(i-a) unless the State Government otherwise directs the Committees, Councils sub-committees and Boards referred to in clause (i) and the Presidents, Vice-Presidents, members and councillors thereof shall continue to function until the expiry of their term under the repealed Act applicable to them before the commencement of this Act and any vacancy occurring in their office before the expiry of their term shall be filled in the manner provided in such repealed Act;

(ii) any action initiated for recovery of taxes under the said Acts or any enactments thereby repealed shall be continued in accordance with the provisions thereof.

(iii) (a) All employees belonging to or under the control of the bodies mentioned in item (i) immediately before the commencement of this Act shall be deemed to be the employees of the Councils under this Act;

(b) the condition of service including the salary, allowances, gratuity, annuity, pensions and other payments required to be made in accordance with the conditions of service existing in respect of the employees of the said bodies immediately before the commencement of this Act shall be deemed to be their conditions of service including the salary, allowances, gratuity, annuity, pensions, and other payments required to be made in accordance with the conditions of service under this Act until altered in accordance with the provisions of this Act or the rules made thereunder.

Explanation I.—For removal of doubt, it is hereby declared that any rules or byelaws made or anything done under the enactments hereby repealed shall not be deemed to be inconsistent with the provisions of this Act merely on the ground that the procedure followed in making such rules or byelaws or doing such thing was different from that prescribed under this Act.

Explanation II.—Where any authority specified by or under the repealed Acts ceases to exist after the commencement of this Act, the powers exercisable by such authority under the repealed Acts shall, for the purposes of this Act, be exercisable by such authority as the State Government may, by notification, specify in this behalf and the cases pending before the first mentioned authorities shall, on such notification, stand transferred to the authorities mentioned in such notification and be disposed of in accordance with the provisions of the repealed Acts.

3. In this Act unless the context otherwise requires,—

(1) "Assessment list" means any municipal assessment register prepared and maintained in accordance with the provisions of this Act or rules made thereunder and includes any register subsidiary thereto ;

(2) "building" includes a hut, shed or other enclosure whether used as a human dwelling or otherwise, and shall include wells, walls, verandahs, fixed platforms, plinths, doorsteps, and the like but shall not include a tent or a temporary shed erected on ceremonial or festive occasions;

(3) "building line" means a line beyond which the outer face or any part of an external wall of a

building should not project in the direction of any street existing or proposed ;

(4) "bye-law" means a byelaw made in exercise of a power conferred by this Act ;

(5) ["Chief Executive Officer"] "Chief Municipal Officer" means the [Chief Executive Officer] Chief Municipal Officer for the Council appointed under section [75] 76-A and includes any municipal officer empowered under this Act to exercise, perform or discharge any of the powers, duties or functions of the [Chief Executive Officer] Chief Municipal Officer to the extent to which such officer is so empowered;

(5-a) "Corrupt practice" means any of the practices specified in section 20-H ;

(6) "Councillor" means any person who is legally a member of a Council ;

(7) "Council" means municipal Council constituted by or under this Act ;

(8) "conservancy" means the removal and disposal of sewage, offensive matter and rubbish ;

(9) "drain" includes a sewer, tunnel, pipe, ditch, gutter or channel, and any cistern, flush, tank, septic tank, or other device for carrying off or treating sewage, offensive matter, polluted water, sullage, waste water, rain water or sub-soil water and any culvert ventilation, shaft or pipe or other appliance or fitting connected therewith, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter from any place ;

[(10) "dangerous disease" means Anthrax, Cerebrospinal fever, Chicken Pox, Cholera, Diptheria, Enteric Group of Fevers, Erysipelas, Influenza, Pneumonia, Leprosy, Measles, Plague, Rabies, Scarlet fever, Small-pox, Tuberculosis of lungs and intestines, Typhus, Virus Encephalities, and any other disease which the State Government may declare to be a dangerous disease under any enactment for the time being in force;]

(11) "erect or re-erect any building" includes—

(i) any material alteration or enlargement of any building;

(ii) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation ;

(iii) the conversion of one or more places of human habitation into a greater number of such places;

(iv) the conversion of two or more places of human habitation into a lesser number of such places;

Clauses

304. Powers of the [Chief Executive Officer] Chief Municipal Officer to be exercised by the President in certain cases.
305. Dissolution of Council in event of large number of vacancies.
306. Certain services to be essential.
306-A. Agency for execution of public works.
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building should not project in the direction of any street existing or proposed ;

(4) "bye-law" means a byelaw made in exercise of a power conferred by this Act ;

(5) ["Chief Executive Officer"] "Chief Municipal Officer" means the [Chief Executive Officer] Chief Municipal Officer for the Council appointed under section [75] 76-A and includes any municipal officer empowered under this Act to exercise, perform or discharge any of the powers, duties or functions of the [Chief Executive Officer] Chief Municipal Officer to the extent to which such officer is so empowered;

(5-a) "Corrupt practice" means any of the practices specified in section 20-H ;

(6) "Councillor" means any person who is legally a member of a Council ;

(7) "Council" means municipal Council constituted by or under this Act ;

(8) "conservancy" means the removal and disposal of sewage, offensive matter and rubbish ;

(9) "drain" includes a sewer, tunnel, pipe, ditch, gutter or channel, and any cistern, flush, tank, septic tank, or other device for carrying off or treating sewage, offensive matter, polluted water, sullage, waste water, rain water or sub-soil water and any culvert ventilation, shaft or pipe or other appliance or fitting connected therewith, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter from any place ;

[(10) "dangerous disease" means Anthrax, Cerebrospinal fever, Chicken Pox, Cholera, Diptheria, Enteric Group of Fevers, Erysipelas, Influenza, Pneumonia, Leprosy, Measles, Plague, Rabies, Scarlet fever, Small-pox, Tuberculosis of lungs and intestines, Typhus, Virus Encephalities, and any other disease which the State Government may declare to be a dangerous disease under any enactment for the time being in force;]

(11) "erect or re-erect any building" includes—

(i) any material alteration or enlargement of any building;

(ii) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation ;

(iii) the conversion of one or more places of human habitation into a greater number of such places;

(iv) the conversion of two or more places of human habitation into a lesser number of such places;

(v) such alterations of building as effect a change in its drainage or sanitary arrangements, or materially affect its security; and

(vi) the addition of any rooms, buildings, out-houses or other structures to any buildings ;

(12) "explosive" and "petroleum" shall have the meanings assigned to them in the Indian Explosives Act 1884 (IV of 1884) and the Petroleum Act, 1934 (XXX of 1934), respectively ;

(13) "Food" means any article used as food or drink for human consumption other than drugs and water and includes—

(a) any article which ordinarily enters into or is used in the composition or preparation of human food ; and

(b) any flavouring matter or condiments ;

(14) "house gully" means a passage or strip of land constructed, set apart or utilised for the purpose of serving as a drain or affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom ;

(15) "inhabitant" includes any person ordinarily residing or carrynig on business, or owning or occupying immovable property in any municipality or in any local area which the State Government has, by notification, proposed to declare to be a municipality ;

(16) "land" includes benefits arising out of land, houses and things attached to the earth, or permanently fastened to anything attached to the earth and also land which is being built upon or is built upon or covered with water ;

(17) "market" or "Bazar" means,—

(a) a place where persons assembling for the sale of meat, fish, fruit, vegetables, live-stock or any other article of food of a perishable nature, whether or not there is any collection of shops, or warehouses or stalls for the sale of other articles in such place ; or

(b) any place of trade other than a place referred in sub-clause (a) where there is a collection of shops or warehouses or stalls ; and shall include any "*Hat*" or place, where trade or business is carried on either weekly or bi-weekly or on certain fixed days of the week ;

(18) "Municipality" means the local area declared to be a municipality under section 5 and any other area which the State Government may by notification include in such area ;

(19) "municipal drain" means a drain vested in a council;

(20) "municipal market" means a market vested in or managed by a council ;

(21) "municipal slaughter-house" means a slaughter-house vested in or managed by a council ;

(22) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or disturbance to rest or sleep of the community or which is or may be dangerous to life or injurious to the health or property or offends against public morality ;

(23) "occupier" means any person in actual possession of any land or building and includes an owner in actual possession, and a tenant or licensee, whether such tenant or licensee is liable to pay rent or not ;

(24) "owner" when used with reference to any land or building includes the person for the time being receiving the rent of the land or building or of any part of the land or building whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or as a receiver who would receive such rent if the land, building or part thereof were let to a tenant ;

(25) "offensive matter" includes animal carcasses, dung, dirt, or putrid or putrifying substances and filth of any kind which is not included in 'sewage' as defined in this section ;

(26) "prescribe" means prescribed by rules or byelaws, as the case may be, made under this Act;]

(27) "prescribed authority" means an authority which the State Government may, by notification, generally or with respect to any provison of this Act, declare to be a prescribed authority ;

(28) "public place" means a space, not being private property, which is open to the use or enjoyment of the public, whether such space is vested in the Council or not ;

(29) "public street" means any street—

(a) over which the public have a right of way ; or

(b) which has been heretofore levelled, paved, metalled, asphalted, channelled, sewered or repaired out of municipal or other public funds ; or

(c) which under the provisions of this Act becomes a public street ;

and includes—

(i) the roadway over any public bridge or causeway ;

(ii) the footway attached to any such street ;

(iii) public bridge or causeway, and the drains attached to any such street, public bridge or causeway ;

(30) "private street" means a street which is not a 'public street' ;

(31) "privy" means a place set apart for defecating or urinating or both, together with the structure comprising such place, the receptacle therein for human excreta and the fitting and apparatus, if any, connected therewith, and including a closet of the dry type, an aqua privy, a latrine and urinal ;

(32) "rubbish" includes dust, ashes, broken bricks, mortar, broken glass, garden or stable refuse or refuse of any kind which is not 'offensive matter' or 'sewage' as defined in this section ;

(33) "regular line of the street" means the line dividing the land comprised in and forming part of street from the adjoining land and includes any proposed alignment ;

(34) "sewage" means night-soil and other contents of water closets, latrines, privies, urinals, cesspools or drains and polluted water from sinks, bathrooms, stables, cattlesheds, and other like places and includes trade effluents and discharges from manufactories of all kinds ;

(35) "sewer" includes a drain, a house drain or a drain of any other description and any other device for carrying off sullage, sewage, offensive matter, polluted water, rain water, or sub-soil water ;

(36) "slaughter-house" means any place used for the slaughter of cattle, sheep, goats, kids or pigs;

(37) "street" means any road, foot-way, square, court, alley or passage, accessible, whether permanently or temporarily to the public, whether a thoroughfare or not ;

and shall include every vacant space, notwithstanding that it may be private property and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon, and if it is used by any persons as means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not,

but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid,

and shall include also the drains on either side and the land whether covered or not by any pavement, verandah or other erection, which lies on either side of the roadway up to the boundaries of the adjacent property, whether that property be private property or property reserved by Government or by the Council for any purpose other than a street ;

(38) "tax" includes any toll, rate, cess, fee or other impost leviable under this Act ;

(39) "vehicle" includes a bicycle, tricycle, motor car and every wheeled conveyance which is used or capable of being used on a public street.

(40) "Vice-President" means a senior Vice-President in the first instance and in the event of his being incapable of acting due to absence owing to illness or any other cause, the junior Vice-President.

CHAPTER II.—CONSTITUTION OF MUNICIPALITIES

Classes of municipalities.

4. (1) There shall be four classes of municipalities as follows:—

(i) *Class I Municipalities.*—Municipalities with population exceeding 50,000 ;

(ii) *Class II Municipalities.*—Municipalities with population exceeding 20,000 but not exceeding 50,000 ;

(iii) *Class III Municipalities.*—Municipalities with population exceeding 10,000 but not exceeding 20,000 ; and

(iv) *Class IV Municipalities.*—Municipalities with population not exceeding 10,000.

(2) The State Government shall, by notification, specify the class to which a municipality shall belong in accordance with sub-section (1) and the notification shall be conclusive evidence of the classification of a municipality.

(3) Notwithstanding anything contained in sub-section (1), the State Government may, for special reasons place any municipality in a class higher or lower than the one to which it belongs under sub-section (1).

Notification of intention to create or alter limits or abolish municipalities.

5. (1) The State Government may, by notification, signify its intention—

(a) to declare any local area to be a municipality ; or

(b) to include within a municipality any local area contiguous to the same; or

(c) to exclude from a municipality any local area comprised therein : or

(d) to amalgamate two or more contiguous municipalities and to constitute one municipality in their place ; or

(e) to split up a municipality and to constitute two or more municipalities in its place ; or

(f) to withdraw the whole area comprised in any municipality from the operation of the Act.

(2) Every notification under sub-section (1) shall define the limits of the local area to which it relates.

(3) Any adult inhabitant of the local area defined in the notification under sub-section (1) may, if he objects to anything therein contained, submit his objection in writing to the Collector within [thirty] forty-five days from the date of publication of the notification and all objections so received shall, within forty-five days thereof be forwarded by the Collector to the State Government with his comments thereon.

(4) On receipt of the objections along with the comments under sub-section (3), the State Government may, after considering the same and passing orders thereon, by notification with effect from a date to be specified therein,—

(a) declare the local area to be a municipality ; or

(b) include the local area or any specified part thereof in the municipality or exclude it therefrom ; or

(c) constitute a new municipality in place of the municipalities amalgamated ;

(d) spilt up the existing municipality and constitute two or more municipalities in its place, as the case may be ;

(e) withdraw the whole area comprised in the municipality from the operation of this Act ;

as the case may be.

Procedure for publication of notifications.

6. Every notification under section 5 shall be published in the Official Gazette and in at least one Hindi Newspaper having circulation in the area to which it relates and also by posting a copy thereof—

(a) in a conspicuous place in the office of the Collector;

(b) in a conspicuous place in the office of the municipality, if any, affected by the notification ; and

(c) in such conspicuous places in the area affected by the notification as the Collector may deem fit.

Effect of establishing a Municipality for local area which ceases to be a Town Area or a Panchayat.

6-A. When any local area ceases to be a Town Area under the Bhopal State Town Areas Act, 1954, (XIV of 1954), or a Panchayat under the Panchayat Law and immediately following such cessation a Municipality is established under section 5 for such area, then, as from the date of the establishment of the municipality (hereinafter in this section referred to as the specified date) the following consequences shall ensue, namely:—

(a) the Town Area Committee or the Panchayat, as the case may be, shall cease to exist ;

(b) there shall be constituted a committee in accordance with the provision of section 16 to exercise the powers of the Council pending its constitution ;

(c) the unexpended balance of the Town Area Fund or the Panchayat Fund and the property (including arrears of rates, taxes, rents and fees) belonging to the Town Area Committee or the Panchayat and all rights and powers which prior to such notification were vested in the Town Area Committee or the Panchayat shall, subject to all charges and liabilities affecting the same, vest in the Committee until a Council is constituted under this Act;

(d) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, byelaw or form made, issued, imposed or granted under

the Bhopal State Town Areas Act, 1954 (XIV of 1954), or the Panchayat Law before the specified date in respect of such local area shall, so far as it is not inconsistent with the provisions of this Act, continue to be in force and be deemed to have been made, issued, imposed or granted in respect of the municipality until it is superseded or modified by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, byelaw or form made, issued, imposed or granted under this Act;

(e) all budget estimates, assessment, assessment list, valuation or measurement made or authenticated under the Bhopal State Town Areas Act, 1954 (XIV of 1954), or the Panchayat Law immediately before the specified date and in respect of the local area shall be deemed to have been made or authenticated under this Act;

(f) all debts or obligations incurred and all contracts made by or on behalf of the Town Area Committee or Panchayat immediately before the specified date and subsisting on the specified date shall be deemed to have been incurred and made by the Council in exercise of the powers conferred under this Act;

(g) all officers and servants in the employ of the Town Area Committee or Panchayat, as the case may be, immediately before the specified date shall be officers and servants of the Council under this Act and shall, until other provision is made in accordance with the provisions of this Act, receive salary and allowances and be subject to conditions of service to which they were entitled or subject immediately before such date;

Provided that it shall be competent to the Council to discontinue the services of any officer or servant, who in its opinion, is not necessary or suitable to the requirement of the municipal service after giving such officer or servant notice as is required to be given by the terms of his employment:

Provided further that previous sanction of the State Government shall be obtained for discontinuing the services of any permanent officer or servant under the preceding proviso who on such discontinuance shall be entitled to such leave, pension. provident fund and gratuity as he would have been entitled to take or receive on being invalidated from service as if the Town Area Committee or Panchayat in the employ of which he was, had not ceased to exist.

(h) all proceedings pending immediately before the specified date before the Town Area Committee or Panchayat or any other authority,

as the case may be, shall be deemed to be transferred to and continued by the Council or such authority ;

(i) all appeals pending immediately before the specified date before the Town Area Committee or the Panchayat or any other authority, shall so far as may be practicable, be disposed of as if such local area had not become a municipality where they were filed;

(j) all prosecutions instituted by or on behalf of the Town Area Committee or the Panchayat and all suits and legal proceedings instituted by or against such Town Area Committee or Panchayat pending on the specified date shall be continued by or against the Council as if such local area had not become a municipality when such suits or proceedings were instituted.

Explanation.—In this section "Panchayat Law" means a law for the time being in force for the organisation and administration of Village Panchayats in the State.

Effect of including local area in municipality.

7. When a local area has been included in a municipality by a notification under sub-section (4) of section 5, all notifications, rules, bye-laws, orders, directions, notices and powers made, issued or conferred under this Act and in force throughout the municipality at the time, shall unless the State Government by notification otherwise directs apply to such local area.

Effect of excluding a local area from a municipality.

8. (1) When a local area is excluded from a municipality by a notification published under sub-section (4) of section 5,—

(a) all notifications, rules, bye-laws, orders, directions, notices and powers made, issued or conferred under this Act shall cease to apply thereto ; and

[(b) the State Government shall, after consulting the council, frame a scheme determining what portion of the balance of the municipal fund and all other property vested in the council shall vest in the State Government and in what manner the liability of the council shall be apportioned between the council and the State Government and on the publication of such a scheme in the Gazette such property and liability shall vest and be apportioned accordingly.]

(b) the State Government shall, frame a scheme determining what portion of the balance of the municipal fund and all other property vested in the Council shall, on such exclusion, vest—

(i) where such area is included within the limits of any other local authority, in such local authority; and

(ii) in any other case, in the State Government; and in what manner the liability of the Council shall be appointed between the

Council and any such local authority or the State Government, as the case may be, and on the publication of such a scheme in the Gazette such property and liability shall vest and be apportioned accordingly:

Provided that before framing any such scheme the State Government shall consult the Council and where the area in included within the limits of any other local authority, also such authority.

(2) Notwithstanding anything contained in sub-section (1), all moneys due to the Council, immediately before the date of such exclusion, on account of tax, toll, fee, rate, or otherwise may, in respect of the area so excluded be recovered by the Council as if such area has not been excluded.

9. On the publication of a notification under sub-section (4) of section 5 constituting a new municipality by amalgamating two or more municipalities, the following consequences shall ensue, namely :—

(a) the committees of the Councils of the municipalities amalgamated shall stand dissolved and the chairmen of such committees and also the Presidents and Vice-Presidents of the Councils of the municipalities amalgamated shall be deemed to have vacated their respective offices;

(b) the councillors of the municipalities amalgamated shall be the councillors of the new municipality and such Council shall elect a President and Vice-President and appoint committees in accordance with the provisions of this Act ;

(c) the term of office of the Council of the new Municipality shall be the remainder of the term of that Council of the amalgamated municipalities, the term of which but for such amalgamation would have expired last :

(d) all the property under the control of the Council's of amalgamated municipalities immediately before the date of amalgamation under section 5 including the Municipal funds be the property and the fund of the Council of the new Municipality;

(e) the staff of the amalgamated Municipalities shall, until otherwise ordered by the Council of the new Municipality in accordance with the provisions made by or under this Act, be continued and deemed to be the staff appointed by the new Council ;

(f) all bye-laws and orders in force in the areas under the jurisdiction of the Municipalities amalgamated immediately before the date of amalgamation under section 5 shall, except the byelaws and orders in respect of such matters, as may be specified by the State Government by a notification issued in that behalf, stand repealed, and the

byelaws and orders in respect of the matters specified in the said notification shall operate throughout the area under the jurisdiction of the new Municipality until altered, amended or cancelled in accordance with the provisions of this Act;

Provided that such repeal shall be governed by the provisions of section 10 of the Madhya Pradesh General Clauses Act, 1957 (3 of 1958), in respect of action taken and things done; and

(g) any right, privilege, obligation or liability acquired, accrued or incurred by the Council of any of the Municipalities amalgamated under section 5, shall be deemed to be the right, privilege, obligation or liability acquired, accrued or incurred by the Council of the new Municipality.

Effect of dividing a Municipality into two or more.

10. Where under sub-section (4) of section 5, a Municipality (hereinafter referred to as the original Municipality) is split up by constituting two or more municipalities (hereinafter referred to as the new municipalities), the following consequences shall ensue, namely :—

(1) The committees of the Council of the original Municipality shall stand dissolved and the Chairmen of such committees and also the President and Vice-President of the Council of the original municipality shall be deemed to have vacated their respective offices.

(2) The State Government shall determine to which Council of the new Municipality each of the councillors of the original Municipality shall belong, regard being had to the following principles ; namely :—

(i) in so far as the area assigned to a new Municipality contains a whole ward, all councillors representing such ward shall be the councillors of the Council of such new Municipality ;

(ii) in so far as any area assigned to a new Municipality forms a part of a ward of the original Municipality the councillors representing such ward shall be assigned to a Council to which the majority of the voters of that ward belong as a result of the formation of a new Municipality.

(3) The councillors assigned to each of the new Municipalities under sub-section (2) shall constitute the Council of the respective Municipalities, and each such Council shall elect a President and Vice-Presidents and appoint committees in accordance with the provisions of this Act.

(4) All byelaws and orders in force in the original Municipality immediately before the date on which such Municipality is split up under section 5 shall continue in force in the areas comprised in the new Municipalities, until altered, amended or cancelled in accordance with the provisions of this Act.

Apportionment of assets and liabilities of Municipalities split up.

11. (1) The assets and liabilities of the Council of the original Municipality shall in accordance with the provisions of sub-sections (5) and (6) be apportioned to the several Councils of the new Municipalities.

(2) The State Government shall constitute a Board of three persons one of whom shall be an official; the Board shall, subject to such instructions as may be issued in this behalf by the State Government, report on the following matters, namely :—

(a) the assests and liabilities of the Council of the original Municipality;

(b) the apportionment of the assets and liabilities between the Councils of the new Municipalities;

(c) the manner in which the existing officers, servants and other permanent employees of the Council of the original Municipality should be absorbed by the Councils of the new Municipalities;

(d) generally, on all matters incidental, supplemental and consequential to the constitution of the new Municipality in place of the original Municipality.

(3) The report of the Board referred to in sub-section (2) shall be submitted to the State Government, which shall publish it in the Gazette and in such other manner as it may deem fit.

(4) Any person interested may make a representation in writing to the State Government against the proposals made in the report within one month from the date of its publication.

(5) On the expiration of the period specified in sub-section (4) the State Government may take into consideration the report of the Board and the representations received, if any, and pass such orders in respect thereof as it deems fit.

(6) The orders of the State Government on all such points shall be final and shall not be questioned in any court of law.

(7) The State Government may, by notification, delegate its powers under sub-sections (3), (4) and (5) [and (6)] to an officer not below the rank of a Collector.

Suits by or against Councils of new Municipalities.

12. (1) On matters covered by the decision of the State Government under the preceding section, the Councils of the new Municipalities shall severally be deemed to be the representatives of the Council of the original Municipality for the purpose of suing or being sued, or for continuing pending suits or proceedings by or against the Council of the original Municipality.

(2) In respect of matters not covered by the decision of the State Government under the provisions of the preceding section, all the Councils of the new Municipalities shall jointly be deemed to be representatives of the Council of the original Municipality for the purpose of suing or being sued or for continuing pending suits or proceedings by or against the Council of the original Municipality.

(3) If any dispute arises between Councils of the new Municipalities as regards their respective liability or claim under a joint decree or order, the matter shall be referred to the State Government whose decision shall be final.

Saving as to existing permanent employees of Municipalities amalgamated or split up.

13. Where under section 5, a new Municipality is constituted by amalgamation of two or more Municipalities or where two or more new Municipalities are constituted by splitting up an existing Municipality, the pay and allowances, pension and retirement benefits of all permanent officers and servants or other employees of the Municipalities amalgated or the Municipality split up shall be the pay and allowances, pension and retirement benefits as in force immediately before the date of amalgamation or splitting up, as the case may be.

Effect of withdrawing municipality from the Act.

[14. When the whole area comprised in any municipality is withdrawn from the operation of this Act by a notification under sub-section (4) of section 5, this Act and all notifications, rules, byelaws, orders, directions and powers issued. made or conferred under this Act, shall cease to apply thereto and the balance of the municipal fund and all other property on the date of the publication of the notification vested in the Council shall vest in the State Government and the liabilities of the Council shall be transferred to the State Government.]

Effect of withdrawing municipality from the Act.

14. When the whole area comprised in any municipality is withdrawn from the operation of this Act by a notification under sub-section (4) of section 5, the following consequences shall ensue, namely :—

(a) all notifications, rules, byelaws, orders, directions and powers issued, made or conferred under this Act shall cease to apply thereto ;

(b) the President, Vice-Presidents. and Councillors of the Council shall vacate their offices ;

(c) all the property including municipal fund shall vest in the State Government, and the liabilities of the Council shall be transferred to the State Government ;

(d) any arrear of the tax, toll. fee or rate and any sum of money on account of fine or otherwise which was due to the Council immediately before such notification be recovered by the Collector as an arrear of land revenue and any amount so recovered shall be at the disposal of the State Government which may pass such orders in respect thereof as it may deem fit ; and

(e) every employee of the Council whether permanent or temporary, shall unless he is offered some other employment on terms similar to those in force be entitled to recover from the State Government by way of compensation a sum equal to his existing pay and allowances for one month.

[15. If the circumstances of any municipality are such that in the opinion of the State Government any provision of this Act is unsuited thereto, the State Government may, by notification,—

Special provision for removal of difficulties.

(a) withdraw the operation of that provision from the municipality;

(b) apply that provision to the municipality in a modified form to be specified in such notification;

(c) make any additional provision for the municipality in respect of matters mentioned in the provision which has been withdrawn from or applied in a modified form to the municipality.]

[16. When any area is declared to be Municipality for the first time under this Act the Collector or other Officer appointed by him in this behalf shall exercise the powers of a Council, until a Council is constituted, for the purpose of making preliminary arrangements for the holding of first elections or otherwise and generally for expediting the assumption by the Council of its duties when constituted.]

Exercise of powers of Council pending its constitution

16. (1) When an area is declared to be a Municipality for the first time under this Act the State Government shall by notification constitute a Commitee consisting of a President, two Vice-Presidents and such number of members as it may deem fit and such a Committee shall be deemed to be a Council for the purposes of this Act :

Exercise of powers of Council pending its Constitution.

Provided that no person shall be appointed as President or Vice-President or member of such a Committee who is ineligible to hold such office in the Council under this Act.

(2) A Committee constituted under sub-section (1) shall continue to function until a Council is constituted under this Act or until the expiration of two years from the date on which the notification under sub-section (1) is published in the Gazette, whichever is earlier :

Provided that if a Council is not constituted, within the said period, the Committee shall, if the State Government so direct, continue to function for such further period not exceeding one year as may be specified by notification in this behalf.

(3) The State Government may, by notification, at any time remove the President, Vice-President or a member of the Committee and appoint any other person eligible to be so appointed in his place.

(4) Notwithstanding anything contained in sub-section (1) the provisions of sections 32 and 38 shall not apply to the Committee.

17. Every Council shall demarcate the boundaries of the Municipality by permanent boundary marks in such manner as may be prescribed by rules and shall be responsible for the maintenance and repairs thereof.

Erection and maintenance of boundary marks.

Incorporation and Constitution of Council.

18. (1) There shall be constituted for each municipality a Council having authority over the municipality.

(2) Every Council so constituted shall be a body corporate by the name of the Council of its municipality, and shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and, subject to the provisions of this Act or of any rules made thereunder, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of this Act and may sue and be sued in its corporate name.

Council to consist of elected and selected councillors.

19. (1) Except as [hereinafter] otherwise provided in this Act, [such] each Council shall consist of—

(a) elected councillors;

(b) selected councillors, in number not exceeding one-fourth of the total elected councillors, of whom at least one shall be a woman, to be selected by single transferable vote by the elected members of the new Council from amongst persons residing in the municipality [and] who are electors and not otherwise disqualified to be a councillor by or under this Act.

(2) The State Government may make rules under this Act regulating :—

(i) the mode or methods of election of councillors;

(ii) the mode or method of selection by single transferable vote; and

(iii) time of [election and] selection of councillors.

Election petitions.

[20. (1) No election or selection under this Act shall be called into question except by a petition presented in accordance with the provisions of this section.

(2) Such petition shall be presented to the District Judge or the Additional District Judge especially empowered by the State Government in this behalf within the local limits of whose jurisdiction the election or selection was held and no petition shall be admitted unless it is presented within fifteen days from the date on which the result of such election or selection was notified.

(3) The petition shall be enquired into and disposed of according to such summary procedure as may be prescribed by rules made under this Act.

(4) No appeal shall lie against the decision of the judge on the petition.

(5) Any person aggrieved by the decision of the Judge on the petition may within thirty days from the date of such decision apply to the High Court for revision on any of the following grounds :—

(a) that the decision is contrary to law;

(b) that the Court has exercised a jurisdiction not vested in it by law or has failed to exercise a jurisdiction vested in it by law;

but subject to such orders as the High Court may pass thereon, such decision shall be final.]

Election petitions.

20. (1) No election or selection under this Act shall be called into question except by a petition presented in accordance with the provisions of this section.

(2) Such petition may be presented on one or more of the grounds specified in section 20-B—

(a) by any candidate at such election or selection; or

(b) (i) in the case of an election of a Councillor, by any voter of the ward concerned;

(ii) in the case of a selection of a Councillor, by any Councillor;

to the District Judge, where such election or selection is held within the revenue district in which the Court of the District Judge is situate, and in any other case, to the Additional District Judge having the permanent seat of his Court within the revenue district in which such election or selection is held and if there be more than one such Additional District Judge within the said revenue district, to such one of them as the District Judge may specify for the purpose (hereinafter such District Judge or Additional District Judge referred to as Judge).

(3) No petition presented under sub-section (2) shall be admitted unless—

(i) it is presented within thirty days from the date on which the result of such election or selection was notified in the Gazette; and

(ii) it is accompanied by a Government Treasury receipt showing a deposit of two hundred rupees, in the case of election or selection to Class I and Class II Municipalities, and one hundred rupees, in the case of election or selection to Class III or Class IV Municipalities.

(4) A petitioner shall join as respondents to his petition—

(a) where the petitioner, in addition to claiming a declaration that the election or selection, as the case may be, of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected or selected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and

(b) any other candidate against whom allegations of any corrupt practices are made in the petition.

(5) An election petition shall—

(a) contain a concise statement of the material facts on which the petitioner relies;

(b) set forth with sufficient particulars, the ground or grounds on which the election or selection is called in question;

(c) be signed by the petitioner and verified in the manner prescribed in the Code of Civil Procedure, 1908 (V of 1908), for the verification of pleadings.

Relief that may be claimed by the petitioner.

20-A.—(1) A petitioner may claim—

(a) a declaration that the election or selection of all or any of the returned candidates is void; and

(b) in addition thereto, a further declaration that he himself or any other candidate has been duly elected.

(2) The expression "returned candidate" means a candidate whose name is notified in the Gazette under section 36.

Grounds for declaring election or selection to be void.

20-B.—(1) Subject to the provisions of sub-section (2) if the Judge is of the opinion—

(a) that on the date of his election or selection a returned candidate was not qualified or was disqualified, to be chosen as a Councillor; or

(b) that any corrupt practice has been committed by a returned candidate or his agent or by any other person with the consent of a returned candidate or his agent; or

(c) that any nomination paper has been improperly rejected; or

(d) that the result of the election or selection, in so far as it concerns a returned candidate, has been materially affected—

(i) by the improper acceptance of any nomination; or

(ii) by the unproper acceptance or refusal of any vote or reception of any vote which is void; or

(ii) by the improper acceptance or refusal of any this Act or of any rules or orders made thereunder save the rules framed under section 21 in so far as they relate to preparation and revision of list of voters;

he shall declare the election or selection of the returned candidate to be void.

(2) If in the opinion of the Judge a returned candidate has been guilty by an agent of any corrupt practice, but the Judge is satisfied—

(a) that no such corrupt practice was committed at the election or selection by the candidate and every such corrupt practice was committed contrary to the instructions, and without the consent of the candidate;

(b) that the candidate took all reasonable means for preventing the commission of corrupt practice at the election or selection; and

(c) that in all other respects the election or selection was free from any corrupt practice on the part of the candidate or any of his agents;

then, the Judge may decide that the election or selection of the returned candidate is not void.

Procedure to be followed in disposal of election petition.

20-C.—An election petition shall be enquired into and disposed of according to such summary procedure as may be prescribed by rules made under this Act.

Decision on election petition.

20-D.—(1) At the conclusion of the trial of an election petition the Judge shall make an order—

(a) dismissing the election petition; or

(b) declaring the election or selection of all or any of the returned candidates to be void; or

(c) declaring the election or selection of all or any of the returned candidates to be void and the petitioner and any other candidate to have been duly elected or selected.

(2) If any person who has filed an election petition has, in addition to calling in question the election or selection of the returned candidate, claimed declaration that he himself or any other candidate has been duly elected or selected and the Judge is of opinion—

(a) that in fact the petitioner or such other candidate received a majority of the valid votes; or

(b) that but for the votes obtained by the returned candidate the petitioner or such other candidate would have obtained a majority of the valid votes;

the Judge shall, after declaring the election or selection of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected or selected.

(3) At the time of making an order under this section, the Judge shall also make an order—

(a) where any charge is made in the petition of any corrupt practice having been committeed at the election or selection, regarding—

(i) a finding whether any corrupt practice has or has not been proved to have been committed at the election or selection, and the nature of that corrupt practice; and

(ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and

(b) fixing the total amount of costs payable, and specifying the person by and to whom costs shall be paid:

Provided that a person who is not a party to the petition shall not be named in the order under sub-clause (ii) of clause (a) unless—

(a) he has been given notice to appear before the Judge and show cause why he should not be so named; and

(b) if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness who has already been examined by the Judge and has given evidence against him, of calling evidence in his defence and of being heard.

Procedure in case of equality of votes.

20-E.—If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election or selection and that an addition of a vote would entitle any of those candidates to be declared elected or selected, then, the Judge shall decide between them by lot and proceed as if the one on whom the lot falls had received an additional vote.

Finality of decision.

20-F. (1) No appeal shall lie against the decision of the Judge on the petition.

(2) Any person aggrieved by the decision of the Judge on the petition may within thirty days from the date of such decision apply to the High Court for revision on any of the following grounds:—

(a) that the decision is contrary to law;

(b) that the Judge has exercised jurisdiction not vested in him by law or has failed to exercise a jurisdiction vested in him by law; but subject to such orders as the High Court may pass thereon, such decision shall be final.

Disqualification arising out of corrupt practices.

20-G.—If any person, after the commencement of this Act, is, upon the trial of an election petition thereunder, found guilty of any corrupt practice, he shall for a period of five years from the date on which such finding takes effect, be disqualified for voting at any election:

Provided that the State Government may, by notification, remove the disqualification incurred under this section with effect from such date as may be specified therein.

Corrupt practices.

20-H.—The following shall be deemed to be corrupt practices for the purposes of this Act:—

(i) Bribery as defined in clause (1) of section 123 of the Representation of the People Act, 1951 (43 of 1951).

(ii) Undue influence as defined in clause (2) of section 123 of the Representation of the People Act, 1951 (43 of 1951).

(iii) The systematic appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent, to vote or

refrain from voting on grounds of caste, race, community or religion or the use of or appeal to, religious symbols or, the use of or appeal to, national symbol, such as the national flag or the national emblem, for the furtherance of the prospects of that candidate's election or selection.

(iv) The publication by a candidate or his agent or by any other person with the consent of the candidate or his election agent of any statement of fact which is false, and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal from contest of any candidate being a statement reasonably calculated to prejudice the prospects of that candidate's election or selection.

(v) The hiring or procuring whether on payment or otherwise of any vehicle or vessel by a candidate or his agent or by any other person with the consent of the candidate or his election agent for the conveyance of any elector (other than the candidate himself, and the members of his family or his agent) to or from any polling station provided in accordance with the rules made under this Act:

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to or from any such polling station shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tram car or railway carriage by an elector at his own cost for the purpose of going to or coming from any such polling station shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause the expression 'vehicle' means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(vi) The holding of any meeting in which intoxicating liquors are served.

(vii) The issuing of any circular, placard or poster having a reference to the election or selection which does not bear the name and address of the printer and publisher thereof.

(viii) Any other practice which the State Government may prescribe by rules to be a corrupt practice.

Determination of number of councillors and powers to make rules for regulating elections.

21. (1) The State Government shall, from time to time generally or specially in respect of each municipality, by notification :—

(a) determine the total number of councillors which shall be not less than five;

(b) subject to rules framed under this Act :—

(i) divide the municipality into wards and define the limits of each such ward;

(ii) fix the number of councillors to be elected for each ward;

(iii) fix in accordance with the provisions of the Constitution of India the number of seats to be reserved for the Scheduled Castes and Scheduled Tribes and allot them to the various wards.

Provided that if in any municipality the President is elected from amongst the persons who are not Councillors, the total number of Councillors determined shall, in respect of such municipality, be deemed to have been increased by one so long as such person continues to be President thereof.

(2) The State Government shall make rules consistent with this Act :—

(i) providing for the preparation and the revision of the electoral rolls from time to time and the appointment of the authority therefor ;

(ii) fixing the date after which no application for enrolment in any such roll under preparation or revision shall be received;

(iii) determing the manner and the period in which and the authority by whom any objection to such roll in regard to the name entered therein or omitted therefrom may be made and the authority by whom such objections may be heard and decided and the judicial authority to whom the appeals of such entries and omissions shall lie;

(iv) prescribing the date for the publication of the municipal electoral roll;

(v) the nomination of candidates and objections to such nominations;

(vi) the date and time of elections, the mode of recording votes, the management of contested elections and the procedure in case of equality of votes;

(vii) the holding of election to fill casual vacancies;

(viii) the custody and disposal of papers relating to elections;

(ix) for investigations of allegations regarding the corrupt practices; and

(x) regulating and conducting generally such elections.

22. Subject to the provisions of section 23 every person who is qualified to be registered in the Assembly rolls relatable to the area comprised in a ward or whose name is entered therein, shall be entitled to be registered in the electoral roll of that ward:

Qualification of voters and their registration.

Provided that—

(1) no person shall be entitled to be registered in the electoral roll for more than one ward ;

(2) no person shall be entitled to be registered in the electoral roll for any ward more than once.

23. (1) A person shall be disqualified for registration in the electoral roll if he is disqualified for registration in the Assembly roll.

Disqualification of voters.

(2) If the authority appointed under clause (i) of sub-section (2) of section 21, on application made to it or on its own motion, is satisfied after such enquiry as it thinks fit that any entry in the electoral roll of the municipality—

(a) is erroneous or defective in any particular;

(b) should be transposed to another place in the roll ; or

(c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the ward or is otherwise not entitled to be registered in that roll;

it shall, subject to such general or special directions, if any, as may be given by the Collector in this behalf, amend, transpose or delete the entry:

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the ward or that he is otherwise not entitled to be registered in the electoral roll of that ward, the said authority shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

Explanation.—The expression "ordinarily resident" shall have the meaning assigned to it in section 20 of the Representation of the People Act, 1950 (43 of 1950).

24. (1) The authority [determined] appointed under clause (i) of sub-section (2) of section 21, shall for purposes of preparation of electoral roll for a ward, adopt the Assembly roll relatable to the area comprised in the said ward and publish the same in the manner prescribed thereunder and upon its publication it shall, subject to any alteration, addition or modification made under or in accordance with this Act, be the electoral roll for the ward prepared in accordance with this Act.

Preparation of electoral rolls.

(2) Where any addition, omission, alteration or other amendment is made under the Representation of the People Act, 1950 (43 of 1950), or the rules made thereunder, in the

Assembly roll relatable to the area of the ward, similar amendment shall, as soon as may be, be made in the corresponding electoral roll of the ward.

[(3) The electoral roll for each ward shall be revised every year in accordance with the provisions of this Act and the rules made thereunder:

Provided that if for any reason the electoral roll is not revised in any year, the validity or continued operation of the electoral roll shall not thereby be affected.]

(3) The electoral roll prepared under this section shall be revised six months before every general election:

Provided that no such revision shall be necessary where the general election takes place upon the dissolution of the Council under section 298 within two years of the last general election.

(4) Notwithstanding anything contained in sub-section (3), the Collector may, at any time, for reasons to be recorded, direct a special revision of the electoral roll for any ward or part of a ward in such manner as he may think fit:

Provided that subject to the other provisions of this Act, the electoral roll for the ward, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

Eligibility for voting.

25. Every person registered as a voter in the electoral roll, for the time being in operation of a ward and no person who is not so registered, shall be entitled to vote at any election of the Councillors for such ward:

Provided that no person shall vote more than once in any election.

Qualifications of candidates.

26. (1) A candidate for election or selection as a Councillor shall be a person registered as a voter in the electoral roll of any ward in the Municipality.

(2) No person shall be entitled to stand as a candidate for more than one seat in a municipality.

Disqualifications of candidates.

27. No person shall be eligible for election or selection as a councillor if he—

(a) is not a citizen of India;

(b) is a servant of Government and is remunerated by salary or honorarium (which expression shall not include fees or commission); or

[(c) holds any office of profit under the Council or any other local authority;]

(c) holds any office of profit under the Council or is in the service of any other local authority;

(d) has been adjudged by a competent Court to be of unsound mind; or

(e) is an undischarged insolvent ; or

(f) is suffering from a variety of leprosy which is infectious; or

[(g) has been dismissed from the service of the Government or any local authority for misconduct and has been declared by the State Government to be disqualified for employment in the public service; or]

(g) has been dismissed from the service of the Government or any local authority for corruption or disloyalty to the State, unless a period of five years has elapsed since his dismissal;

(h) has been convicted by a Court in India of any offence and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years or such less period as the State Government may allow in any particular case, has elapsed since his release; or

[(i) is ineligible to be a member of each and every local authority under the provisions of any law, for the time being in force; or]

(j) has directly or indirectly any share or interest in any contract with, by or on behalf of the Council, while owning such share or interest; or

(k) has not paid all taxes due by him to the municipality at the end of the financial year immediately preceding that in which the election or selection is held or made [inspite of demand therefor under section 42;] within thirty days of the receipt of a notice of demand made in this behalf by the Chief Municipal Offiler; or

[(l) has been removed from office under section 32 or section 38 unless the disqualification arising on account of such removal from office has been removed by the State Government;]

(l) is disqualified to be a Councillor under section 32;

[(m) is a teacher of any school to which recognition has been granted by or under the authority of the State Government;]

(m) is a paid employee of any educational institution receiving financial aid from the Council.

(n) is a Government pleader:

Provided that a disqualification under clause (g), (h) or (l) may be removed by an order by the State Government in this behalf:

Provided further that the disqualification under clause (k) shall be deemed to have been automatically removed as soon as the municipal dues are paid in full.

Explanation.—A person shall not be deemed to have incurred disqualification under clause (j) by reason of his :—

(i) having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same:

Provided that in the case of sale or purchase the previous sanction of the Government or the prescribed authority has been obtained; or

(ii) being a share holder in, or a member of any incorporated or registered company or society;

(iii) having a share or interest in any newspaper in which any advertisement relating to the affairs of the municipality may be inserted; or

(iv) having a share or interest in the occasional sale to the Council of any article in which he regularly trades, or in the purchase from the Council of any article, of a value in either case not exceeding in any official year five hundred rupees or such higher amount not exceeding two thousand rupees as the Council, with the sanction of the State Government, may fix in this behalf; or

(v) being a party to an agreement made with the Council for—

(a) payment of fixed charges in lieu of water-rate:

(b) payment of special rate in lieu of special sanitary cess; or

(c) compounding of tax on vehicles or animals; or

(vi) being a party, as an owner of any building or land, to an agreement made with the Council for construction of drainage and water connections where a drainage scheme or water works scheme has been commenced by the Council;

(vii) holding a debenture or being otherwise interested in any loan raised by or on behalf of the Council; or

(viii) having a share or interest in the occasional letting out on hire to the Council or in the hiring from the Council of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees. as the Council, with the sanction of the State Government, may fix in this behalf.

Term of Council and the office of Councillors.

28. (1) Every Council shall continue for four years from the date appointed under sub-section (2) of section 44 for its first meeting:

Provided that the State Government may, by a notification, for reasons to be stated therein extend the term of the Council from time to time for a total period not exceeding one year is the aggregate.

(2) Notwithstanding the expiry of the term of the Council under sub-section (1) every Council shall [unless the State

Government otherwise directs] continue to function till the date appointed under sub-section (2) of section 44 for the first meeting of the Council newly constituted in its place or till the expiry of six months from the date of expiration of its term under sub-section (1), whichever is earlier.

(2-A) If within the period mentioned in sub-section (2) the Council is not newly constituted, the Council shall on the expiry of such period be deemed to have been dissolved and the provision of section 298 shall apply in respect thereof.

(3) The term of office of every councillor shall be coterminus with the term of the Council of which he is a councillor.

Filling up of casual vacancies.

29. In the event of the death, resignation or disqualification of a Councillor, [or of his becoming incapable of acting] before the expiry of his term of office, a casual vacancy shall be deemed to have occurred in such office and such vacancy shall be filled as soon as may be by the election, or selection, as the case may be, of a person thereto as Councillor, who shall take office forthwith and shall hold such office for the unexpired term of his predecessor:

Provided that no casual vacancy shall be filled which occurs within a period of four months preceding the date on which the term of the Council expires.

Effect of subsequent disabilities.

30. (1) If any [person having been elected or selected a] Councillor:—

(a) [subsequently] becomes subject to any of the disqualifications specified in section 27 and such disqualification is not removable or being removable is not removed; or

(b) absents himself during three consecutive months from the meetings of the Council, except with the leave of the Council; or

(b-1) becomes incapable of acting;

(c) acts as a councillor in any matter—

(i) in which he has directly or indirectly by himself or his partner, any share or interest, as is described in clause (j) of section 27; or

(ii) in which he is professionally interested on behalf of a client, principal or other person; or

[(d) fails to pay any arrears of any kind due by him to the Council in spite of a demand made therefor under section 42;]

(d) fails to pay any arrears of any kind due by him to the Council on a demand made therefor under section 42 within the period specified therein;

[such person shall] he shall subject to the provisions of sub-section (2) cease to be a Councillor and his seat shall become vacant with effect from a date to be notified by the State Government.

[(2) No councillor shall cease to be a councillor under sub-section (1) until the prescribed authority in this behalf makes a declaration either on its own motion or on an application made to it in this behalf to the effect that such a councillor has incurred a disqualification on any of the grounds specified therein:

Provided that no declaration shall be made unless such councillor has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him and the decision in relation thereto is communicated to him.

(3) Any person aggrieved by the declaration made by the prescribed authority under sub-section (2) may within fifteen days from the date of communication to him of such declaration appeal to the State Government. The orders passed by the prescribed authority shall, subject to the decision of the State Government in such appeal, be final.]

(2) No councillor shall cease to be a councillor under sub-section (1) until the prescribed authority on its own motion or on an application made to it by any person in this behalf decides that such a councillor has incurred the disqualification on any of the grounds specified therein and communicates the decision in relation thereto to such councillor:

Provided that no order shall be passed by the prescribed authority under this sub-section against any councillor without giving him a reasonable apportunity of being heard.

(3) Any person aggrieved by the decision of the prescribed authority under sub-section (2) may within thirty days from the date of the communication to him of such decision appeal to the State Government. The order passed by the prescribed authority shall, subject to the decision of the State Government in appeal, be final.

Disqualification after declaration of election.

30-A. (1) No person who subsequent to the declaration of his election and prior to the notification of such election by the prescribed authority under section 36 becomes subject to any of the disqualifications specified in section 27 and such disqualification is not removable or being removable is not removed shall be entitled to be a Councillor and the seat to which he has been elected shall, with effect from the date to be notified by the State Government, become vacant.

(2) No notification under sub-section (1) shall be issued unless the prescribed authority on its own motion or on an application made to it by any person in this behalf decides that such a person has incurred disqualification on any of the grounds specified therein and communicates the decision in relation thereto to such Councillor:

Provided that no order shall be passed by the prescribed authority under this sub-section against any person without giving him a reasonable opportunity to furnish an explanation or of showing cause against the proposed order.

(3) Any person aggrieved by the decision of the prescribed authority under sub-section (2) may, within thirty days from the date of the communication to him of such decision appeal to the State Government. The order passed by the prescribed authority shall, subject to the decision of the State Government in appeal, be final.

Resignation of Councillor.

31. (1) Any councillor may resign his office by tendering his resignation in writing to the President. [and the resignation shall have effect from the date of the receipt by the President] and his seat shall thereupon become vacant.

(2) On receipt of the resignation under sub-section (1) the President shall communicate the same to the prescribed authority who shall cause the fact of such resignation and the occurrence of casual vacancy thereby to be notified in the Gazette.

(3) If it appears to the State Government that any councillor having become liable for removal under section 32 has tendered his resignation to escape such removal, then notwithstanding anything contained in this section, the State Government may order his removal in accordance with the provisions of the said section and thereupon the councillor shall be deemed to have been removed from the date he resigned his office.

Removal of Councillor.

32. [(1) The State Government may at any time remove a councillor—

(a) if he refuses to act, or becomes incapable of acting; or

(b) if his continuance in office is undesirable in the interests of the public or of the Council;

and if the Council recommends his removal.]

(1) The State Government may at any time remove a councillor if his continuance in office is undesirable in the interest of the public or of the Council and the Council recommends his removal by a resolution passed at a special meeting convened for the purpose.

(2) The State Government may at any time remove a Councillor if he, being a legal practitioner, acts or appears on behalf of any other person against the Council in any legal proceeding or against the State Government in any such proceeding relating to any matter in which the Council is or has been concerned, or acts or appears on behalf of any person in any criminal proceeding instituted by or on behalf of the Council against such person.

(3) No order under sub-section (1) or sub-section (2) shall be passed until reasonable opportunity has been given to the person concerned to furnish an explanation.

(4) Removal from office under sub-section (1) or sub-section (2) shall disqualify the person so removed for further election, selection, or appointment to the office from which he is removed for such period not exceeding four years as may be specified by the State Government.

Automatic vacating of all offices on ceasing to be a Councillor.

33. A person who ceases to be councillor shall automatically vacate all the offices in the Council which he holds by virtue of his being such a councillor.

Election and term of office of President and Vice-Presidents.

[34. (1) A Council shall elect a President and two Vice-Presidents, to be designated as Senior Vice-President and Junior Vice-President, from its members or from other persons residing in the municipality possessing the qualifications of a candidate for election under section 26 and not disqualified under section 27:

Provided that no person shall be eligible for being elected as a President or Vice-President of a Council if he holds such or similar office in any other local authority.

(2) The Council shall elect the President and the Vice-Presidents [for the first time] at its first meeting.

(3) The term of office of the President and the Vice-Presidents shall be co-terminus with the term of the Council.

(4) If the Council fails to elect a President or Vice-President in accordance with this section, the State Government may by order direct the Council to elect the President or Vice-Presidents within the period specified therein and on failure of the Council to do so appoint any person eligible under sub-section (1) to fill the vacancy.

(5) The State Government may make rules for regulating the mode and time of election of the President and the Vice-Presidents.

(6) The President and the Vice-President shall, unless otherwise expressly provided, be deemed to be councilors for all purposes of this Act.]

Election and term of Office of President and Vice-President.

34. (1) A Council shall elect—

(a) a President from its members or from other persons residing in the municipality possessing the qualifications of a candidate for election under section 26 and not disqualified under section 27 or any other provision of this Act;

(b) two Vice-Presidents to be designated as Senior Vice-President and Junior Vice-President from amongst its members:

Provided that no person should be eligible for being elected as a President or Vice-President of a Council if he holds such or similar office in any other local authority.

(2) (a) After every general election the council shall elect the President and the Vice-Presidents at its first meeting held under sub-section (2) of section 44 and the President and the Vice-Presidents so elected shall hold office for a period of two years from the date on which they enter upon their offices;

(b) On the expiry of the term of office of the President and Vice-Presidents elected for the first time after the general election, the Council shall at a meeting convened by the outgoing President within one month thereof elect new President and Vice-Presidents who shall hold offices for the unexpired term of the Council:

Provided that the President and the Vice-Presidents shall continue in office until their successors enter upon their respective offices in accordance with the provisions of this Act.

(3) If the Council fails to elect a President or Vice-President in accordance with this section the State Government may by order direct the Council to elect the President or Vice-Presidents within the period specified therein and on failure of the Council to do so appoint any person eligible under sub-section (1) to fill the vacancy.

(4) The State Government may make rules for regulating the mode and time of election of the President and the Vice-Presidents.

(5) The President who is not a Councillor shall unless otherwise expressly provided, be deemed to be a Councillor for all purposes of this Act.

Casual vacancies in office of President or Vice-President.

35. Upon the occurrence of any vacancy in the office of the President or Vice-President a new President or Vice-President shall be elected or appointed in the manner provided by section 34 and any President or Vice-President so elected or appointed shall continue in office for the unexpired term of his predecessor.

Notification of election, etc.

36. Every election or selection of a councillor and every election or appointment of the President or Vice-President of a Council shall be notified in the Gazette by the prescribed authority and such persons shall enter upon their respective offices from the date of such notification:

Provided that notwithstanding that no such notification has been published a councillor shall, for the purpose of selection of councillors under section 19 and election of a President or Vice-President under section 34, be deemed to have entered on his office from the date of his election.

Resignation of President and Vice-Presidents.

[37. (1) A President may resign his office by tendering his resignation in writing to the Council and such resignation shall have effect on its acceptance by the Council.

(2) A Vice-President may resign his office by tendering his resignation in writing to the President and such resignation shall have effect from time it is received by the President.

(3) The fact of every resignation tendered under sub-section (1) or sub-section (2) and the occurrence of a casual vacancy consequent thereon shall be notified by the prescribed authority in the Gazette.]

Resignation of President and Vice-Presidents.

37. (1) The President may, by writing under his hand addressed to the Vice-President and delivered to the Chief Municipal Officer, resign his office.

(2) The Vice-President may, by writing under his hand addressed to the President and delivered to the Chief Municipal Officer, resign his office.

(3) The resignation under sub-section (1) or sub-section (2) shall take effect from the date on which it is delivered.

(4) The fact of every resignation received under sub-section (1) or sub-section (2) shall forthwith be communicated by the Chief Municipal Officer to the Council and the prescribed authority.

(5) On receipt of the information under sub-section (4), the prescribed authority shall notify in the Gazette the fact of the resignation and occurrence of casual vacancy consequent thereon.

Removal of President or Vice-President.

[38. (1) A President or Vice-President may be removed from his office by a resolution passed by the Council by a majority of two-thirds of the Councillors present and voting, which is not less than one-half of the number of councillors constituting the Council for the time being, and the removal shall take effect from the date immediately next after the date on which such resolution is passed.

(2) For the purposes of sub-section (1), a meeting of the Council shall be held in the following manner, namely :—

(i) seven clear day's notice shall be given to every councillor of such meeting;

(ii) the President or the Vice-President, as the case may be, against whom a resolution is to be placed before the meeting, shall not preside over the meeting; and

(iii) such President or Vice-President shall be given a reasonable opportunity to furnish an explanation.]

(1) A motion of no-confidence may be moved against the President or the Vice-President by any councillor at a meeting specially convened for the purpose under sub-section (2) and if the motion is carried by a majority of two thirds of the councillors present and voting and if such majority is more than half of the total number of the councillors constituting the Council for the time being, the office of the President or the Vice-President, as the case may be shall be deemed to have become vacant forthwith.

(2) For the purpose of sub-section (1) a meeting of the Council shall be held in the following manner, namely:—

(i) the meeting shall be convened by the Chief Municipal Officer on a requisition signed by not less than one-sixth of the total number of councillors constituting the Council for the time being;

(ii) the notice of such a meeting specifying the time and place thereof shall be despatched by the Chief Municipal Officer to every councillor ten clear days before the meeting;

(iii) the President or Vice-President, as the case may be, against whom the motion of no confidence is to be moved, shall not preside over the meeting;

(iv) a copy of the notice shall be sent to the prescribed authority.

(3) If the office of the President becomes vacant under this section, all powers and duties of the President may, until the election or appointment of his successor shall have been notified, be exercised and performed by the Vice-President, and if there be no Vice-President by such Councillor as the State Government may appoint in this behalf.

(4) The fact of the removal of the President or the Vice-President under sub-section (1) and the appointment of his successor shall be notified in the Gazette by the State Government.

Grant of leave of absence to President or Vice-President.

39. [(1) When a President or a Vice-President is unable to discharge his functions owing to absence, illness or any other cause, the Council may grant a leave of absence to him for a period or periods not exceeding six months in the aggregate during his term of office.]

(1) The Council may, from time to time, grant such leave of absence to the President or a Vice-President as it may deem fit.

(2) If a President or Vice-President remains absent from office owing to illness or any other cause for a period exceeding three months without the leave of the Council he shall cease to be a President or Vice-President as the case may be, and his office shall become vacant.

(3) During the absence on leave of the President, the Vice-President and in the like event in the case of a Vice-President, such one of the Councillors as may be elected by them to act as Vice-President, shall discharge the functions of the President or the Vice-President, as the case may be.

(4) The Vice-President or the Councillor shall during, and in respect of the period in which he is acting as, os discharging the functions of, President or Vice-President as the case may be, exercise the powers conferred ond perform the duties imposed on a President or Vice-President by or under this Act or by any other enactment for the time being in force.

Penalty for refusal to handover charge by outgoing office-bearers.

40. (1) On the notification of election of the President or Vice-President under section 36, the [retiring] outgoing President or Vice-President, as the case may be, shall hand over charge of his office to his [respective] successor.

(2) If the [retiring] outgoing President or Vice-President fails or refuses to handover charge of his office as required under sub-section (1) the [State Government] Collector may, by order in writing, direct the said President or the Vice-President to forthwith handover charge of his office and all papers and property to his [respective] successor.

(3) If the [retiring] outgoing President or Vice-President to whom a direction has been issued under sub-section (2) does not comply with such direction, he shall, [on conviction], be punishable with simple imprisonment for a term

which may extend to one month or with fine which may extend to five hundred rupees or with both.

(4) No prosecution shall be instituted under this section without the previous sanction in writing of the State Government.

Municipal Government vests in the Council.

40-A. (1) Subject to the provisions of this Act and the rules and byelaws made thereunder, the municipal Government of a municipality shall vest in the Council.

(2) Subject to the restrictions, limitations and conditions imposed by this Act and the rules made thereunder the executive powers for the purpose of carrying out the provisions of this Act shall vest in the Chief Municipal Officer.

Powers and duties of the President.

[41. (1) The President of the Council shall perform all the duties and exercise all the powers specifically imposed or conferred on the President by or under this Act, and subject, wherever it is hereinafter expressly so provided, to the sanction of the Council, and subject to all other restrictions, limitations and conditions imposed by or under this Act, exercise supervision and control over the administration of the municipality.

(2) The President may delegate the powers conferred upon him by this Act in accordance with such rules as may be framed by the State Government.]

Powers and duties of the President.

41. (1) It shall be the duty of the President of the Council—

(a) to preside, unless prevented by reasonable cause, at all meetings of the Council, and subject to provisions of the rules for the time being in force to regulate the conduct of business at such meetings;

(b) to watch over the financial and executive administration of the Council and perform such executive functions as may be allotted to him by or under this Act;

(c) to exercise supervision and control over the acts and proceedings of all officers and servants of the Council in matters of executive administration and in matters concerning the accounts and records of the Council;

(d) to direct, in cases of emergency, the execution or stoppage of any work or the doing of any act which requires the sanction of the Council, and the immediate execution or doing of which is, in his opinion necessary for the service or safety of the public, and that the expenses incurred in the execution of such work or doing of such act shall be paid from the municipal fund;

Provided that—

(a) he shall not act under clause (d) in contravention of any order of the Council prohibiting the execution of any particular work or the doing of any particular act; and

(b) he shall report forthwith the action taken under clause (d) and the reasons therefore to the Standing Committee at its next meeting.

(2) The President may, in accordance with such rules as may be framed by the State Government, delegate all or any of the powers conferred upon him under sub-section (1) to the Vice-President.

Functions of Vice-President.

41-A. It shall be the duty of the Vice-President of the Council—

(a) in the absence of the President and unless prevented by reasonable cause, to preside, at the meetings of the Council and he shall when so presiding exercise the same authority as is vested in the President under clause (a) of section 41-A ;

(b) to exercise such of the powers and perform such of the duties of the President as the President may from time to time delegate to him ; and

(c) pending the election of a President, or during the absence of the President to exercise the powers and perform the duties of the President.

Procedure in case of non-payment of municipal dues by Councillors and office-bearers of municipality.

42. (1) Within fifteen days from the expiration of each calendar quarter, [the Executive Officer] the Chief Municipal Officer shall:—

(a) draw up a list of all Councillors who have failed to pay any tax due by them to the Council within six months from the date on which such tax became due;

(b) issue to every person on the said list a notice of demand requiring him to pay the arrears within [two] three months from the date of service of such notice; and

(c) submit a copy of the list to the prescribed authority.

(2) If on the receipt of the notice referred to in sub-section (1) the Concillor fails to pay within [three months] the time specified in clause (b) of sub-section (1) the arrears of any tax specified in the notice, he shall subject to the provision of section 27, cease to be a Concillor and his office shall become vacant and he shall be disqualified for further election or selection or appointment to such office until the arrears due by him are paid. [and a certificate to that effect is granted to him in the prescribed manner.]

(3) The State Government may make rules under this Act, providing for all matters connected with the administration of this section.

CHAPTER III—CONDUCT OF BUSINESS

Meetings.

43. A Council shall meet for the transaction of business at least once in every month.

First meeting after general election.

44. (1) The [Chief Executive Officer] Chief Municipal Officer shall, with the prior approval of the [collector as soon as may be after] authority prescribed under section 24 within one month of every general election, call a meeting of the elected Councillors for the purpose of selecting Councillors as required by section 19 and all provisions contained in this Chapter shall, regarding meetings of the Council as far as may be, apply in respect of the said meeting.

[(2) The Chief Executive Officer shall with the prior approval of the Collector call the first meeting of the Council soon after the election and selection of Councillors, to elect the President and Vice-Presidents.]

(2) The Collector, in the case of Class I and Class II municipalities and the Sub-Divisional Officer, in the case of Class III and Class IV municipalities shall call the first meeting of the Council soon after the election and selection of councillors, to elect the President and Vice-Presidents.

(3) The first meeting of the Council called under sub-section (2), shall be presided over by the Collector or the Sub-Divisional Officer, as the case may be, for the purpose of conducting the election of the President and the Vice-Presidents :

Provided that the Collector or the Sub-Divisional Officer, as the case may be, shall have no right to vote at such meeting and in case of equality of votes, the result shall be decided by lot.

Convening of meeting.

45. (1) A meeting of the Council shall be either ordinary or special.

(2) The date of every meeting, except the meeting [referred to] referred to in section 38 and in sub-section (2) of section 44, shall be fixed by the President, or in the event of his being incapable of acting, by the Vice-President, and in the like event in his case, by the [Chief Executive Officer] Chief Municipal Officer.

(3) Notice of every meeting specifying the time and place thereof and the business to be transacted thereat shall be despatched to every Councillor and exhibited at the municipal office seven clear days before an ordinary meeting and three clear days before a special meeting.

(4) No business other than that specified in the notice relating thereto shall be transacted at a meeting.

Power of President and Vice-President to call special meeting.

46. The President, or in the event of his being incapable of acting, the Vice-President, may whenever he thinks fit call a special meeting, and shall be bound to do so within fifteen days of the receipt of a written requisition signed by not less than one-fourth of the Councillors. If a meeting is not held within fifteen days from the date of receipt of such requisition, one-fourth of the Councillors may by a written requisition require

the [Chief Executive Officer] Chief Municipal Officer to call a meeting and the [Chief Executive Officer] Chief Municipal Officer shall call such meeting within fifteen days from the date of receipt of such requisition.

Place of meeting.

47. Every meeting of the Council shall ordinarily be held in the premises used as municipal office by such Council.

Chairman of meeting.

48. At every meeting of a Council, the President, if present, or in his absence or during the vacancy of his office, a Vice-President and if there be no President or Vice-President present, then such one of their number as the Councillors present may elect, shall preside as Chairman.

Public to be admitted to the meeting of Council.

49. (1) [Every meeting] Subject to rules framed under this Act, every meeting of the Council shall ordinarily be open to the public :

Provided that the Council may temporarily exclude the public from a meeting as often as it may deem necessary when in the opinion of a majority of the Councillors present at such meeting, expressed by resolution, in view of the special nature of the business then being dealt with or about to be dealt with, such exclusion is advisable.

(2) Such resolution shall be put by the presiding authority of its own motion or at the request of any Councillor, without previous notice or discussion.

(3) Nothing in this section shall be construed to limit or abridge the power of the presiding authority at any time to cause any person who interrupts the proceedings to be removed.

Quorum.

50. (1) No business shall be transacted at a meeting meeting unless a quorum of one-half of the total number of Councillors and at a general meeting unless a quorum of one-fourth of total number of Councillors not being less than three be present throughout the meeting.

(2) If at any meeting there are at any time not sufficient Councillors present to form a quorum, the Chairman of the meeting shall adjourn it to such time or date as he thinks fit and announce the same at once; and the business set down for the meeting shall be brought forward in the usual manner at the subsequent meeting, or if the subsequent meeting should be adjourned, then at any meeting thereafter whether at such meeting there is a quorum or not.

(3) No business other than the business fixed for the original meeting shall be transacted at any such subsequent meeting.

(4) A notice of adjournment exhibited in the municipal office on the day on which the meeting is adjourned shall be sufficient notice of the subsequent meeting.]

Quorum.

50. (1) No business shall be transacted at a meeting unless a quorum of one-third of the total number of Councillors not being less than three be present throughout the meeting.

(2) If there be no quorum present at a meeting at any time from the beginning to the end thereof the presiding authority shall, after waiting for not less than fifteen and not more than 30 minutes, adjourn the meeting to such hour on the following or some other future day as it may reasonably fix. A notice of such adjournment shall be fixed up in the municipal office, and the business which would have been brought before the original meeting had there been a quorum thereat shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof, whether there

(3) No business other than the business fixed for the original meeting shall be transacted at any such subsequent meeting except with the consent of two third of the Councillors present.
be a quorum present or not.

(4) A notice of adjournment exhibited in the Municipal office on the day on which the meeting is adjourned shall be sufficient notice of the subsequent meeting.

Minutes of proceedings.

51. [(1) Minutes of the proceedings at each meeting of a Council or any of its committees shall be drawn up in Hindi written in Devnagri character and recorded in a book to be kept for the purpose separately for the Council and each of its committees, shall be signed by the chairman of the meeting or of the next ensuing meeting, shall be published in the manner prescribed by rules made under this Act, and shall at all reasonable times and without charge, be open to the inspection by any inhabitant of the municipality.]

(1) Minutes of the proceedings at each meeting of a Council or any of its Committees shall be drawn up in Hindi written in Devanagri Script and recorded in a book to be kept for the purpose separately for the Council and each of its Committees and shall be signed by the Chairman of the meeting or of the next ensuing meeting.

(1-a) The minutes of the Council shall be published in the manner prescribed and shall at all reasonable times and without charge be open to the inspection by any inhabitant of the municipality.

(2) The minutes of the proceedings recorded under subsection (1) shall include—

(i) the names of the Councillors present;

(ii) the decision of a meeting on every question considered; and

(iii) when such decision is not unanimous, the number of votes and the names of councillors voting for and against such question and the names of those who have remained neutral, whether votes have been taken by division or otherwise

(3) A copy of every resolution passed by a Council at a meeting shall, within ten days from the date of the meeting, be forwarded to the prescribed authority.

52. Except as otherwise provided by or under this Act, all questions brought before any meeting of a Council or any of its committees held under this Act, shall be decided by a majority of the votes of the councillors present, and, in the case of an equality of votes, the presiding authority at the meeting shall have a second or casting vote:

Decision of questions by majority of votes.

[Provided that in the case of an enquality of votes at the election of the President or Vice-Presidents or any member of the Standing, Executive or Consultative Committee, the presiding authority shall not exercise his casting vote, and the result shall be decided by lot.]

Provided that in the case of an equality of votes at the election of—

(a) the President or Vice-Presidents of the Council ; or

(b) any member of the Standing, Executive or Consultative Committee ; or

(c) any member to be elected to represent the Council under the provisions of any other enactment for the time being in force ;

the presiding authority shall not exercise its casting vote, and the result shall be decided by lot.

53. (1) Any meeting of the Council may, with the consent of a majority of the Councillors present, be adjourned from time to time to a later hour of the same day or to any other date; but except as provided in sub-section (3) of section 50 no business other than that left over at the adjourned meeting shall be transacted at the next meeting.

Adjournments.

(2) Notwithstanding anything contained in sub-section (1) if the presiding authority finds it impossible to continue the proceeding due to unruly behaviour of the Councillors it may, after making an announcement to that effect in the meeting adjourn the meeting and business transacted in a meeting, if any, held by a majority of Councillors immediately after such adjournment shall be null and void.

(3) A notice of such adjournment shall be served on the Councillors who were not present in the adjourned meeting and shall be posted in the municipal office on the day on which the meeting is adjourned. Such posting shall be deemed sufficient notice of the next ensuing meeting to the Councillors who were present in the said meeting.

54. No resolution of a Council shall be modified or cancelled within three months after the passing thereof except by a resolution supported by not less than two-third of the total number of councillors and passed at an [general] ordinary meeting, whereof notice shall have been given setting forth fully the resolution which it is proposed to modify or cancel at such meeting and the motion or proposition for the modification or cancellation of such resolution.

Modification and cancellation of resolutions.

55. Except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed for the Council by the Government Executive Engineer shall be transacted at any meeting of a Council unless,

Notice to the Government Executive Engineer.

at least fifteen days' previous to such meeting, a letter has been addressed to the said Executive Engineer, informing him of the intention to transact such business thereat, and of the motions or propositions to be brought forward concerning such business.

Right of Government officers to attend, address and take part in meeting of Council.

56. The Collector and such other officers as the State Government may, by general or special order, appoint in this behalf shall be entitled to attend any meeting of a Council within their jurisdiction, address it on any matter affecting the work of their departments and take part in the proceedings relating thereto but shall not be entitled to vote.

Power to call upon officers tender advice etc.

57. Subject to any directions that may be issued by the State Government in this behalf, a Council may require any officer of the Public Works, Education, Medical, Public Health or of such other department as the State Government may specify serving in the district in which the area of the municipality concerned is included, to attend any meeting of such Council and to tender advice in respect of any matter which concerns the department to which such officer belongs, and every such officer shall comply with such requisition:

Provided that such officer may, if he is unable to present him self at the meeting on account of sickness or any other reasonable cause, depute any one of his subordinate officers to attend the meeting.

Presence of [Chief Executive Officer] Chief Municipal Officer.

58. The [Chief Executive Officer] Chief Municipal Officer shall be present at every meeting of the Council and may [with the permission of the presiding authority] explain or make a statement in regard to any subject under discussion at such meeting, but shall not be entitled to vote.

Standing Committee and its powers.

59. (1) Every Council shall have a committee called the Standing Committee consisting of such number of councillors not exceeding 9 and not less than 3 as the State Government may, by notification, specify in this behalf.

(2) Every Council, after it is constituted in accordance with the provisions of this Act, shall, at its first meeting and thereafter within one month after the expiry of the term of office of members of the Standing Committee as specified in this sub-section, elect out of its number in accordance with the system of proportional representation by means of the single transferable vote such number of Councillors as may be specified under sub-section (1) to be members of the Standing Committee who shall hold office for a period of [one year] two years:

Provided that the Standing Committee shall continue to function until such time as a new Committee is constituted in its place.

(3) Any Councillor who ceases to be a member of the Standing Committee shall be eligible for re-election.

(4) Subject to such limitations as may be prescribed by rules, the Standing Committee shall exercise all the powers

of the Council under this Act or the rules or bye-laws made thereunder:

Provided that the Standing Committee shall not exercise such powers of the Council as are assigned to any Executive Committee appointed under section 60.

Appointments of [Executive] Committees.

60. (1) Every Council may [appoint] elect out of its own body the following [Executive] Committees, namely:—

(i) Finance [Executive] Committee;
(ii) Public Works [Department Executive] Committee;
(iii) Public Health [Executive] Committee;
(iv) Education [Executive] Committee;
(v) such other [Executive] Committees as it may deem fit:

Provided that the Council may appoint, a single [Executive] Committee for more than one [department] subject;

(2) The constitution, term of office, duties and procedure of, and powers to be exercised by such [Executive] Committees shall be such as may be prescribed by rules:

Provided that the term of a Committee shall not exceed two years.

Consultative Committees.

61. A Council may also elect from time to time and for such period as it may think fit, Consultative Committees consisting of such number of Councillors as it may think fit and the Council or the President may refer to any such Committees for inquiry and report, or for opinion, any matter relating to the purposes of this Act.

Absence from meeting of Committees.

62. Any member of a Committee, who absents himself from all meetings of any Committee of which he is a member during [two consecutive months] three consecutive months without the permission of the President shall cease to be a member thereof, and his office as such member shall become vacant, and he shall not be eligible for re-election to such Committee during the unexpired term of the [Council] thereof.

Casual vacancies in any Committee.

63. If any casual vacancy occurs in the office of a member of any Committee, the Council shall, as soon as may be after the occurrence of such vacancy, elect one of its number to fill the vacancy and every Councillor so elected shall continue in office for the unexpired term of his predecessor.

Chairman of Committees.

64. (1) The President shall be the Chairman of every Committee of which he is a member and in his absence the Vice-President, if he is a member of any such Committee, shall be the Chairman thereof. In absence of any of them being members of such Committees. [the Council shall nominate any member of such Committee to be the Chairman thereof] the Committee shall elect one of its members to be the Chairman thereof.

(2) At a meeting of the Committee the Chairman shall preside. If the Chairman be absent the members of the Committee shall choose one of their number to preside.

Procedure at committee meetings.

65. (1) A committee may meet and adjourn as often as it thinks proper but the Chairman of the Committee may whenever he thinks fit and shall upon the written request of the President of the Council or of at least two members of the Committee call a special meeting of such committee.

(2) If the Chairman of any Committee remains absent from the municipal area for a period exceeding fifteen days or if he fails to call a meeting of the committee within the prescribed period upon the ritten request of the President or at least two members of the committee the President or in the absence of the President the Vice-President may call a meeting thereof.

(3) Every meeting of a committee shall, except for special reasons to be mentioned in the notice convening the meeting, be held in the buildings used as Municipal office.

(4) No business shall be transacted at any committee meeting unless not less than one-half of the members of the Committee be present thereat.

Procedure by Circular.

[66. (1) Notwithstanding anything contained in the preceding section the Chairman of the Committee, whenever it appears to him unnecessary to convene a meeting, may, instead of so doing, circulate, a written proposition of his own or of any other member of the Committee or any Executive Officer of the Council for the observations and votes of the members of the committee.

(2) Previous to circulating any such proposition as aforesaid, the chairman may, if he thinks fit and if the business to which it relates concerns any work which is being executed for the Council by a Government agency, obtain thereupon the remarks, if any, which the Government officer, whose presence the committee would be entitled to require under the provisions of this Act, desires to record.

(3) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members of the Committee voting thereon, unless a special meeting is convened to consider the proposition.

(4) Every decision arrived at by the committee under this section shall be recorded in the minute book kept for the purpose.]

Subordination of committees to instructions of Council and compliance with requisitions.

67. (1) Every committee shall conform to any instructions that may from time to time be given to it by the Council.

(2) The Council may, at any time call for any extract from any proceedings of any committee, and for return, statement, account or report concerning or connected with any matter with which the Committee is empowered by this Act to deal and every such requisition shall be complied with by such Committee without unreasonable delay.

Delegation of Council's powers, duties and executive functions.

68. Any powers or duties or executive functions which may be exercised or performed by or on behalf of the Council may, [subject to] in accordance with the rules made under this Act, be delegated by the Council to the President or

Vice-President or to the Chairman of the Standing or other committees, or to one or more stipendiary or honorary officers, but without prejudice to any powers that may have been conferred on the [Chief Executive Officer] Chief Municipal Officer by or under section 78. [and every person who exercise any power or performs any duty or function so delegated, may be paid all expenses necessarily incurred by him therein.]

Joint Committees.

69. (1) A Council may, from time to time :—

(a) join with any other Council or with any local authority, or with more than one such local authorities,—

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

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

(iii) in framing and modifying bye-laws for regulating the proceedings of any such joint committee relating to the purpose for which the joint committee is appointed ; and

(b) enter, subject to the sanction of the State Government, into any agreement with any other local authority, regarding the levy of octroi duty, terminal tax and tax on vehicles entering the limits of such bodies, whereby such duties and taxes leviable by the bodies so contracting may be levied together instead of separately, within the limits of the area comprising the areas subject to the authority of such bodies, and regarding the apportionment of the proceeds of such duties or taxes.

(2) Any dispute which arises between local authorities acting under sub-section (1) shall be referred to the State Government whose decision thereon shall be final :

Provided that, where one of the local authorities is a cantonment authority, the decision of the State Government shall be subject to the concurrence of the Central Government.

Vacancy, etc., not to invalidate proceedings.

70. No act or proceeding of the Council or any of its Committees shall be invalid by reason merely of the existence of any vacancy in, or defect in the constitution of, the Council or the Committee, as the case may be.

Proceedings of meeting to be deemed to be good and valid.

71. Until the contrary is proved—

(i) every meeting of the Council or any of its committees shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified, when the minutes of the meeting have been signed in accordance with the provisions of this Act ; and

(ii) where the meeting is a meeting of the Standing Committee such Committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

Preservation of order.

72. (1) The Presiding authority shall preserve order and may, direct any councillor whose conduct in its opinion is disorderly to withdraw immediately from the meeting of the council ; and any Councillor so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's meeting ; and if he is ordered a second time within fifteen days to withdraw, [the presiding authority] the Council may suspend him for any period not exceeding fifteen days and he shall absent himself from meetings accordingly.

Provided that the [presiding authority] Council may remit the suspension on receiving apology to its satisfaction from the councillor under suspension :

Provided further that the suspension shall not prevent any councillor from serving on any committee.

(2) The presiding authority may, in case of grave disorder arising in the meeting, suspend the meeting for a period not exceeding three days.

(3) If any person who has been ordered to withdraw unlawfully remains in the meeting, the presiding authority may take such steps as it may deem fit to cause him to be removed.

Liability of Councillor for misappropriation of funds.

[73. Every Councillor shall be personally liable for the loss, waste or misapplication of any money or other property so misappropriated or loss suffered thereby either if such loss or waste or misapplication is direct consequence of his neglect or misconduct in his capacity as a Councillor, and a suit for compensation for the same may be instituted against him, as if the money or the property had belonged to the Government.]

Responsibility of Councillors for misapplication of municipal funds.

73. Every Councillor shall be personally liable for the misapplication of any fund or property of the Council to which he shall have been a party or which shall have happened through or been facilitated by gross neglect of his duty as a Councillor and may be used for recovery of the money or property so misappropriated or loss suffered thereby either by the Council or the State Government :

Provided that no Councillor shall be personally liable in respect of any contract or agreement made, or for any expense incurred by or on behalf of a Council and the Municipal fund shall be liable for and be charged with all costs in respect of any such contract or agreement and all such expenses.

Penalty for interest in contract or employment.

[74. Any Councillor who knowing acquires directly or indirectly any share or interest in any contract or employment with under by or on behalf of the Council which he is a member not being a share or interest such as under section 27 it is permissible for a person to have without

being thereby disqualified from becoming a Councillor shall be liable on conviction, before a competent court, to a fine which may extend to five hundred rupees.]

74. Any Councillor who knowingly acquiries directly or indirectly any share or interest in any contract or employment with, under, by or on behalf of the Council of which he is a member, not being a share or interest which it is permissible under section 27 to have without being thereby disqualified from being a Councillor, shall be liable to be punished with fine which may extend to five hundred rupees.

Penalty for interest in contract or employment.

75. No councillor shall vote on, or take any part in, the discussion of any matter in which he has directly or indirectly any pecuniary interest.

Councillors not to take part in discussion in certain cases.

CHAPTER IV—CHIEF [EXECUTIVE OFFICER] MUNICIPAL OFFICER AND STAFF OF MUNICIPALITY

[76. (1) There shall be a Chief Executive Officer to every Council who shall be the principal executive officer of the Council and all other officers and servants of the Council shall be sub-ordinate to him. The Chief Executive Officer shall be appointed by the State Government in accordance with the provisions of this section.

Chief Executive Officer.

(2) The State Government may, subject to rules framed under this Act, for the purpose of appointment of Chief Executive Officers, constitute a Municipal service for the State, to be called the State Municipal Service consisting of as many grades as may be considered necessary :

Provided that till the creation of such a service or when no member of such service is available for appointment as Chief Executive Officer in any Council, the State Government may Executive Officer in any Council, the State Government may to be a Chief Executive Officer, to act as a Chief Executive Officer.

(3) The qualifications, recruitment and the conditions of service of persons appointed to such service or post shall be such as may be prescribed by rules.

(4) The State Government may, on its own motion, or if at a special meeting of the Council not less than two-third of the Councillors constituting the Council, for the time being, vote in favour of a resolution to that effect, withdraw the services of a Chief Executive Officer who is an officer of the Government and has been deputed to the Council under the proviso to sub-section (2).

(5) The salary, allowances, gratuity, annuity, pension and other payments required to be made to the Chief Executive Officer in accordance with the conditions of his service shall be a charge on the municipal fund.

(6) The State Government may transfer any Chief Executive Officer from one Council to another Council of the same class.]

Constitution of State Municipal Service.

76. (1) The State Government may, for the purpose of providing officer to the Council under section 76-A or 76-B, constitute in the prescribed manner, the following Municipal Services for the State to be called—

(a) State Municipal Service (Executive);

(b) State Municipal Service (Health); and

(c) State Municipal Service (Engineering).

(2) The State Government may make rules in respect of recruitment, qualification, appointment, promotion, scale of pay, leave, leave allowance, acting allowance, loans, pension, gratuity, annuity, compssionate fund, provident fund, dismissal, removal, conduct, departmental punishment, appeals and other service conditions of the members of the State Municipal Service:

Provided that the Council shall have all powers of control over the members of the State Municipal Service except the power to dismiss remove, reduce in rank, reduce the amount of pension, gratuity, annuity, and Provident fund or grant earned leave to such members :

Provided further that in case of suspension by the Council of a member of a State Municipal Service, the Council shall report the facts together with the reasons for such suspension, to the Staote Government within fourteen days of the issue of the order of suspension and the order of suspension shall be subject to such orders as the State Government may pass in this behalf.

(3) The salary, allowances, gratuity, annuity, pension and other payments required to be made to the members of the State Municipal Service in accordance with conditions of their service shall be a charge on the Municipal fund.

(4) The State Government may transfer any member of the State Municipal Service from one Council to another Council of the same class or where such transfer is on promotion to another Council of any other class:

Provided that no transfer from one Council to another Council of the same class shall be made unless the Council or Councils concerned have been consulted in respect of such transfer.

(5) If at a special meeting convened for the purpose, the Council passes a resolution by a majority of more than one-half of the Councillors constituting the Council for the time being requiring the transfer of a member of the State Municipal Service, the State Government may transfer such member.

Chief Municifal Officer.

76-A. (1) There shall be a Chief Municipal Officer to every Council who shall be the principal executive officer of the Council and all other officers and servants of the Council shall be subordinate to him.

(2) The Chief Municipal Officer of a Council shall be a member of the State Municipal Service (Executive) and shall be appointed by the State Government.

76-B. (1) Every Council having an annual income of five lacs of rupees or more shall have a Health Officer and an Engineer for the efficient discharge of its duties.

Health Officer and Enginer.

(2) The Health Officer and the Engineer shall be members of the State Municipal Service (Health and Engineering respectively) and shall be appointed by the State Government.

76-C. (1) Pending the constitution of the State Municipal Service under sub-section (1) of section 76 or when no member of such service is available for appointment as Chief Municipal Officer, Health Officer or Engineer, as the case may be, the State Government may depute an officer of Government or appoint any person qualified to be a member of such service to act as Chief Municipal Officer, Health Officer or Engineer, as the case may be.

Appointment to State Municipal Service pending constitution thereof etc.

(2) The State Government may, on its own motion or if at a special meeting of the Council more than one-half of the councillors constituting the Council, for the time being, vote in favour of a resolution to that effect, withdraw the services of the Chief Municipal Officer, Health Officer, or Engineer, as the case may be, who is an officer of the Government and has been deputed to the Council under sub-section (1).

77. (1) The State Government may grant leave of absence to the [Chief Executive Officer] Chief Municipal Officer.

Arrangement during leave of absence of Chief [Executive Officer] Municipal Officer.

(2) During any absence on leave of the Chief [Executive Officer] Municipal Officer for a period exceeding thirty days at a time the State Government may appoint a person to act as the Chief [Executive Officer] Municipal Officer.

(3) During any absence on leave of the [Chief Executive Officer] Chief Municipal Officer for a period not exceeding thirty days at a time, the State Government may make such local arrangement for carrying on the duties and functions of the [Chief Executive Officer] Chief Municipal Officer as may be necessary.

(4) Every person appointed under sub-section (2) or (3) shall exercise all powers conferred, and perform the duties imposed, on the [Chief Executive Officer] Chief Municipal Officer by or under this Act or by or under any enactment for the time being in force and shall be subject to the same liabilities, restrictions and conditions to which the [Chief Executive Officer] Chief Municipal Officer is liable.

77-A. The provisions of section 77 shall apply in case of a Health Officer and an Engineer, as they apply in the case of a Chief Municipal Officer.

Arrangement during leave of absence of Health Officer or Engineer.

[78. (1) Subject, whenever it is in this Act expresly so directed, to the approval or sanction of the Council, or of the President, and subject also to all other restrictions, limitations and conditions imposed by or under this Act, the

Special functions of Chief Executive Officer.

entire executive power for the purpose of carrying out the provisions of this Act shall vest in the Chief Erecutive Officer, who shall also—

(a) perform all the duties and exercise all the powers specifically imposed or conferred upon him by or under this Act;]

Special functions of Chief Municipal Officer.

78. (1) The Chief Municipal Officer shall—

(a) subject to the general control of the President, watch over the financial and executive administration of the Council and perform all the duties and exercise all the powers specifically imposed or conferred upon him, by or delegated to him under this Act ;

[(b) exercise supervision and control over the acts and proceedings of all municipal officers and servants, and, subject to the rules or bye-laws for the time being in force, dispose of all questions relating to the services of the said officers and servants and their pay, privileges and allowances;]

[(c) on the occurrence of any accident or unforseen event, or on the threatened occurrence of any disaster, involving or likely to involve extensive damage to any property of the Council or danger to human or animal life, take such immediate action as the emergency shall appear to him to justify and require, reporting forthwith to the Council, when he has done so, the action he has taken and his reasons for taking the same and the cost, if any, incurred or likely to be incurred in consequence of such action and not covered by a current budget grant];

[(d)] (b) give ecect to the decisions taken, in accordance with the provisions of this Act and the rules or byelaws made thereunder by the Council and submit periodical reports, if the Council so directs, regarding the progress made in respect thereto.

Municipal Officers may be empowered to exercise the powers of [Chief Executive Officer.] Chief Municipal Officer.

(2) Any of the powers, duties or functions conferred or imposed upon or vested in the [Chief Executive Officer] Chief Municipal Officer by this Act may be exercised, performed or discharged under the [Chief Executive Officer's] Chief Municipal Officer's control and subject to his superintendents and to such conditions and limitations, if any, as he may think fit to prescribe, by any municipal officer whom the [Chief Executive Officer] Chief Municipal Officer may generally or specially empower in writing in this behalf.

Council may require [Chief Executive Officer Chief Municipal Officer to produce documents.

79. (1) The Council may at any time require the [Chief Executive Officer] Chief Municipal Officer—

(a) to produce any record, correspondence, plan or other document which is in his possession or under his control as [Chief Executive Officer] Chief Municipal Officer or which is recorded or filed in his office or in the office of any municipal officer or servant subordinate to him:

Provided that if the [Chief Executive Officer] Chief Municipal Officer is of the opinion that the

production of any correspondence will not be in the public interest or in the interest of the Municipal administration, he shall forward the requisition along with his opinion to the prescribed authority and the decision of the prescribed authority thereon shall be final.

(b) to furnish any return, plan, estimate, statement, account or statistics, concerning or connected with any matter appertaining to the administration of this Act or the municipal government ;

(c) to furnish a report by himself, or to obtain from the head of a department subordinate to him and furnish, with his own remarks thereon, a report upon any subject concerning or connected with the administration of this Act or the municipal government.

(2) Every such requisition shall be complied with by the [Chief Executive Officer] Chief Municipal Officer without unreasonable delay and it shall be incumbent on every municipal officer and servant to obey any order made by the [Chief Executive Officer] Chief Municipal Officer in pursuance of any such requisition.

Appointment of staff.

80. (1) Every Council having an annual income of five lacs of rupees or more shall subject to rules framed under section 81, appoint [a Health Officer, an Engineer] a Revenue Officar and an Accounts Officer and may appoint such other officers and servants as may be necessary and proper for the efficient discharge of its duties.

(2) Every Council not falling under sub-section (1) shall subject to rules framed under section 81, appoint a Sanitary Inspector, an Overseer, a Revenue Inspector, and an Acountant and may appoint such other officers and servants as may be necessary and proper for the efficient discharge of its duties:

Provided that such Council may appoint a part-time Health Officer or an Engineer on such terms and conditions as the State Government may approve in this behalf.

(3) The State Government may—

(i) in case of any Council, relax the provisions of sub-section (1) or sub-section (2), as the case may be, subject to such conditions as it may think fit to impose ; or

(ii) grant permission to any Council to appoint whether temporarily or otherwise one person to discharge the duties of any two or all such officers.

(4) The appointment of [Health Officer, Engineer] Revenue Officer, Accounts Officer and Sanitary Inspector, Overseer, Revenue Inspector and Accountant shall be subject to confirmation by the State Government and no such post or the post of any other officer as may be specified by the State fovernment in this behalf shall be created or abolished and no alteration in the emoluments thereof shall be made without the previous approval of the State Government, and every appointment to, and dismissal from, such post, shall be subject to a like approval.

(5) No order of suspension for a period exceeding one month shall be passed against any officer mentioned in or specified under sub-section (1) and no resignation tendered by any such officer shall be accepted without previous approval of the State Government.

(6) Unless the State Government otherwise directs the power of appointing municipal officers and servants other than those mentioned in or specified under sub-section (4) shall vest in the [Chief Executive Officer] Standing Committee.

(7) The State Government may transfer any officer or servant of a Council [other than the Chief Executive Officer] mentioned in this section to another Council of the same class.

Provided that an officer or seravnt of a Council may be transferred on promotion from a Council of one class to a Council of another class.

(8) The State Government may prescribe the classes or grades of officers and servants who shall have the right to appeal from any decision of the [Chief Executive Officer] Chief Municipal Officer, the Standing Committee, the Prescribed Authority or any other authority empowered n this behalf, inflicting any departmental punishment other than censure.

(9) The authority hearing an appeal made under sub-section (8) shall have power to set aside or reduce the punishment against which the appeal is preferred.

Government to make rules.

81. The State Government may make rules, in respect of qualification, recruitment, appointment, scale of pay, leave, leave allowance, acting allowance, loans, pension, gratuity, compassionate fund, provident fund, annuity, dismissal, removal, conduct and other departmental punishment and appeal and service conditions for municipal employees other than [the Chief Executive Officer] a member of the State Municipal Service.

Abstention of officers or servants from political movement, etc.

82. (1) No officer or servant employed under this Act shall—

(a) except in accordance with a special or general order of the Council, communicate directly or indirectly, the contents of any official documents or information to any member of the Council or to any member of the general public ;

(b) own, wholly or in part, or conduct the management of any newspaper or other periodical publication except in the discharge of his official duties ;

(c) take part in or subscribe in aid of, or assist in any way, any political movement or organisation carried on or run in any part of India or elsewhere relating to the affairs of India;

(d) canvass or otherwise interfere or use his influence in connection with, or take part in any election to a legislative body or local authority otherwise than in the exercise of his vote or in the discharge of any duty assigned to him officially.

(2) If any such officer or servant contravenes any provision of sub-section (1) he shall be liable to any punishment prescribed by rules under section 81.

(3) If any question arises as to whether a movement or organisation is political or not for the purposes of this section, the question shall be referred to the State Government whose decision shall be final.

Liability of municipal employees for misappropriation of funds.

83. Every employee of the Council shall be personally liable for the loss, waste, misapplication or misappropriation of any money or other property (held for the administration of the Council) if such loss or waste or misapplication or misappropriation is a direct consequence of his neglect or misconduct in his capacity as servant of the Council, and a suit for compensation for the same may be instituted against him, as if the money or the property had belonged to the Government.

Municipal officer or servant not to be interested in any contract with Council.

84. (1) No person shall be eligible for employment as a municipal officer or servant if he—

(a) has, directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the Council, other than an interest in land held on a lease from the Council, or is a director, secretary, manager or other salaried officer of an incorporated company which has any such share or interest ; or

(b) has acted or in acting professionally in relation to any matter on behalf of any person having therein any such share or interest as aforesaid.

(2) If at any time subsequent to any appointment it comes to the notice of the Council that any municipal officer or servant was not eligible for employment under sub-section (1) on the date of his appointment, the Council may terminate his service :

Provided that no order under this sub-section shall be passed until reasonable opportunity has been given to the person concerned to furnish his explanation.

(3) Nothing in the foregoing sub-sections shall apply to any such share or interest as is specified in the Explanation below section 27.

Penalty for officer or servant being interested in any contract; etc.

85. Any Municipal Officer or servant who knowingly acquiries, directly or indirectly any share or interest in any contract or except in so far as concerns his own employment as municipal officer or servant, in any employment with, under, by or on behalf of a Council of which he is an officer or servant, not being a share or interest such as, under clause (j) of section 27, it is permissible for a person to have without being thereby disqualified for being an officer or servant of such Council, shall be liable on conviction by a Court to a fine which may extend to five hundred rupees.

CHAPTER V.—PROPERTY, CONTRACTS AND LIABILITIES

Property vested in Council.

86. (1) Subject to any special reservation made or to any special conditions imposed by the State Government, all property of the nature hereinafter in this section specified within the limits of the Municipality, shall vest in and be under the control of the Council and with all other property which has already vested, or may hereafter vest in the Council, shall be

held and applied by it as trustees for the purposes of this Act, that is to say,—

(a) all public town-walls, gates, markets, slaughter-houses, manure and night soil depots, and public buildings of every description which have been constructed or maintained out of the municipal fund;

(b) all public streams, tanks, reservoirs, cisterns, wells, springs, acqueducts, conduits, tunnels, pipes, pumps and other water works, and all bridges, buildings, engines, works, materials and things connected with or appertaining thereto, and also adjacent land not being private property, appertaining to any public tank or well;

(c) all public sewers and drains and all sewers, drains, tunnels, culverts, gutters and water courses in, alongside or under any streets and all works, materials and things appertaining thereto ;

(d) all dust, dirt, dung, ashes, refuse, animal matter, filth, nightsoil or rubbish of any kind collected by the Council or by any customary or private sweeper from the streets, houses, privies, sewers, cesspools or elsewhere ;

(e) all public lamps, lamp-posts and apparatus connected therewith, or appertaining thereto ;

[(f) all public streets including the sub-soil and land adjacent to such streets not belonging to any private person and constructed or maintained out of the municipal fund and pavements, stones and other materials thereof and also all trees, erections, materials, implements and things provided for such street;]

(f) all public streets, not being land owned by the Government and the pavements, stone and other material thereof and also trees growing on, and erections, materials, implements and things provided for such street ;

(g) all lands and/or other property transferred to the Council by the State Government or acquired by gift, purchase or otherwise for public purposes ;

(2) The State Government may, by notification direct that any property which has vested in the Council shall cease to be so vested ; and thereupon the property specified in the notification shall cease to be so vested, and the State Government may pass such orders as it thinks fit regarding the disposal and management of such property.

(3) The State Government may resume any immovable property transferred to the Council by itself or any other local authority, where such property is required for a public purpose, without payment of any compensation other than the amount paid by the Council for such transfer at the market value at the date of resumption of any building or works subsequently erected or executed thereon by the Council :

Provided that before taking any such action, the State Government shall obtain and take into consideration the view or objections of the Council :

Provided further that compensation need not be paid for buildings or works constructed or erected in contravention of the terms of the transfer.

Management of Nazul lands.

87. (1) The nazul lands transferred to the Council by the State Government shall be managed in accordance with the byelaws made by the Council with the previous approval of the State Government.

(2) The Council may, with the previous approval of the State Government from time to time, add to, vary or rescind the byelaws made under sub-section (1).

Acquisition of land under Act I of 1894.

88. (1) When any land, whether within or without the limits of a municipality, is required for the purposes of this Act and the council is unable to acquire it by agreement the State Government may, at the request of the Council, proceed to acquire such land under the provisions of the Land Acquisition Act, 1894 (I of 1894) ; and, on the payment by the Council of the compensation awarded under that Act, and of any other charges incurred by the State Government in connection with the acquisition, the land shall vest in the Council.

Explanation.—When any land is required for a new street, or for the improvement of an existing street, the Council may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street, and such land shall be deemed to be required for the purposes of this Act.

(2) A Council shall not, without the previous sanction of the State Government, transfer any land which has been acquired for and vests in the Council under sub-section (1) or divert such land to a purpose other than the purpose for which it has been acquired.

(3) Notwithstanding anything contained in the Indian Stamp Act, 1899, all instruments of transfer of land in favour of a Council for the purposes of this Act shall be exempt from payment of Stamp duty.

Transfer of municipal property to the Central Government.

89. The Council may, with the sanction of State Government, transfer to the Central Government any property vested under section 86 or 88, but not so as to affect any trust or public right subject to which the property is held.

Municipal fund to be sole and to be held in trust

90. There shall be formed for each municipality a municipal fund, and it shall be held by the Council in trust for the purposes of this Act, subject to the provisions therein contained.

Credit of moneys to municipal fund.

91. (1) There shall be credited to the municipal fund—

(a) all moneys received by or on behalf of the Council under the provisions of this Act or of any other law for the time being in force or under any contract ;

(b) the balance, if any, standing at the commencement of this Act at the credit of the municipal fund ;

(c) all proceeds of the disposal of property by, or on behalf of, the Council ;

(d) all rents accruing from any property of the Council ;

(e) all moneys raised by any tax levied for the purposes of this Act ;

(f) all fees payable and levied under this Act ;

(g) all moneys received by way of compensation or for compounding offences under the provisions of this Act ;

(h) all moneys received by, or on behalf of, the Council from the State Government or private individuals by way of grant or gift or deposits ; and

(i) all interest and profits arising from any investment of, or from any transaction in connection with, any money belonging to the Council.

(2) Nothing in this section or in this Act shall affect any obligation of a Council arising from a Trust legally imposed upon or accepted by the Council.

(3) A Council may, for the purpose of efficient discharge of any of the duties imposed upon it under clauses (e), (k) and (m) of section 109, by a resolution passed in that behalf, earmark for each such purpose a specified portion of its income every year for a specified number of years for being credited to a fund called the Public Utility Schemes Fund. The amount so credited shall be expended for the purposes for which it has been earmarked.

Application of Municipal property and fund.

92. (1) All property vested in a Council under this Act, all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law for the time being in force, shall subject to the provisions of this Act be applied for the purposes of this Act, within the limits of the municipality.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for a Council, [with the sanction of the State Government] subject to rules framed under this Act,

(a) to incur expenditure beyond the municipal limits on the acquisition of land, or on the construction, maintenance or repair of works, for the purpose of obtaining a supply of water required for the inhabitants of the municipality or on providing the supply of electrical energy for the use of the inhabitants of the said municipality or on establishing slaughter-houses or places for the disposal of nightsoil or sewage or carcasses of animals or for drainage works, or for the purpose of providing mechanically propelled transport facilities for the conveyance of the public or for the purpose of setting up of dairies or farms for the supply, distribution and procuring of milk or milk products for the benefit of the inhabitants of the municipality

or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the said municipality ; or

(b) to make a contribution towards expenditure incurred by any other local authority or out of any public fund for measures affecting the health, instruction, safety or convenience of the public calculated to benefit the residents within the limits of the contributing municipality ; or

(c) to create scholarship tenable outside the limits of the municipality ;

(d) to utilise the municipal fire brivade and other mechanical applicance beyond the municipal limits; [subject to the rules made in this behalf].

[(e) any other kind of contribution as may be deemed other works necessary for the purpose of such

(e) to make with the previous sanction of the State Government, any other kind of contribution as may be deemed necessary by the Council.

Provided that nothing in this section or in any other provision of this Act shall be deemed to make it unlawful for a Council when [with such sanction as aforesaid] it has constructed works beyond the limits of the municipality for the supply of water or electrical energy or for drainageas aforesaid—

(a) to supply or extend to or for the benefit of any person or building or lands in any place, whether such place is or is not within the limits of the said municipality, any quantity of water or electrical energy not required for the purpose of this Act within the said municipality or the advantages afforded by the system of drainage-works, on such terms and conditions with regard to payment and to the continuance of such supply or advantages as shall be settled by agreement between the Council and such persons or the occupier or owner of such buildings or land ; or

(b) to incur any expenditure on such terms with regard to payment as may be settled as aforesaid for the construction, maintenance, repair or change of any connection pipe or any electric supply lines or other works necessary for the purpose of such supply or for the extension of such advantages.

Repayment of loans.

93. Notwithstanding anything contained in section 92, it shall be the duty of a Council to apply annually out of the municipal fund first such sum as may be required for the payment of any amount falling due on any loan legally contracted by it.

Custody and investment of Municipal fund.

94. (1) In places where there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in such treasury, sub-treasury or bank.

(2) In places where there is no such treasury or sub-treasury or bank, the municipal fund may with the previous approval of the State Government be deposited with any banker who furnishes such security for the safe custody and repayment on demand of the fund so deposited as the State Government may in each case think sufficient.

(3) A Council may, from time to time, with the previous sanction of the State Government, invest any portion of its municipal fund in securities of the Government of India or in such other securities, including fixed deposits in banks, as the State Government may approve in this behalf, and may vary such investments for others of the like nature ; and the income resulting from the securities and proceeds of the sale of the same shall be credited to the municipal fund.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), a Council shall maintain cash balance not less than such amount as may be prescribed by rules in the office for meeting the current charges and may recoupe the same as and when such cash balance is depleted on account of expenditure therefrom.

Other transfers of Municipal property.

95. Subject to such exceptions as the State Government may by general or special order direct, no council shall transfer any immovable property except in pursuance of a resolution passed at a meeting by a majority of not less than two-thirds of its members and in accordance with rules made under this Act, and no council shall transfer any property which has been vested in it by the Government except with the sanction of the State Government :

Provided that nothing in this section shall apply to leases of immoveable property for a term not exceeding three years.

Contracts by or on behalf of Council.

96. (1) Subject to the provisions of sub-sections (2) and (3) contracts required to be made by or on behalf of the Council shall be expressed to be made by the [Chief Executive Officer] Chief Municipal Officer in accordance with the byelaws made in this behalf and shall be executed by him or such other officer as may be authorised by the Council in this behalf.

(2) No contract shall be made by the [Chief Executive Officer] Chief Municipal Officer except with the sanction of the Council, if—

(i) in the case of a Class I Municipality, the expenditure involved in execution thereof exceeds one thousand rupees ; and

(ii) in the case of other classes of municipalities, the expenditure involved in execution thereof exceeds three hundred rupees.

(3) Every contract made by the [Chief Executive Officer] Chief Municipal Officer shall, if—

(i) in the case of a Class I Municipality, the expenditure involved in execution thereof exceeds five hundred rupees but does not exceed one thousand rupees ; and

(ii) in the case of other classes of municipalities, the expenditure involved in the execution thereof exceeds one hundred and fifty rupees but does not exceed three hundred rupees ;

be reported within fifteen days from the date on which it has been made to the Council.

(4) No contract entered into otherwise than in accordance with the provisions made by or under this Act shall be binding on the Council.

Mode of executing contract.

97. (1) Every contract made by or on behalf of the Council shall be signed by the [Chief Executive Officer] Chief Municipal Officer personally if it involves the payment of five hundred rupees or more as a non-recurrent payment or receipt or recurrent payment or receipt amounting to more than five hundred rupees per annum. In other cases the contract shall be signed either by the [Chief Executive Officer] Chief Municipal Officer or by such other Officer as may be authorised under section 96.

(2) Every contract requiring personal signature of the [Chief Executive Officer] Chief Municipal Officer shall be sealed with the common seal of the Council:

Provided that the seal shall not be affixed on any instrument except in the presence of any one member of the Standing Committee who shall affix his signature thereon in token that the same was sealed in his presence.

Tenders to be invited for contract.

98. (1) Except as hereinafter provided the [Chief Executive Officer] Chief Municipal Officer shall atleast seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding two hundred and fifty rupees in the case of a class I municipality and hundred rupees in the case of Municipalities of other classes give notice by advertisement in a local newspaper or by public notice pasted in conspicuous places in the municipality inviting tenders for such contract.

(2) The [Chief Executive Officer] Chief Municipal Officer shall not be bound to accept any tender which may be made in pursuance of such notice, but may, subject to the provisions of section 96, accept any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous or may reject all the tenders submitted to him:

Provided that prior sanction of the council shall be obtained for acceptance of any tender other than the lowest tender.

(3) Where the expenditure involved in any contract exceeds Rs. 250 but does not exceed Rs. 1,000 in the case of a class I municipality and exceeds Rs. 100 but does not exceed Rs. 300 in the case of municipalities of other classes, the Council may authorise the [Chief Executive Officer] Chief Municipal Officer for reasons which shall be recorded in its proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tenders which he may receive after having invited them.

Security for performance of contract.

[99. The Chief Executive Officer shall resuire sufficient security for the performance of every contract which involves an expenditure exceeding Rs. 500 and may, in his discretion, require security for the due performance of any other contract.]

Security for performance of contract.

99. The Chief Municipal Officer shall, in accordance with rules framed in this behalf, require security for the due performance of contract.

Cancellation or modification of arrangement binding permanently or for a number of years.

100. Where a Council has entered into any arrangement or made any promise, purporting to bind it or its successors for a number of years or for an unlimited period, to continue to any educational or charitable institutions, a yearly contribution from the Municipal property or fund, it shall be lawful for the Council or its successors with the sanction of the State Government to cancel such arrangement or promise, or to discontinue, or to diminish such yearly contribution :

Provided that it shall have given at least 12 months' notice of its intention to do so to the Manager or Managers of such institutions.

Power of Council to borrow money.

101. Subject to the restrictions contained in any enactment relating to raising of loans by local authorities for the time being in force a Council may, in pursuance of a resolution passed at a special meeting convened for the purpose, raise a loan of any moneys required for carrying out the purposes of this Act :

Provided that—

(i) no loan shall be raised without the previous sanction of the State Government ; and

(ii) the terms upon, the period within and the method by which the loan is to be raised and repaid, shall be subject to the approval of the State Government.

Annual estimates of income and expenditure.

[102. (1) The Chief Executive Officer shall, on or before the tenth day of January each year, cause in the form and manner as may be prescribed by rules, to be prepared and laid before the Council, an estimate of the income and expenditure of the Council for the next financial year.

(2) The Council shall take into consideration the estimates laid before it under sub-section (1) and may adopt them without any change or may refuse to assent to any item of expenditure in the said estimates or assent to any item in the said estimates subject to a reduction of the amount specified for such item and shall forthwith submit copies thereof to the prescribed authority and the State Government :

Provided that no estimate shall be approved unless provision is made therein for the Council having at its credit at the end of the year a balance of not less than an amount prescribed by rules in this behalf :

Provided further that in the case of a Council which is indebted to the Government, the approval of estimates under this sub-section shall be subject to confirmation by the State Government :

Provided also that if for any reason the Council is not able finally to adopt the budget estimates before the commencement of the financial year to which they relate, the budget estimates as approved for the preceding year shall be deemed to be the budget estimates for that year until action is taken by the Council.]

Annual estimates of income and expenditure.

102. (1) The Chief Municipal Officer shall, on or before the first day of January each year, cause, in the prescribed form and manner, to be prepared and laid before the Finance Committee and if there is no Finance Committee before the Standing Committee, an estimate of the income and expenditure of the Council for the next financial year.

(2) The Finance Committee or the Standing Committee, as the case may be, shall, as soon as may be, consider the budget estimates prepared by the Chief Municipal Officer and make such modifications and additions thereto as it shall think fit and submit the same to the Council not later than the thirty-first day of January.

(3) The Council shall, as soon as may be, consider the budget estimates as submitted by the Finance Committee or the Standing Committee, as the case may be, and may adopt them without any change or subject to such alterations as it may deem expedient and shall forthwith submit the copies of the budget estimates as adopted by it to the prescribed authority and the State Government :

Provided that no estimates shall be approved unless provision is made therein for the Council having at its credit at the end of the year a balance of not less than such amount as may be prescribed in this behalf:

Provided further that if for any reasons the budget estimates could not be finally adopted by the Council before 31st day of March, the budget estimates—

(a) recommended by the Finance Committee or the Standing Committee, as the case may be; or

(b) prepared by the Chief Municipal Officer, if the Finance Committee or Standing Committee has not considered the budget estimates;

shall be deemed to be the budget estimates finally adopted by the Council until the estimates are so adopted:

Provided also that if in the opinion of the State Government the condition of indebtedness of any Council is such that it is desirable to have control of the State Government over its budget the State Government may direct that the budget of such Council shall be subject to the prior sanction of the State Government and the power to vary or alter budget grants under sections 103 and 104 shall be subject to such conditions as may be prescribed.

Power of Council to alter budget grants.

103. The Council may, from time to time during the financial year, transfer the amount or a portion of the amount of one budget grant from one major head to another in the budget estimate, or increase the amount of any budget grant,

or make an additional budget grant for the purpose of meeting any special or unforeseen requirement arising during the said year, but not in such a way as to bring the estimated cash balance at the close of the year below the limit prescribed under the first proviso to sub-section (3) of section 102.

Power of Council to readjust income and expenditure during the year.

104. (1) If at any time during the financial year it appears to the Council that, the income of the municipal fund during the same year will not suffice to meet the expenditure sanctioned in the budget estimates of that year, it shall be incumbent on the Council forthwith to sanction any measure which they may consider necessary for proportioning the year's income to the expenditure.

(2) For the purposes of sub-section (1), the Council may either diminish the sanctioned expenditure of the year, so far as it may be possible so to do with due regard to all the requirements of this Act, or have recourse, subject to the conditions and limitations prescribed by this Act, to supplementary taxation or to an increase of the rates, or adopt all or any of those methods.

[(3) Whenever the Council determines to have recourse to such supplementary taxation it may do so by increasing for the unexpired portion of the said year, the rates at which any tax imposed under this Act is being levied, or by adding to the number of articles, if any, on which a tax on imports is being levied, but every such increase or addition shall be made subject to the limitations and conditions prescribed in regard to such tax or cess.]

Publication of the accounts.

105. The annual accounts of receipts and expenditure, and the budget when sanctioned, shall be open to public inspection free of charge and shall be published in Hindi language in Devnagri script [in such manner as the Government may prescribe in this behalf.].

Quarterly abstract of accounts.

106. (1) The [Chief Executive Officer] Chief Municipal Officer shall draw up a quarterly abstract of the receipts and expenditure of the preceding quarter and such abstract shall be examined by the prescribed authority.

(2) The abstract of the municipal accounts drawn up under sub-section (1) shall be placed before the Council.

(3) For the purposes of examining the accounts by the Council, the Council shall have access to all the Municipal accounts and to all records and correspondence relating thereto, and the [Chief Executive Officer] Chief Municipal Officer shall furnish to the Council any explanation concerning the Receipts and Expenditure which it may call for.

(4) Any Councillor may, with the permission of the President and in the presence of the Chief Municipal Officer inspect any document relating to accounts of the Council within two days before the meeting of the Council in which they are to be considered.

Audit of Municipal Accounts.

107. [(1) The annual accounts of the Council shall be subject to audit under the Madhya Pradesh Local Fund Audit Act, 1933.]

(1) Notwithstanding anything contained in section 3 of the Madhya Pradesh Local Fund Audit Act, 1933 (IX

of 1933), the annual accounts of every Council shall, be subject to audit under the said Act and the Council shall be liable to pay such audit fee as the State Government may from time to time specify in this behalf.

(2) Copies of the Audit Report of the Auditor on the annual account of the Council under sub-section (1) shall be furnished to the Government or such other authority as may be specified by Government in this behalf in addition to the President and the [Chief Executive Officer] Chief Municipal Officer.

(3) If the Accounts of the Council are not audited under sub-section (1) by the Local Fund Audit Department, the Council shall have the option, subject to sanction of the Government, to get its accounts audited by any outside agency.

Municipal authorities to remedy defect and report.

108. (1) The Council or the [Chief Executive Officer] Chief Municipal Officer, as the case may be, shall forthwith remedy any defects or irregularities that may be communicated by the prescribed authority or Local Fund Audit Department or the outside auditing agency, as the case may be, and shall send a report to the Government directly or through such authority as the State Government may prescribe, of the action taken by the Municipal authorities concerned within a period of three months from the date of the receipt of the Audit Report:

Provided that if there is a difference of opinion between the Municipal authorities and the prescribed authority or the Local Fund Audit Department, or if the Municipal authority does not remedy any defect or irregularity within the said period of three months, the matter shall be referred to the Government within such time and in such manner as may be prescribed by rules, and the State Government may pass such orders thereon as it thinks fit. The orders of the Government shall be final and the municipal authorities shall take action in accordance therewith.

(2) If within any period fixed by an order made by the Government under sub-section (1), the Municipal authority concerned fails to comply with such orders, the provisions relating to defaults contained in section 297, shall with all necessary modifications, be deemed to apply in this case and the Government shall act accordingly.

CHAPTER VI—DUTIES OF COUNCIL

Duties of Council.

109. (1) In addition to the duties imposed upon it by or under this Act or any other enactment for the time being in force, it shall be the duty of a Council to undertake and make reasonable and adequate provision for the following matters within the limits of the municipality, namely :—

(a) lighting public streets, places and buildings ;

[(b) watering public streets and places;]

(c) cleansing public streets, places and sewers, and all places, not being private property, which are open to the enjoyment of the public whether such places are vested in the Council or not; removing noxious vegetation, and abating all public nuisances;

(d) disposing of night-soil and rubbish and [if so required by the Government] preparation of compost manure from night-soil and rubbish;

(e) extinguishing fire and protecting life and property when fire occurs ;

(f) regulating or abating offensive or dangerous trades or practices ;

(g) removing obstructions and projections in public streets or places and in spaces not being private property, which are open to the enjoyment of public, whether such spaces are vested in the Council or in Government ;

(h) acquiring, maintaining, changing and regulating places for the disposal of the dead ;

(i) taking special measures as may be required by the prescribed authority or any other authority empowered to issue a direction in this behalf under any law for the time being in force for disposal of dead bodies during epidemics and other unforeseen emergencies;

(j) securing or removing dangerous building or places, and reclaiming unhealthy localities;

(k) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, *hats*, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like;

(l) establishing and managing cattle pounds, including, where the Cattle Trespass Act, 1871 (I of 1871), is in operation, all the functions of the State Government and the Magistrate of the district under sections 4, 5, 6, 7, 12, 14, 17 and 18 of that Act;

(m) obtaining a supply or an additional supply of water, proper and sufficient, for preventing danger to the health of the inhabitants and domestic cattle on account of insufficiency or unwholesomeness, of the current supply when such supply or additional supply can be obtained at a reasonable cost and having such water analysed periodically;

(n) naming streets and parks and numbering houses;

(o) registering births, marriages and deaths;

(p) public vaccination;

(q) providing suitable accommodation for any calves, cows or buffaloes required within the municipal limits for the supply of animal lymph;

(r) registration of cattle and carrying out [annually] the census of agricultural cattle at such intervals as may be prescribed;

(s) taking such measures as may be required to prevent the out-break or spread or recurrence of infectious disease;

(t) preparing such annual reports on the municipal administration as the State Government may, by

general or special orders require the Council to submit;

[(u) paying the salary and the contingent expenditure on account of such police or guards as may be required by the Council for the purposes of this Act or for the protection of any municipal property;]

(v) erecting substantial boundary marks of such description and in such position as shall be approved by the Collector, defining the limits or any alteration in the limits of the municipality;

(w) constructing and maintaining residential quarters for the conservancy staff of the Council;

[(x) establishing and maintaining poor-houses;]

(y) establishing and maintaining primary schools:

Provided that the State Government may, by notification and subject to such conditions as it may like to impose, exempt any municipality from any of the provisions of this section.

(2) In addition to the duties imposed under sub-section (1) a Council shall, in times of distress such as out-break of an epidemic or famine or other natural calamity, [be responsible for] render such assistance and co-operation as the State Government may require for the following matters, namely:—

(a) providing special medical aid and accommodation for the sick;

(b) giving relief to, and establishing and maintaining relief works for, destitute persons within the limits of municipality.

(3) No suit for damages or for specific performance shall be maintainable against any Council or any officer or Councillor thereof, on the ground that any of the duties specified in this section has not been performed.

Discretionary powers of a Council.

110. A Council may, at its discretion, provide, either wholly or partly out of the municipal property and fund, for all or any of the following matters, namely:—

[(a) laying out, whether in areas previously built upon or not, new public streets, and acquiring land for that purpose, including the land requisite for the construction of buildings or curtilages thereon to about on such streets;]

(a) reclaiming unhealthy localities, laying out, whether in areas previously built upon or not, new public streets, and acquiring land for that purpose, including plots of land for building to abut on such streets.

(b) constructing, establishing, or maintaining public parks, gardens, play-grounds and open spaces, libraries, museums, lunatic asylums, halls, offices, dharmshalas, rest-houses and other public buildings;

(c) furthering educational objects;

(d) planting and maintaining roadside and other trees;

(d-1) watering public streets and places;

(e) playing of music in squares, gardens or other places of public resort;

(f) taking a census, for local purposes and granting rewards for information which may tend to secure the correct registration of vital statistics;

(g) making a survey;

(h) paying the salaries and allowances, rent and other charges incidental to the maintenance of the Court of any stipendiary or honorary Magistrate, or any portion of any such charges;

(i) destruction or the detention of dogs and pigs which may be destroyed or detained under the provisions of this Act or under any other enactment for the time being in force in the State;

(j) securing or assisting to secure suitable places for the carrying on of the dangerous and offensive trades specified by or under this Act;

(k) supplying, constructing and maintaining receptacles, fittings, pipes and other appliances whatsoever, on or for the use of private premises for receiving and conducting the sewage thereof into sewers under control of the Council;

(l) establishing and maintaining a farm or factory for the disposal of sewage;

(m) promoting the well-being of municipal employees or class of employees and of their dependents;

(n) providing housing accommodation for any class of employees of the Council other than the conservancy staff;

(o) the construction of sanitary dwelling houses for the poorer classes;

(p) making contributions towards the construction, establishment or maintenance of educational institutions including libraries and museums, hospitals, dispensaries or similar institutions providing public medical relief or engaged in social work or other institutions of a charitable nature;

(q) the acquisition and maintenance of pasture lands or grazing grounds and the establishment and maintenance of dairy farms and breeding stud;

(r) the setting up of dairies or farms for the supply, distribution and processing of milk or milk products for the benefit of the inhabitants of the municipal area;

(s) securing and distributing either free or at reduced price, particularly for the use of expectant and nursing mothers, children and invalids, full-cream or skimmed milk, condensed milk, evaporated milk, milk powder and synthetic or soyabean milk ;

(t) establishing and running lodging and boarding houses;

(u) establishing and running eating houses such as refreshment rooms, tea shops, sweetmeat shops, restaurants, cafes, canteens, hotels and any such place where food and drinks are served;

Explanation.—For the purposes of this clause "drinks" shall not include such drinks to which provisions of the Madhya Pradesh Excise Act, 1915 (II of 1915) or the Madhya Pradesh Prohibition Act, 1938 (VII of 1938), apply.

(v) providing and maintaining public bathing places or swimming pools with sheds, booths and other conveniences;

[(w) any other measure not specified in obligatory duties likely to promote the public safety, health, convenience or education;]

(x) undertaking any commercial enterprise;

(y) constructing and maintaining such roads, buildings and other Government works other than irrigation works, as the Government may, in accordance with rules made under this Act, transfer to the Council;

(z) providing for the maintenance and treatment of lunatics and lepers residing within or removed from the municipal area at an asylum, hospital or house approved by the State Government;

(aa) arranging for the removal of lunatics, lepers and persons needing anti-rabic treatment to an asylum, hospital or house whether within or without the municipal limits set up for the treatment of such persons;

(bb) holding *melas* and fairs ; and

(cc) establishing ashrams for destitutes, blind, crippled, lame, disabled and old persons;

(dd) establishing and maintaining veterinary dispensaries;

(ee) any public reception, ceremony, entertainment or exhibition within the municipality at a cost not exceeding such amount as may be prescribed by rules in this behalf:

Provided that a resolution in that behalf is passed [at a general meeting and is supported by not less than two thirds of the total number of councillors constituting the Council for the time being;] by the Council at an ordinary meeting;

(ff) any matter likely to promote the public health, education, safety and convenience of the public not otherwise provided for;

(gg) establishing and maintaining hospitals and dispensaries;

(hh) any other matter with the previous approval of the State Government; and

(ii) establishing and maintaining poor houses.

Management of public institutions.

111. (1) The management, control and administration of every public institution maintained out of the municipal fund shall vest in the Council:

[Provided that the extent of the independent authority of the Council in respect of any such institution may be prescribed by rules made under this Act.]

Provided that the management of such public institution shall be regulated by rules framed by the State Government in this behalf.

(2) When any public institution has been placed under the direction, management and control of the Council, all property, endowments and funds belonging thereto shall be held by the Council in trust for the purposes to which such property, endowments and funds were lawfully applicable at the time when the institution was so placed:

Provided that nothing in this section shall be held to prevent the vesting of any trust property in the Treasurer of Charitable Endowments under the Charitable Endowments Act, 1890 (VI of 1890).

CHAPTER VII.—MUNICIPAL TAXATION

(1) Imposition of Taxes

Definition of annual letting value.

112. In this Chapter, the expression "annual letting value" shall mean—

(i) where any building or land is let out, the annual rent for which it is actually let out;

(ii) where the rent of any building has been determined under the Madhya Pradesh Accommodation Control Act, 1955 (23 of 1955), the annual rent as so determined; and

(iii) in any other case, the annual rent for which any building, exclusive of furniture or machinery contained or situated therein or thereon, might reasonably be expected to let from year to year;

and shall include any payment made or agreed to be made by a tenant to the owner of the building or land on account of occupation, taxes, insurance or other charges incidental to his tenancy.

Provided that if it appears to the Council that the annual rent of any building or land is much lower than the annual rent for which it might reasonably be expected to let at the time of assessment such latter rent shall be deemed to be the annual letting value in respect of such building or land.

Taxes which may be imposed.

113. (1) A Council may, from time to time, and subject to the provisions of this Chapter and any general or special order which the State Government may make in this behalf, impose in the whole or in any part of the municipality any of the following taxes, for the purposes of this Act, namely:—

(i) a tax payable by the owners of houses, buildings or lands situated within the limits of municipality with reference to annual letting value of the house building or land called property tax;

(ii) a tax on all or any vehicles, boats or animals used for riding, driving, draught or burden and used within the limits of the municipality whether they are actually kept within or outside the said limits;

(iii) a tax on vehicles, boats and animals used as aforesaid entering the limits of the municipality but not liable to taxation under clause (ii);

(iv) a tax on persons exercising any profession or art, or carrying on any trade or calling, within the limits of the municipality;

(v) an octroi on animals or goods brought within the limits of the municipality for sale, consumption or use within such limits;

(vi) a tax payable by occupiers of houses, buildings or lands within the limits of the municipality according to their circumstances and property within those limits;

(vii) market fees on persons exposing goods for sale in any market or in any place belonging to or under the control of the Government or of the Council;

(viii) fees on the registration of cattle sold within the limits of the municipality;

(ix) a tax on dogs kept within the limits of the municipality;

(x) a latrine or conservancy tax, payable by the occupier or owner upon private latrines, privies or cesspools or upon premises or compound cleansed by municipal agency;

(xi) a tax for the construction and maintenance of public latrines and for removal and disposal of refuse;

(xii) scavenging tax;

(xiii) a water rate where water is supplied by the Council;

(xiv) a lighting tax;

(xv) a drainage tax where a system of drainage has been introduced;

(xvi) a terminal tax on goods or animals imported into or exported from the limits of the municipality:

Provided that a terminal tax under this clause and an octroi under clause (v) shall not be in force in any municipality at the same time;

[(xvii) a tax on—

(a) persons travelling by railway to or from a municipality to which pilgrims resort;

(b) pilgrims visiting a shrine within the limits of the municipality;]

(xvii) a tax on piligrims resorting periodically to a shrine within the municipal limits;

(xviii) a terminal tax on passengers carried by road or inland waterways;

(xix) a betterment tax on properties whose value may have improved as a result of Town Planning Scheme undertaken by the Council;

[(xx) a tax on takhats;]

(xxi) a theatre or show tax;

(xxii) a tax on advertisements other than advertisements published in news-papers;

(xxiii) tolls on new bridges constructed by a Council;

(xxiv) any other tax, which the State Legislature has power to impose under the Constitution of India:

Provided that—

(a) no latrine or conservancy tax shall be leviable in respect of any private latrines, premises or compounds unless and until the Council has—

(1) made provision for the cleansing thereof by manual labour or for conducting or receiving the sewage thereof into municipal sewers; and.

(2) issued either severally to the person charged, or generally to inhabitants of the municipality or part of the municipality to be charged with such tax, one month's notice of the intention of the Council to perform such cleansing or to levy such tax;

(b) in lieu of imposing severally any two or more taxes described in clauses (i), (x), (xiii) and (xv) a Council may impose a consolidated tax assessed as a rate on buildings and lands or both situated within the municipality.

[(2) The State Government may, by rules made under this Act, regulate the imposition of taxes under this section, and prescribe the maximum and minimum limits as to the amount or rates of any tax.]

(2) The State Government may, by rules made under this Act,—

(a) regulate the imposition, assessment and collection of taxes under this Act;

(b) prevent the evasion of taxes imposed under this Act; and

(c) prescribe the maximum and minimum limits as to the amount or rate of any tax.

(3) Except the taxes specified in clauses (xi), (xiii) and (xv) of sub-section (1), no tax shall be leviable in respect of the following save with the previous consent of the State Government, namely:—

(i) places set apart for public worship;

(ii) places used for charitable purposes;

(iii) Dharamshalas or Sarais or such parts thereof for the occupation of which no rent is charged;

(iv) public burning and burial grounds;

(v) buildings used for educational purposes for which no rent is charged;

(vi) buildings or lands belonging to the [Union and] State Government used as Government offices, Hospitals, Maternity and Nursing Homes, Child Welfare Centres and for other public purposes and for which no rent is charged;

(vii) municipal property.

[(4) Nothing in this section shall authorise the imposition of any tax which the State Legislature has no power to impose in the State under the Constitution of India:

Provided that a Council which immediately before the commencement of the Constitution was lawfully levying any such tax, may continue to levy that tax until provision to the contrary is made by the Parliament.]

(4) Subject to the provisions of Article 277 of the Constitution of India, any tax which immediately before the commencement of this Act was being lawfully levied by the Municipal Committee, Municipal Council or Municipal Board, as the case may be, notwithstanding that such tax is not specified in sub section (1), shall continue to be levied by the Council.

(5) The imposition of any tax under this section shall be subject to the provisions of any other enactment for the time being in force.

Other restrictions on the imposition of property tax.

114. [(1) Subject to the provisions of sub-section (3) of section 112, a property tax of not less than 6¼ per cent and not more than 12½ per cent of the annual letting value of the property shall be imposed upon all lands and buildings within the municipality.]

(1) Subject to the provisions of sub-section (3) of section 113, the rate of property tax leviable under the Act shall not be less than 5 per cent or more than 12½ per cent of the annual letting value of the property.

(2) In fixing the rate of property tax, a Council may, subject to the limits laid down in sub-section (1), fix rates of property tax rising with the different slabs of annual letting value but the rate of tax for any such slab shall be uniform throughout the municipality.

Procedure in imposing taxes.

115. (1) A Council may, pass a resolution to propose the imposition of any tax under section 113. The proposal shall define the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment and collection to be adopted.

(2) When such a resolution has been passed, the Council shall publish [in accordance with rules made under this Act] a notice in the prescribed form and manner along with the resolution [and the rules so passed.]

(3) Any inhabitant of the municipality objecting to the proposed tax may, within thirty days from the publication of the notice, submit his objection in writing to the Council.

(4) The Council shall take the proposals and all objections received thereto into consideration at a special meeting, and may modify the proposals so as not to affect their substance, and may then forward them to the State Government, along with all objections received, its decisions thereon and its reasons therefor. If the Council decides to modify the proposals so as to affect their substance, it shall publish them again in the manner prescribed in sub-section (2) along with a notice indicating that

they are in modification of those previously published for objection.

(5) The State Government, on receiving such proposal, may either refuse to sanction them or sanction them—

(i) without modification or with such modifications not involving an increase of the proposed rate as it thinks fit; or

(ii) subject to such condition as to the application within the municipality to any purpose or purposes of this Act as may be specified, of the whole or any part of the proceeds of such tax, as it may deem fit.

(6) No modification affecting the substance shall be made under sub-section (5), unless and until the modification has been accepted by the Council at a special meeting.

(7) If any proposal for taxation has been sanctioned under sub-section (5), the State Government may, by notification, direct the imposition of the tax as sanctioned from such date which shall not be earlier than thirty days from the date of publication of such notification as may be specified therein, and thereupon the tax shall come into effect as from the date so specified :

Provided that where the tax so imposed is payable annually—

(i) the tax shall become payable with effect from the 1st day of April, 1st day of July, 1st day of October or 1st day of January, as the case may be, next following such imposition;

(ii) and becomes payable on a date other than the 1st day of April, it shall be payable quarterly till the 1st day of April next following.

(8) A notification of the imposition of a tax under this section shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Act.

116. (1) Subject to the control of the State Government a Council may abolish any tax already imposed under this Act or may within the limits prescribed under sub-section (2) of section 113, vary the amount or rate of any such tax :

Provided that in the case of an increase in the amount or rate of any tax, such increase shall not exceed one-tenth of the amount or rate of such tax leviable during the preceding year :

Provided further that—

(i) in the case of any municipality the abolition of any tax ; and

(ii) in the case of such municipalities as are indebted to the Government a reduction in the amount of the rate thereof ;

shall be subject to the previous sanction of the State Government and shall take effect from such date as the State Government may by notification specify.

(2) A Council may, at a special meeting, pass a resolution to propose the abolition of any tax already imposed, or a variation in the amount or rate thereof.

(3) If the proposal is to reduce the amount or rate of any tax and the previous sanction of the State Government is not required under sub-section (1), the Council shall fix the date from which the reduction shall come into force and shall publish details thereof in the Gazette and in such other manner as may be prescribed by rules.

(4) If the proposal is to increase the amount or rate of any tax, the Council shall publish in the Gazette and in such other manner as it may deem fit a notice showing in detail the effects of the proposal and the date, which shall not be earlier than 30 days from the date of such publication, from which it is proposed to bring such increased amount or rate of tax into force.

(5) The publication of the notice in the Gazette and in such other manner as may be prescribed by rules shall be conclusive proof that such abolition or variation has been made in accordance with the provisions of this Act and the tax shall be levied at the reduced or enhanced rate, as the case may be, as from the date mentioned in the notice.

Power of Government in regard to relief in taxes.

117. [(1)] If, on a complaint made to it or otherwise, it appears to the State Government that any tax levied by a Council is unfair in its incidence or that such levy or any part thereof is obnoxious to the interest of the inhabitants of the municipality, it may, by an order, require the Council to remove the objections to any such tax within such time as may be specified therein, and on the failure of Council to comply with the order within the time so specified, to the satisfiaction of the State Government, the State Government may, by notification and subject to such conditions or restrictions as may be specified therein abolish, suspend or reduce the amount or rate of any tax.

[(2) The State Government may, on its own motion or otherwise, after giving the Council an opportunity of expressing its views in the matter, by order, exempt from the payment of any tax in whole or in part any person or any class of persons or any property or description of properties subject to such conditions as may be specified in such order.]

Power of State Government to grant exemption of taxes.

117-A. The State Government may, on its own motion or otherwise, after giving the Council an opportunity of expressing its views in the matter, by order exempt from payment of any tax in whole or in part any person or class of persons or any property or description of properties for the purpose of granting protection to any industry or for any other purpose in public interest subject to such conditions as may be specified in such order.

117. B. (1) The State Government may make rules under this Act regulating the refund of taxes and such rules may impose limitation on such refunds.

(2) No refund of any tax shall be claimable by any person otherwise than in accordance with the provisions of this Act, and the rules and byelaws made thereunder.

(2) *Assessment and its liability*

118. (1) When a tax on buildings or lands or both is imposed, the [Chief Executive Officer] Chief Municipal Officer shall cause an assessment list of all buildings or lands or lands and buildings in the municipality to be prepared containing— Preparation of assessment list.

(a) the name of the street or division in which the property is situated ;

(b) description of the property sufficient for identification ;

(c) the name of the owner or occupier, if known ;

(d) the valuation based on capital or annual letting value, as the case may be, on which the property is assessed;

(e) the rate of tax applicable ;

(f) the amount of tax assessed thereon

(g) if the property is exempted from tax, a note to that effect.

(2) In assessing a tax on buildings or lands where the valuation as determined under clause (d) of sub-section (1) is the annual letting value, a sum equal to ten per cent of the said valuation shall be deducted therefrom in lieu of an allowance for repairs or any other account whatsoever.

(3) For the purpose of preparing such assessment list the [Chief Executive Officer] Chief Municipal Officer or any person acting under his authority may inspect any building or land in the municipality and on the requisition of the [Chief Executive Officer] Chief Municipal Officer the owner or occupier of any such building or land shall, within such reasonable period as shall be specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief of the name and place of abode of the owner or occupier or of both and the annual letting value and his estimate of the value of such building or land, duly signed by him.

119. (1) When the name of the person primarily liable for the payment of the tax on buildings or lands or both in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the Assessment list as "the holder" of such premises, without further description and to serve upon the said person any notice which it may be necessary to serve under this Act. **Persons liable how to be designated if name is not known.**

(2) If, in any such case, any person in occupation of the premises fails to furnish such information as may be requisite for determining as to who is primarily liable as aforesaid, such person shall, until such information is made available to the [Chief Executive Officer], Chief Municipal Officer be himself liable for all taxes on buildings or lands or both leviable on the premises of which he is in occupation.

120. When the assessment list has been completed, the [Chief Executive Officer], Chief Municipal Officer shall give public notice thereof, and of the place where the list or **Publication of notice of assessment list.**

a copy thereof may be inspected; and every person claiming to be either owner or occupier of property included in the list, and any agent of such person duly authorised by him in writing may inspect that list and take extracts therefrom free of any charge.

Public notice of time fixed for lodging objections.

121. (1) The [Chief Executive Officer], Chief Municipal Officer shall, at the time of the publication of the assessment list under section 120, give public notice of a date not earlier than thirty days from the publication of such notice by which objections to the valuation or assessment in such lists may be delivered at his office.

(2) The [Chief Executive Officer] Chief Municipal Officer shall, in all cases in which the property is for the first time assessed or the assessment is increased as a result of increase in the valuation of the property, give special notice thereof to the owner or occupier of the property if known, and if the owner or occupier of the property is not known, shall cause such notice to be affixed in a conspicuous place on the property.

(3) Any person dissatisfied with a valuation or assessment made under this Chapter may file an objection at the municipal office stating the grounds to such valuation or assessment on or before the last day fixed in this behalf in public notice referred to in sub-section (1) or (2).

Investigation of objections by Council.

122. (1) All such objections shall be entered in a register to be maintained for the purpose and, on receipt of any objection the[Chief Executive Officer] Chief Municipal Officer shall give a notice in writing to the objector of the time and place at which his objection will be investigated.

(2) At the time and place so fixed, the Council shall hear the objection, in the presence of the objector or his authorised agent if he appears, or may, for reasonable cause, adjourn the investigation.

(3) When the objection has been determined, the order passed on such objection shall be recorded in the said register and, if necessary, an amendment made in the assessment list in accordance with the result of the objection.

Appeals to Civil Courts.

122-A. (1) If any dispute arises as to the liability of any land or building to assessment or as to the basis or principle of assessment or as to the amount of tax assessed an appeal shall lie from the decision of the Council to the Civil Judge Class I having jurisdiction over the municipal area and if there be no Civil Judge Class I at the headquarter of the Municipality to the Civil Judge Class II having jurisdiction at such headquarter and if there be no Civil Judge Class II at such headquarter to the Civil Judge Class II having jurisdiction, and in case of more than one such Civil Judges at the headquarter or having jurisdiction as the case may be, to such one of them as the District Judge may specify.

(2) Such appeal shall be presented to the Civil Judge within thirty days from the date of the order passed under section 122 and shall be accompanied by an extract from the register of objections containing the order objected to.

(3) The provisions of Parts II and III of the Indian Limitation Act, 1908, relating to appeals shall apply to every appeal preferred under this section.

(4) No appeal shall be admitted under this section unless an objection has been preferred under section 121.

(5) The decision of the Civil Judge in an appeal made under sub-section (1) shall subject to the decision in revision by the Court to which appeals against the decisions of such Civil Judge ordinarily lie be final and effect shall be given by Council to such decision.

(6) The pendency of an appeal under this section shall not operate to delay or prevent the levy of any tax or instalment thereof payable in respect of any building or land according to the order of assessment under appeal but, if by the final decision in the appeal it is determined that such tax or instalment ought not to have been levied in whole or in part, the Council shall refund to the person from whom the same has been levied, the amount of such tax or instalment or the excess thereof over the amount properly leviable in accordance with such final decision, as the case may be.

Authentication of assessment list when all objections disposed of.

123. (1) When all objections made [this section] under section 121 have been disposed of and all amendments required by section 122 have been made in the assessment list, it shall be authenticated by the [Chief Executive Officer] Chief Municipal Officer who shall certify under his signature that except in the cases in which amendments have been made as shown therein, no valid objection has been made to the valuation and assessment as entered in the said list:

Provided that where the function of the Council under sub-section (2) of section 122 is under the provisions of this Act performed by the Standing Committee or any other Committee, such list shall, in addition, be authenticated and certified as aforesaid by not less than two members of such committee.

(2) The Council may with the previous sanction of the State Government appoint any Government officer to perform the functions of the Council under this Act and where any officer is so appointed, the list shall be authenticated and certified as aforesaid by such officer.

Explanation.—For the purpose of this section "Government officer" shall include retired Government officer.

(3) The list so authenticated shall be [deposited] kept in the Municipal Office, and shall be open to inspection during office hours to all owners and occupiers of property entered therein or to the agents of such persons and the notice that it is so open shall be forthwith published.

(4) Subject to such alterations as may be made therein under the provisions of section 122 and to the result of any appeal under section 122-A [or revision made under section 154] the entries in the assessment list so authenticated and deposited and the entries, if any, inserted in the said list under the provisions of section 124 shall be accepted as conclusive evidence—

(1) for the purposes of all municipal taxes of valuation, or annual letting value on the basis prescribed in

the rule regulating the tax, of buildings, lands and both buildings and lands to which such entries respectively refer ; and

(ii) for the purposes of the tax for which such assessment list has been prepared, of the amount of the tax leviable on such buildings or lands or both buildings and lands in any official year in which such list is in force.

Power of Council to amend assessment list.

124. (1) The Council may at any time amend the assessment list by the inclusion, omission or substitution of any matter:

Provided that whenever it proposes to make any amendment in respect of any matter other than the correction of an arithmetical error, it shall, before making the amendment, send notice thereof to persons interested and shall allow thirty days to elapse for the making of any objection to the proposed amendment :

Provided further that nothing in this sub-section shall empower the Council to vary the valuation of any premises determined on appeal.

(2) If any amendment be made in respect of any matter other than the correction of an arithmetical error, any person on whom a notice is served may object by a written application addressed to the [Chief Executive Officer] Chief Municipal Officer and delivered at the Council office before the date fixed in the said notice; and the provisions of sections 122 and 123 shall, with all necessary modifications, apply to such objection.

(3) When the erection of a new building is completed after the completion of the assessment list the Council may add the particulars of the building to the list, and in such case the provisions of sections 119, 120 and 121 shall apply, except that no public notice shall be required. In such a case the assessment shall take effect from the beginning of the quarter following the date on which the building is added to the assessment list or from the date when it is occupied or let if that is earlier.

Entries in assessment list to be final.

124 A. Subject to the provisions of section 124 and decision in appeal, if any, preferred under section 122-A, every entry in the assessment list authenticated under section 123 shall be final.

Notice of increase of rent.

125. (1) When an owner has furnished information or a written return as provided by sub-section (3) of section 118, he shall give notice in writing to the [Chief Executive Officer] Chief Municipal Officer of any subsequent increase in the rent.

(2) If an owner of any land or building or any portion thereof has after he has been assessed for the same, made an increase in the rent thereof, he shall give notice in writing to the [Chief Executive Officer] Chief Municipal Officer of such increase.

(3) The Council shall, on receipt of such notice as to increase of rent, amend the assessment list by altering the assessment of

such land or building or portion thereof as provided by section [123] 124:

Provided that no revision of assessment shall be made during the year unless the increase in rent is due to material addition or alteration in the building.

Notice to be given of demolition of building.

126. (1) When any building or any portion of a building which is liable to the payment of property tax is demolished or removed, otherwise than by order of the Council or has fallen down or has been destroyed by fire or any other cause the person primarily liable for the payment of the said tax shall give notice thereof, in writing to the [Chief Executive Officer.] Chief Municipal Officer.

[(2) Until such notice is given to the person aforesaid shall continue to be liable to pay the property tax payable as if the same or portion thereof, has not been demolished or removed or has not been felled or destroyed by fire or otherwise.]

(2) Until such notice is given, the person aforesaid shall continue to be liable to pay the property tax as if the same or portion thereof, has not been demolished or removed or has not fallen down or been destroyed by fire or otherwise.

Failure to give notice of increase of rent.

127. Whoever fails to give notice of an increase of rent required by sub-sections (1) and (2) of section 125 or gives notice of an increase of rent which in substance is untrue, he shall be punishable with fine which may extend to [fifty] two hundred rupees.

New assessment list need not be prepared every year.

128. (1) The Council may, instead of making a new assessment every year, adopt the existing assessment, with such alteration as it thinks fit, as the assessments for each new year, giving to persons affected by such alterations the same notice of the altered valuation and assessment as would have been required if a new assessment had been prepared.

(2) The Council shall arrange for a survey for the purposes of assessments of each part of the municipality at least once in four years.

(3) The provisions of section 118 to 123 shall, so far as may be, apply for the purposes of this section.

Responsibility for payment of property tax.

129. The property tax leviable upon any land or building shall be paid by the owner thereof.

Explanation.—For the purpose of this section a tenant of land or building or both, under a lease for any agreed period with a covenant for its renewal thereafter, shall be deemed to be owner thereof.

Right of occupier to recover from owner.

130. Any tax or sum leviable under this Act from the owner may be recovered from the occupier, and in such case such occupier shall, in the absence of any contract to the contrary, be entitled to recover the same from the owner and may deduct the same from any rent then or thereafter due by him to the owner:

Provided that the occupier shall not be liable for any such tax or sum due for a period prior to the date of commencement of his occupancy.

Refund of tax on unoccupied immovable property.

131. (1) When any land or building or any portion of a building has been vacant and unproductive of rent for a period of at least [sixty] ninety consecutive days, the Council shall refund one-half of the property tax proportionately to the period during which the land or building or part thereof has been vacant and unproductive of rent. Such a refund shall be granted proportionately for the number of months the land or building or part thereof is vacant, each complete consecutive period of thirty days being reckoned as one month.

Explanation.—For the purposes of this sub-section any building reserved by its owner for his own occupation whenever required shall be deemed to be occupied whether it is actually occupied by such owner or not.

(2) The burden of proving the facts entitling any person to claim relief under this section shall lie upon him.

(3) No refund under sub-section (1) shall be granted unless—

(i) the total sum demanded by way of all taxes on the property concerned has actually first been paid up to the end of the period for which the concession is claimed:

(ii) notice in writing of the circumstances under which it is claimed has been given to the [Chief Executive Officer] Chief Municipal Officer within [three months of the beginning of the period for which a refund is claimed:] forty-five days of the expiry of the period for which a refund is claimed:

Provided that in case of failure to give such notice within the specified time, refund may be granted from the date of delivery of such notice to the [Chief Executive Officer] Chief Municipal Officer.

Notice of transfer of titles, when to be given.

132. (1) Whenever the title in any land or building or in any part or share of any land or building is transferred, the transferer and the transferee shall, within three months of the registration of the deed of transfer, or if it be not registered, within three months of the execution of the instrument of transfer, or, if no such instrument be executed within ninety days after the transfer is effected, give notice in writing of such transfer to the Council.

(2) Every person liable for the payment of a tax on any property, who transfers his title to or over such property without giving notice of such transfer to the Council as aforesaid, shall, in addition to any other liability which he incurs through such neglect, continue to be liable for the payment of all such taxes payable in respect of the said property until he gives such notice or until the transfer is recorded in the Council's books;

Provided that nothing in this section shall affect the liability of the transferee for payment of the said tax or the prior claim of the Council on the property for the recovery thereof:

Provided further that the Council shall not recover more than the amount of the tax due in respect of the said property.

(3) In the event of the death of the person in whom title to any land or building or in any part or share of any land or building vests, the person who as heir or otherwise takes the title of the deceased by descent or devise shall within three months from the death of the deceased give notice of his title to the Council in writing.

(4) Nothing in this section shall be deemed to affect the liability of the heir or devisee for the said taxes or to affect the prior claim of the Council for the recovery of the taxes due thereupon.

Form of notice of transfer of titles.

133. (1) The notice to be given under section 132 shall be in such form as may be prescribed by rules.

(2) On receipt of any such notice the Council may, if it thinks necessary, require the production of the instrument of transfer, if any or a copy thereof.

Power to examine articles liable to octroi.

134. Every person bringing into, or receiving from beyond the octroi limits of the municipality any animals or goods on which octroi is payable shall, when required by any officer authorised in this behalf by the Council, and so far as may be necessary for ascertaining the amount of tax chargeable—

(a) permit the officer to inspect, examine, weigh, and otherwise deal with the animal or goods; and

(b) communicate to that officer any information, and exhibit to him any bill, invoice or document of a like nature, which such person may possess, relating to the animal or goods; and

(c) make a declaration in writing to the officer regarding the correctness and accuracy of the document shown to him.

Power to search where octroi is leviable.

135. If any person bringing into, or receiving from beyond, the octroi limits of a municipality any conveyance or package refuses on the demand of an officer authorised by the Council in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains anything in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistrate or such officer of the Council as [the State Government] the Council may appoint in this behalf who shall cause the inspection to be made in his presence.

Presentation of Bills for octroi.

136. An officer demanding octroi by the authority of the Council shall tender to every person introducing or receiving anything on which the tax is claimed, a bill specifying the animal or goods taxable, the amount claimed and the rate at which the tax is calculated.

Penalty for evasion of octroi.

137. When any animal or goods passing into a Municipality are liable to the payment of octroi, then every person, who, with the intention to defraud the Council, causes or abets the introduction of, or himself introduces or attempts to introduce within the octroi limits of the said municipality, any such animals or goods upon which payment of octroi due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend to ten times the value of such octroi or Rs. 50 whichever may be greater.

Tables for tolls or octroi to be shown on demand

138. A Council imposing any toll or octroi under this Act shall cause to be kept, at each place where such toll or octroi is to be collected, a table in Hindi language (written in Devnagari script) showing the amount leviable in all cases provided for in the rules, including the terms, if any, in which the liability to pay such tolls or octroi may be compounded by periodical payment, and it shall be the duty of every person authorised to demand payment of a toll or octroi to show such table on the request of any person on whom such demand is made.

Procedure in case of non-payment of tolls or octroi.

139. (1) If any toll or octroi leviable under this Act is not paid on demand, the person appointed to collect it may seize and detain such portion of the load of any animal or vehicle on which the toll is chargeable or such portion of the goods on which the octroi is chargeable, as will, in his opinion, suffice to defray the amount due in respect of such toll or octroi and, in the absence of any load on an animal or vehicle on which the toll is chargeable, or in the event of its value being insufficient to defray the amount due, he may seize and detain the animal or vehicle.

(2) The person on seizing or detaining the goods or animal or vehicle, as the case may be, shall, on such seizure or detention give a list of the property seized or detained to the person in charge of such property at the time of its seizure or detention and shall along with such list deliver to him a notice in the form prescribed by rules to the effect that the property so seized or detained shall be sold by auction at the place and time to be specified therein. A copy of each list of the property and the notice shall forthwith be sent to the [Chief Executive Officer] Chief Municipal Officer or to such other officer as he may authorise in this behalf.

(3) When the property seized under sub-section (1) is subject to speedy and natural decay, or when the expense of keeping it together with the amount of octroi or toll chargeable is likely to exceed its value, the same shall be taken forthwith to the [Chief Executive Officer] Chief Municipal Officer or to such officer as he may authorise in this behalf and the [Chief Executive Officer] Chief Municipal Officer or such officer shall proceed to sell it forthwith.

(4) If at any time before the sale [has begun] is complete the amount due, together with all charges incurred in connection with the seizure or detention is tendered to the [Chief Executive Officer] Chief Municipal Officer or to the officer authorised as aforesaid, the property seized shall forthwith be released.

(5) If no such tender is made, the property may be sold and the proceeds of the sale applied to the payment of—

(i) the amount due on account of the toll or octroi,

(ii) the charges incurred in connection with the seizure, detention and sale.

(6) The surplus proceeds shall be forthwith credited to the municipal fund and notice of such credit shall be given at the same time to the person in whose possession the property was at the time of seizure or detention. If such person claims the surplus by written application to the [Chief Executive Officer] Chief Municipal Officer within one year from the date of the notice given under this sub-section, the [Chief Executive Officer] Chief Municipal Officer shall refund the surplus to him.

(7) Any such surplus not so claimed shall be the property of the Council.

Power to keep account current with firm or public body in lieu of levying octroi on introduction be given.

140. The Council, if it thinks fit, instead of requiring payment of octroi due from any mercantile firm or public body, to be made at the time when the animals or goods in respect of which it is leviable are introduced within the octroi limits of the municipality, may at any time direct that an account current shall be kept on behalf of the Council of the octroi so due from any such firm or body as the Council may specify in this behalf. Every such account shall be settled at intervals not exceeding one month, and such firm or public body shall make such deposit or furnish such security as the council or any committee or officer authorised by the Council in this behalf shall consider sufficient to cover the amount which may at any time be due from such firm or body in respect of such dues. Every amount so due at the expiry of any such interval shall be deemed to be, and shall be recoverable in the same manner, as an amount claimed on account of any tax recoverable under Chapter VIII.

Collection of octroi by one public body on behalf of others.

141. Where any agreement such as is referred to in clause (b) of sub-section (1) of section 69 has been entered into such one of the bodies entering into the agreement as by the term thereof shall be specified in this behalf, shall have the same power to establish such octroi limits and octroi stations as that body may deem necessary for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought within the limit so established and the provisions of the Act under which that body is constituted relating to octroi shall apply in the same way as if the limits so established were fully comprised within the area subject to the control of that body; and the collections made, and the cost thereby incurred, shall be divided between the body entering into the agreement, in such proportion as shall have been determined in the agreement.

Lease of levy of tolls, market dues and fees.

142. (1) The Council may, by public auction or private contract, lease the levy of tolls, market dues and fees which may be imposed under this Act:

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

(2) Where a lease has been given under sub-section (1), the lessee and any person employed by him to collect any tolls market dues and fees shall, subject to the conditions of the lease, have the power referred to in sub-sections (1) and (5) of section 139.

Method of assessment of duty on transfer of immovable property.

1b3. (1) The duty imposed by the Indian Stamp Act, 1899 (II of 1899) on Instruments of sale, gift; and usufructuary mortgage, respectively, of immovable property, shall in the case of instruments affecting immovable property situated within the limits of any municipality and executed on or after the date on which the provisions of this Act come into force within that municipality be increased by [two per centum] one per centum on the value of the property so situated, or in the case of a usufructuary mortgage on the amount secured by the instrument, as set forth in the instrument.

Provided that nothing herein shall apply in case of the transfer of property where the value of the property so transferred or in the case of a usufructuary mortgage the amount so secured does not exceed two thousand rupees.

(2) For the purpose of this section, section 27 of the Indian Stamp Act, 1899 (II of 1899), shall be read as if it specifically required the particulars referred to therein to be set forth separately in respect of—

(a) property situated in any municipal area;

(b) property not situated in any municipal area.

(3) The State Government shall every year, pay to each Council from the Consolidated Fund of the State a grant-in-aid approximately equal to the extra duty realised under sub-section (1) in respect of the property situate within the area of each such municipality [after making such deductions on account of the cost of collection as the State Government may determine.]

(4) The State Government may make rules for carrying out the purposes of this section.

Power of Government to require Council to impose taxes.

144. Whenever it appears to the State Government that the balance of municipal fund of any Council or its revenue is insufficient for the discharge of its duties or obligatory functions imposed upon it by the Act or for meeting the expenditure incurred under section 294 or for the performance of any duties in respect of which it shall have been declared under section 297 to have committed default, the State Government may require the Council to impose within the municipal area any tax which it is empowered to impose under section 113 or to enhance any existing tax in such manner or to such extent as the State Government considers fit, and the Council shall forthwith proceed to impose or enhance in accordance with the requisition, such tax under the provisions of this Chapter, as if a resolution of the Council had been passed for the purpose under section 115 or 116 as the case may be:

(a) the State Government shall take into consideration any objection which the Council or any inhabitant

Provided that—

of the municipality may make against the imposition or enhancement of such tax;

(b) it shall not be lawful for the [municipality] Council to abandon or modify or to abolish such tax when imposed, without the sanction of [the Government] the State Government;

(c) the State Government may at any time by notification abolish or [refuse] reduce the [amount of any tax] amount or rate of any tax levied or enhanced under this section and the levy of the tax or the enhancement, except as to arrears thereto for accrued due, shall thereupon cease or be modified accordingly.

Tax not invalid for defect of form.

145. A tax imposed under this Act shall not be invalid for defect of form and, where any property is described for the purpose of assessing any such tax, it shall be sufficient to describe it so that it shall be generally known and it shall not be necessary to name the owner or occupier.

CHAPTER VIII.—RECOVERY OF MUNICIPAL CLAIMS

Presentation of bills for taxes, rent and other claims.

145-A. (1) When any amount—

(a) which, by or under any provisions of this Act, is declared to be recoverable in the manner provided by this Chapter; or

(b) which, not being leviable under sub-section (1) of section 139 or payable on demand on account of an octroi or a toll, is claimable as an amount or instalment on account of any other tax which is being imposed or may hereafter be imposed in any municipality; or

(c) which, on account of rent of any municipal land, buildings, shops, gumtis or any other property;

shall have become due the Chief Municipal Officer shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the sums claimed as due.

(2) Every such bill shall specify—

(a) the period for which; and

(b) the property, occupation or thing in respect of which the sum is claimed;

and shall also give notice of—

(i) the liability incurred in default of payment; and

(ii) the time within which an appeal may be preferred as hereinafter provided against such claim.

(3) If the person to whom a bill has been presented as aforesaid does not, within 15 days from the presentation thereof, either—

(a) pay the sum claimed as due in the bill; or

(b) show cause to the satisfaction of the Chief Municipal Officer or of such officer as the Council may appoint in this behalf, why he should not pay the same; or

(c) prefer an appeal in accordance with the provisions of section 154 against the claims;

the Chief Municipal Officer may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form prescribed by rules.

(4) The sum claimed as due in the bill shall carry interest at the rate of 6¼ per centum per annum till the date it is paid and shall be recoverable along with the bill.

General power of recovery of arrears.

146. (1) [Any arrear of any tax or any other money claimable by the Council under this Act, together with any sum on account of fees and interest] If a person on whom a notice of demand has been served under sub-section (1) of section 145-A does not within fifteen days from the service of such notice pay the sum demanded in the notice, such sum with all cost of recovery and interest may be recovered on application of the Council to a Magistrate having jurisdiction within the limits of the municipality, and such Magistrate may order recovery by distress and sale of any movable property or attachment and sale of immovable property belonging to such person within the limits of his jurisdiction:

Provided that no interest shall be so recovered in any case in which the Magistrate, for reasons to be recorded in writing, considers it inexpedient that intesest should be charged.

(2) When there is no sufficient movable or immovable property belonging to such person within the jurisdiction of such Magistrate, the Magistrate may, on the application of the Council, grant a certificate of the amount due on account of arrears, with fees, and interest, if any, and shall forward the certificate to the Magistrate within whose jurisdiction any movable or immovable property belonging to such person is or is believed to be; and the Magistrate receiving such certificate shall proceed to recover, by distress and sale of any movable property or attachment and sale of any immovable property belonging to the defaulter within the limits of his jurisdiction, the amount certified, with any further sum leviable on account of fees and shall remit the amount recovered to the Magistrate by whom the certificate was granted.

(3) The following property shall not be distrained under this section, namely:—

(a) the necessary wearing apparel and bedding of the defaulter, his wife and children, and utensils used for cooking and drinking;

(b) the tools of artisans;

(c) when the defaulter is an agriculturist, his implements of husbandry, seed-grain and such cattle as may be necessary to enable him to earn his livelihood.

(d) books of account;

(e) religious books and idols of worship.

Extent of special provisions for recovery of taxes.

147. (1) The provisions of sections [147] 149 to 152 shall apply to such municipalities or classes of municipalities to which they have been specially applied by the State Government by notification and on such application the provisions of section 146 shall not apply in respect of such municipality.

(2) The State Government may by a like notification, suspend the operation of sections [148] 149 to 152 in respect of such municipality and from such date as may be specified therein, and on and from the date so specified every amount due on account of any tax theretofore recoverable under the said section shall be recoverable on application to a Magistrate in the manner provided in section 146.

Presentation of bills for taxes, rent and other claims.

[148. (1) When any amount—

(a) which, by or under any provisions of this Act, is declared to be recoverable in the manner provided by this Chapter; or

(b) which, not being leviable under sub-section (1) of section 138 or payable on demand on account of an octroi or a toll, is claimable as an amount or instalment on account of any other tax which is being imposed or may hereafter be imposed in any municipality; or

(c) which on account of rent of any municipal land, buildings, shops gumtis or any other property;

shall have become due, the Chief Executive Officer shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the sums claimed as due.

(2) Every such bill shall specify—

(a) the period for which; and

(b) the property, occupation or thing in respect of which the sum is claimed;

and shall also give notice of—

(i) the liability incurred in default of payment, and

(ii) the time within which an appeal may be preferred as hereinafter provided against such claim.

(3) If the person to whom a bill has been presented as aforesaid does not, within 15 days from the presentation thereof, either—

(a) pay the sum claimed as due in the bill; or

(b) show cause to the satisfaction of the Chief Executive Officer or of such officer as the Council may appoint in this behalf, why he should not pay the same; or

(c) prefer an appeal in accordance with the provisions of section 154 against the claims:

the Chief Executive Officer may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form prescribed by rules.

(4) The sum claimed as due in the Bill shall carry interest at the rate of 6¼ per centum per annum till the date it is paid and shall be recoverable along with the Bill.]

In what cases warrant may issue.

149. (1) If a person on whom a notice of demand has been served under [sub-section (1) of section 148] sub-section (3) of section 145-A does not, within 15 days from the service of such notice pay the sum demanded in the notice, such sum with all cost of recovery may be recovered under a warrant in the form prescribed by rules or to the like effect signed by the [Chief Executive Officer] Chief Municipal Officer—

(i) by distress and sale of movable property belonging to such person ; or

(ii) by attachment and sale of the immovable property belonging to him :

Provided that, where any precautionary or other measures in respect of any such property have been taken by the State Government for the recovery of any sum claimed by it, no proceedings shall be taken or continued under this chapter in respect of such property until the State Government's claim has been paid off.

To whom the warrant should be addressed.

(2) The warrant shall be addressed—

(a) where the property is in the municipality, to an officer of the municipality ;

(b) where the property is in another municipality, to the [Chief Executive Officer] Chief Municipal Officer of such municipality;

(c) where the property is within the limits of a Municipal Corporation, to the Municipal Commissioner of such Corporation ;

(d) where the property is in a Cantonment, to the Chief Officer of the Cantonment :

(e) where the property is not within the limits of a Corporation, Municipality or Cantonment, to a Government Officer not below the rank of a Tahsildar:

Provided that such [Chief Executive Officer], Chief Municipal Officer, Municipal Commissioner, Chief Officer or Government Officer may endorse such warrant to a subordinate officer.

Power of entry under special order.

(3) It shall be lawful for any officer to whom a warrant issued under sub-section (1) is addressed if the warrant contains a special order authorising him in this behalf, but not otherwise, to break open at any time between sunrise and sunset, any

outer or inner door or a window of the building in order to make the distress directed in the warrant, if he has a reasonable ground for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance :

Provided that such officer shall not enter or break open the door of any apartment appropriated to the use of women, until he has given not less than three hours' notice of his intention and had given such women an opportunity to withdraw.

Warrant how to be executed.

(4) It shall also be lawful for such officer to distrain, wherever it may be found, any moveable property or attach any immovable property of the person therein named as defaulter subject to the following conditions, exceptions and exemptions namely :

(a) The following property shall not be destrained :—

(i) the necessary wearing apparel and bedding of the defaulter, his wife and childern, and utensils used for cooking and drinking ;

(ii) the tools of artisans ;

(iii) when the defaulter is an agriculturist, his implements of husbandry, seedgrain, and such cattle as may be necessary to enable him to earn his livelihood ;

(iv) book of account ;

(v) religious books and idols of worship;

(b) the distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any articles have been distrained which, in the opinion of the [Chief Executive Officer] Chief Municipal Officer or of the persons to whom the warrant was addressed, should not have been so distrained, they shall forthwith be returned to the person from whom it was distrained.

(c) the officer shall on distraining or attaching the property forthwith make an inventory thereof, and give to the person in possession thereof at the time of distress or attachment, a written notice in the form prescribed by rules that the said property will be sold as shall be specified in such notice.

(d) when the property is immovable,—

(i) the attachment shall be made by an order prohibiting the defaulter from transfering or charging the property in any way, and all persons from taking any benefit from such transfer or charge;

(ii) the order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and upon a conspicuous part of the municipal office and also when the property is land paying revenue to the Government, in the office

of the [Collector of the District] Tahsildar of the tahsil in which the land is situate;

(e) any transfer of, or charge on, the property attached or of any interest therein made without the written permission of the Council shall be void as against all claims of the Council enforceable under the attachment.

Sale of goods distrained.

150. (1) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the [Chief Executive Officer] Chief Municipal Officer shall at once give notice to the person in whose possession the property was, when seized, to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

(2) On the expiry of the time specified in the notice served by the officer executing the warrant, the property distrained or attached, or in the case of immovable property, a sufficient portion thereof, if not sold at once under sub-section (1) may be sold by public auction under the orders of the [Chief Executive Officer] Chief Municipal Officer unless the warrant is suspended by him or the sum due is paid by the defaulter together with all costs incidental to the notice, warrant, distress, attachment or detention of the property as the case may be.

(3) Where the sum due together with costs is paid by the defaulter as aforesaid, any attachment levied on his immovable property shall be deemed to be removed.

(4) All sales of immovable property under this section shall, so far as may be practicable, be regulated by the procedure laid down in the rules made by the State Government in that behalf.

(5) The sale proceeds or such part thereof as may be sufficient shall be applied, first, in discharge of any sum due to the State Government in respect of such property and secondly, in discharge of the sum due to the Council and all such incidental costs as aforesaid.

(6) After sale of the immovable property by auction as aforesaid, the [Chief Executive Officer] Chief Municipal Officer shall put the person declared to be the purchaser in possession of the same and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(7) It shall be lawful for the Council to offer a bid in the case of any immovable property put up for auction, provided the previous approval of the Collector is obtained to such bidding.

(8) The surplus proceeds shall be forthwith credited to the municipal fund and notice of such credit shall be given at the same time to the person in whose possession the property was at the time of the distraint or attachment. If such person claims the surplus by written application to the [Chief Executive

Officer] Chief Municipal Officer within three years from the date of the notice given under this sub-section, the [Chief Executive Officer] Chief Municipal Officer shall refund the surplus to him.

(9) Any such surplus not so claimed shall be the property of the Council.

Sale outside Municipal area.

151. Where the warrant is to be executed outside the Municipal area the [Chief Executive Officer] Chief Municipal Officer may by endorsement direct the officer to whom the warrant is addressed, to sell the property distrained or attached; and in such case it shall be lawful for such officer to sell the property and to do all things incidental to the sale in accordance with the provisions of the preceding section and to exercise the powers and perform the duties of the [Chief Executive Officer] Chief Municipal Officer under sub-sections (1) and (2) of section 150 in respect of such sale except the power of suspending the warrant. Such officer shall, after deducting all costs of recovery incurred by him, remit the amount recovered under the warrant to the [Chief Executive Officer] Chief Municipal Officer who shall dispose of the same in accordance with the provisions of the preceding section.

Fees and costs chargeable.

152. The fees for—

(a) every notice issued under section [148] 145-A; 145-A;

(b) every warrant issued under sub-section (1) of section 149, or distress or attachment made under sub-section [(5)] (4) of the said section;

(c) the maintenance of any live-stock seized under sub-section [(5)] (4) of section 149;

shall be chargeable at such rates as the Council may, by bye-laws determine, and they shall be included in the costs of recovery to be levied under section 149.

Summary proceedings against persons about to leave the Municipal limits.

153. (1) If the [Chief Executive Officer] Chief Municipal Officer shall at any time have reason to believe that any person from whom any sum recoverable under the provisions of this Chapter is due or is about to become due, is about to leave the municipal limits the Chief Municipal Officer may cause a bill for the sum due or about to become due to be presented to him directing the immediate payment thereof.

(2) If, on presentation of such bill, the said person does not forthwith pay the said sum or does not furnish security to the satisfaction of [Chief Executive Officer] the Chief Municipal Officer the amount shall be leviable by distress and sale of the movable property [or the attachment and sale of the immovable property] of the defaulter in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand, and the warrant for distress and sale may be issued and executed without any delay.

Appeal to Magistrate.

154. (1) Appeals against any claim included in a bill presented in accordance with the provisions of this Act, or the rules made thereunder be made to [any Magistrate by whom under the direction of the Government such class of cases is to be tried the Civil Judge, Class I, having jurisdic- over the municipal area and if there be no Civil Judge Class Class I at the headquarters of the municipality the Civil Judge Class II having jurisdiction at such headquarters and if there be no such Civil Judge Class II at the headquarters to the Civil Judge Class II having jurisdiction and in case of more than one such Civil Judges at the headquarters or having jurisdiction, as the case may be, to such one of them as the District Judge may specify.

(2) No such appeal shall be heard and determined unless—

(a) the appeal is brought within 15 days next after presentation of the bill complained of ;

(b) an application in writing, stating the ground on which the claim of Council is disputed, has been made to the Council in the case of a rate on building or land within the time fixed in the notice given in accordance with the provisions of this Act or the rules made thereunder or of the assessment or alteration thereof, according to which the bill is prepared ;

(c) the amount claimed from the appellant has been deposited by him in the municipal office.

[(3) The decision of the Magistrate in any appeal made under sub-section (1) shall, be subject to revision by the Court to which appeals against the decision of such Magistrate ordinarily lie.]

(3) The decision of the Civil Judge in an appeal made under sub-section (1) shall, subject to the decision in revision by the Court to which appeals against the decision of such Civil Judge ordinarily lie, be final.

Entries in assessment list and taxes and decisions to be final.

[155. (1) Every entry in the assessment list made under the provisions of this Act against which no objection is made as hereinbefore provided, and the amount of every sum claimed from any person under this Act on account of any tax, shall, subject to decision in appeal or revision, if any, preferred under section 153 be final.

(2) Effect shall be given by the Council to every decision in any appeal or revision in such appeal against any such entry or tax.]

Amount of tax etc. to be final.

155. (1) The amount of every sum claimed from any person under this Act on account of any tax or otherwise, shall, subject to decision in appeal or revision, if any, preferred under section 154, be final.

(2) Effect shall be given by the Council to every decision in any appeal or revision against any such claim.

Liavitity of building, lands, etc., for taxes.

156. All sums due from any person in respect of taxes on any land or building shall, subject to prior payment of any land revenue in respect of it due to the Government, be

a first charge upon the said land or building and upon any movable property found within or upon such land or building and belonging to the said person:

Provided that no arrears of any such tax shall be recoverable from any occupier who is not the owner, if such arrears are for a period exceeding one year and for a period during which the occupier was not in occupation.

Receipts to be given for all payments.

157. For every sum paid on account of any tax under this Act a receipt shall be tendered by the person receiving these payments, stating the sum and the tax on account of which it has been paid.

Bar of distraint or suit in certain cases.

158. No distraint shall be made and no suit shall be instituted for the recovery of any sums due to a Council under this Act after the expiration of six years from the date on which such sum became due.

Saving.

159. No distress or sale made under this Act shall be deemed unlawful on account of an error, defect or want of form in the bill, notice, warrant of distress, inventory, or other proceeding relating thereto.

Writing off of irrecoverable sums due to Council.

160. The irrecoverable sums due to the Council shall be written off in such manner and by such authority as may be prescribed by rules.

CHAPTER IX—MUNICIPAL POWERS AND OFFENCES

(1) *Powers in respect of Streets.*

Powers regarding public streets etc.

161. (1) A Council may—

(a) lay out or make new public street ; or

(b) widen, open, enlarge or otherwise improve any public street and construct tunnels and other works subsidiary to such streets ;

(c) divert, discontinue or close permanently any public street ; or

(d) sell or lease the land forming such street or any part thereof or acquired for the purpose of forming such street, if not required for the purpose of such street or for any other purposes of this Act :

Provided that no public street shall be discontinued, permanently closed or used for any other purposes without the previous sanction of the State Government.

(2) In laying out, making, turning, diverting, widening, opening, enlarging or otherwise improving any public street, the Council may in addition to the land required for the carriageway and foot-ways and drains thereof, acquire the land required for the construction of houses and buildings to form the said street and, subject to the provisions of section [94] 95 may sell and dispose of such additional land in perpetuity or on lease for a term of years, with such stipulation as to the class and description of houses and buildings to be created thereon as it may think fiit.

(3) If any person who has purchased or taken on lease the additional lands subject to stipulations referred to in sub-section

(2), fails to observe such stipulations he shall, without prejudice to any liability which he may have incurred under the agreement of sale or lease of the said land, be liable to be punished with a fine which may extend to five hundred rupees.

(4) The President may close temporarily any public street or part thereof for the purpose of repairs or of constructing any sewer, drain, culvert or bridge or for any other public purpose.

Powers to require repair, etc., of private streets.

162. (1) Where a Council considers that in any street not being a public street, or in any part of such street, within the Municipality, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channeling, draining, lighting or cleaning thereof, the Council may, by a written notice, require the owner or owners of the street and the owners of the several lands or buildings fronting or adjoining the said street or abutting thereon, to carry out such work in such manner and within such time as may be specified in such notice.

(2) If the notice under sub-section (1) is not complied with, such work may be executed by the Council, the expenses thereby incurred shall be apportioned by the Council, between such owners, and in such manner as it may think fit, regard being had, if it deems it necessary, to the amount and value of any work already done by the owners or occupiers of any such lands and buildings.

(3) After such work has been carried out by the owner or by the owners or on the failure of the owners to do so by the Council at the expenses of such owners, the street or part thereof in which such work has been done may, and on the joint requisition of a majority of the said owners shall, be declared by public notice, put up therein by the Council to be a public street.

Power to declare private street a public street.

163. (1) A Council may, at any time, by a notice exhibited in any private street or part thereof give intimation of its intention to declare the same a public street, and unless within one month next after such notice is first exhibited, the owner or the majority of the several owners of such private street or a part of the street, lodges or lodge objections thereto with the Council, the Council may by a notice exhibited in such street, or such part thereof, declare the same to be public street vested in the Council.

(2) If the owner or in case there are more than one owner a majority of owners of any private street request in writing to the Council to declare such street to be a public street, the Council may declare it to be so and on such declaration such street shall vest in the Council and become a public street.

(3) If in spite of the opposition of the majority of the owners of any private street, the Council considers it necessary to declare such street a public street it may do so on paying a reasonable compensation, which shall be determined in accordance with the provisions of this Act, to the owners of the street.

164. (1) Every person who intends—

Notice to be given of intention to layout levels for building or for private Streets.

(a) to sell or lease out any land subject to a covenant or agreement on the part of a purchaser or lessee to erect buildings thereon ;

(b) to divide land whether unbuilt or partly built into building plots ;

(c) to use any land or a portion thereof or permit the same to be used for building purposes ; or

(d) to make or lay out a private street, whether it is intended to allow the public a right of passage or access over such street or not ;

shall give notice of his intention so to do in writing to the Council and shall along with such notice furnish plans and sections showing the intended level, means of drainage, direction and width of such land, building or street, and such other particulars as the Council may by bye-laws prescribe and save as hereinafter provided, the level, means of drainage, direction and width of every such land, building or street shall be such as may be fixed or approved by the Council.

(2) Before passing orders under sub-section (1), the Council may pass a provisional order directing that for a period, not exceeding one month, as may be specified therein, the intended work shall not be proceeded with, or demand further particulars.

(3) If—

(a) within two months from the receipt of the notice given under sub-section (1), the Council fails to—

(i) pass orders under the said sub-section and to serve notice thereof; or

(ii) issue a provisional order or demand further particulars under sub-section (2) ; or

(b) the Council, having issued such demand for, and having received in accordance with the demand such further particulars, fails to issue further orders within one month from the receipt of such particulars ;

then the land may be divided into building plots or used for, building purposes or street may be laid out and made, in such manner as may have been specified in the notice under sub-section (1) and as is not inconsistent with any provision of this act or of any bye-law for the time being in force thereunder.

(4) Whoever divides land into building plots or uses land for building purposes or lays out or makes any such street either without giving the notice required by sub-secion (1) or except in accordance with the orders of the Council under sub-section (1) or (2) or the provisions of sub-section (3), or in any manner contrary to the provisions of this Act or of any bye-law in force thereunder, shall be punished with fine which may extend to five hundred rupees and the Council may cause any such land so divided or used for building purposes or street so laid out or made, to be altered demolished or removed and the expense thereby incurred shall be paid to it by the offender, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Regular line of public street.

165. (1) A Council may after giving not less than one month's notice of its intention so to do [and with the previous sanction of the State Government] and having considered the objections, if any, received by it prescribe a line on each side of a public street within the municipal area to be called the regular line of the public street and may from time to time in the like manner prescribe a fresh line in substitution for the line so prescribed or any part thereof:

Provided that no such regular line of public street shall be prescribed except with the previous sanction of the State Government:

Provided further that if in the opinion of the State Government it is necessary to prescribe a regular line of a public street within the municipal area and the Council, has failed to prescribe the same in respect of such street so far, the Government may by a written requisition require the Council to prescribe the same in respect of the said street within a period specified therein.

Provided that if in the opinion of the State Government it is necessary to prescribe a regular line of a public street within the municipal area and the Council has failed to prescribe the same in respect of such street so far, the Government may by a written requisition require the Council to prescribe the same in respect of the said street within a period specified therein.

(2) Notice under sub-section (1) shall be published by, posting copies thereof in the street or part of the street to which it relates.

(3) On the regular line of the public street being prescribed under sub-section (1)—

(i) no person shall, except in accordance with the provisions of this Act, construct or reconstruct any building or portion thereof within such line ;

(ii) all open lands or lands consisting of *Khandher* lying within such line shall be deemed to be part of the public street and shall vest in the Council.

(4) The Council shall pay such reasonable compensation to the owner as may be determined in accordance with the [previous] provisions of section 273 for loss which he may sustain in consequence of inclusion of his land in a public street but in assessing such compensation regard shall be had to the benefits accruing to that owner from the development of the land belonging to him and affected by such street.

(5) In the event of contravention of sub-section (3) the Council—

(a) shall direct that the construction of the building be stopped :

(b) may by written notice require such building or portion thereof to be altered or demolished in accordance with the provisions of such notice within such reasonable time as may be specified therein.

(6) Whoever contravenes the provisions of sub-section (3) shall be punished with fine which may extend to five hundred rupees; and in the case of a continuing contravention with an additional fine which may extend to ten rupees for every day during which such contravention continued after the first conviction for the first such contravention.

(2) *Powers to regulate buildings, etc.*

Setting back projecting buildings.

166. (1) If any part of a building projects beyond the r gular line of a public street either as existing or as determined for the future or beyond the front of the building on either side thereof, the Council may:—

(a) if the projecting part thereof is a verandah, step or some other structure external to the main building, at any time; or

(b) if the projecting part is not such external structure as aforesaid, then whenever the greater portion of such building or whenever any material portion of such projecting part has been taken down or burnt down or has fallen down;

require by written notice either that the part, or some portion of the part, projecting beyond the said regular line or beyond the said front of the adjoining building on either side thereof shall be removed or that such building then being rebuilt shall be set back to or towards the said regular line or the front of such building, and the portion of land added to the street by such setting back or removal shall thenceforth be deemed part of the public street and be vested in the Council:

Provided that the Council shall make reasonable compensation to the owner in accordance with the provisions of section 273 for any land vesting in the Council for the damage he may sustain in consequence of his building or any part thereof being set back.

(2) The Council may, upon such terms as they think fit, allow any building to be set forward for improving the regular line of any public street in which such building is situated.

Roofs and external walls of building not to be made of inflammable materials.

167. (1) The external roofs and walls of the buildings constructed or renewed after the coming into force of this Act, shall not be made of grass, wood, cloth, canvas, leaves, mats or other inflammable materials except with the written consent of the Council which may be given either specially in individual cases, or generally in respect of any area specified therein.

(2) [The Council may at any time by written notice]. If the Council is of the opinion that it is necessary so to do in public interest it may, at any time by written notice of not less than fifteen days require the owner of any building which has an external roof or wall made of any such material as aforesaid to remove such roof or wall within such reasonable time as shall be specified in the notice whether such roof or wall was or was not made before the time at which this Act came into force and whether it was made with or without the consent of the Council.

(3) Whoever without such consent as is required by sub-section (1), makes, or causes to be made, or disobeys the requirements of a notice given under sub-section (2) and suffers to remain any roof or wall of such materials as aforesaid shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day on which the offence is continued after the date of the first conviction.

Level of buildings.

168. Every building shall hereafter be constructed upon such level as will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the Council, or into some stream or river or into some cesspool or other suitable place which may be approved by the Council.

Notice of new buildings.

169. (1) No person shall erect or re-erect or commence to erect or re-erect any building without the sanction of the Council.

(2) Before beginning to erect any building, or to alter externally or add to any existing building, or to construct or reconstruct any projecting portion of a building in respect of which the Council is empowered by section 166, to enforce a removal or set-back, the person intending so to build, alter, add or reconstruct shall give to the Council notice thereof in writting, and shall, if required by a bye-law or by special order to do so, furnish along with such notice a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid, by reference to some level known to the Council and all such information as may be required regarding the limits, design, ventilation and materials of the proposed building, and the intended situation and construction of the drains, sewers, privies, water closets and cesspools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets and the purpose for which the building will be used.

(3) Save as otherwise provided in this Act or the rules and bye-laws made thereunder, the Council may either refuse to give permission or give permission to erect, alter, add to or reconstruct the building according to the plan and information furnished or may impose in writing such conditions as to level, drainage, sanitation, materials or to the dimensions and cubical contents of rooms, doors, windows and apertures for ventilation or to the number of storeys to be erected or with reference to the location of the building in relation to any street existing or projected or the purpose for which the building is to be used as they think proper or may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to its satisfaction.

(4) The Council may, before any work has been commenced in pursuance of any permission granted under sub-section (3), revoke such permission and may give fresh permission in lieu thereof on such conditions, in accordance with this Act and the

rules, and bye-laws made thereunder, with reference to the matters mentioned in the said sub-section, as it thinks proper, and may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to its satisfaction.

(5) Before issuing any orders under sub-section (3), the Council may, within one month from the receipt of such notice, either issue :—

(a) a provisional order directing that for a period not exceeding one month from the issue thereof, the intended work shall not be proceeded with; or

(b) may demand further particulars.

(6) A work proposed in a notice given under sub-section (2) may be proceeded within the manner specified in such notice, provided that such manner is not inconsistent with any provision of this Act, or of any bye-law for the time being in force thereunder, in the following cases, namely :—

(a) in case the Council within one month from receipt of such notice has neither :—

(i) passed orders under sub-section (3) and served notice thereof in respect of the intended work; nor

(ii) issued under sub-section (5) any provisional order or any demand for further particulars;

(b) in case the Council having issued such demand for and having received such further particulars, has issued no further orders within one month from the receipt of such particulars.

(7) No person who becomes entitled under sub-section (3) or sub-section (6) to proceed with any intended work of which notice is required by sub-section (2) shall commence such work after the expiry of the period of one year from the date on which he first became entitled so to proceed therewith, unless he shall have again become so entitled by fresh compliance with the provisions of the preceding sub-section.

(8) Whoever begins any construction, alteration, addition or reconstruction without obtaining permission or giving the notice required by sub-section (2) or without furnishing the documents or affording information above prescribed, or in any manner contrary to, such orders of the Council as may be issued under this section or contrary to the provisions of sub-section (7), or in any other respect contrary to the provisions of this Act or any bye-laws in force thereunder, shall be punished with fine which may extend to one thousand rupees; and in the case of continuing contravention of any of the aforesaid provision, with an additional fine which may extend to ten rupees for each day during which such contravention continues after conviction for the first such contravention; and the Council may before conviction direct that the building, alteration, addition or reconstruction be stopped and on conviction under this sub-section may, by written notice, require such construction, alteration, addition or reconstruction to be altered or demolished in accordance with the provisions of such notice.

(9) The Council or any officer deputed by it may at any time inspect the erection of any building and at any time during the erection of building or the execution of any such work as aforesaid, or at any time not later than one month after being informed in writing by the person responsible for giving a notice under sub-section (2) that the erection of the building, or the execution of any such work as aforesaid has been completed, may by a written notice specify any matter in respect of which the erection of such building, or the execution of such work, may be in contravention of any provision of this Act or any bye-laws made under this Act at the time in force, and require the person erecting or executing, or who has erected or executed, such building or work or if the person who has erected or executed such building or work, is not at the time of notice the owner thereof, then the owner of such building or work to cause anything which is contrary to any such provision or bye-law to be altered or to execute such work, which may be required to be executed by him in accordance with such provision or byelaw.

Explanation.—The expression "to construct a building" throughout this chapter includes :—

(a) any material alteration, enlargement or reconstruction of any building or of any wall, including compound wall and fencing, verandah, fixed platform, plinth, door-step or the like, whether constituting part of a building or not;

(b) the conversion into a place for human habitation of any building not originally constructed for human habitation;

(c) the conversion into more than one place for human habitation of a building originally constructed as one such place;

(d) the conversion of two or more places of human habitation into a greater number of such places;

(e) such alteration of the internal arrangement of a building, as affect its drainage, ventilation or other sanitary arrangement, or its security or stability; and

(f) the addition of any rooms, buildings or their structures to any building;

and a building so altered, enlarged, reconstructed, converted or added to, shall be deemed to be "a new building" for the purposes of this Chapter.

Rights of compensation.

169-A. (1) Save as otherwise provided no compensation shall be claimable by an owner for any damage which he may sustain in consequence of a prohibition under this Act of the erection of any building.

(2) The Council shall make reasonable compensation to the owner for any damage which he may sustain in consequence of the prohibition of the re-erection of any building:

Provided that the Council shall not be liable to make any compensation in respect of the prohibition of the re-erection of any building which, for a period of six years or more immediately preceding such prohibition, has ceased to be fit for occupation or to exist or, having been demolished or destroyed has not been re-erected.

Power to dispense with bye-laws.

[170. The Council may, by resolution, and with the previous approval of the prescribed authority, dispense with the observance of all or any of the bye-laws made under 326 in regard to the erection or re-erection of any building specified in the resolution.]

Procedure where byelaws not framed.

171. In any case in which no bye-laws have been made for the purpose of section [165] 169 the Council may, within fourteen days of the receipt of notice required under the said section require a person who has given such notice to furnish within one week of the receipt by him of the requisition, information on all or any of the matters in respect of which bye-laws might have been made and in such case the notice shall not be valid until such information has been furnished.

Power to refuse permission if land is proposed to be acquired.

172. When a person has given notice to the Council under section [165] 169 in regard to his intention to construct a building, it shall be lawful for the Council to refuse the permission applied for if the Council or any other local authority decides to acquire the land on which any building is proposed to be constructed, and the Council or such other local authority as the case may be institutes the acquisition proceedings within [six] four months of the date of such refusal:

Provided that such refusal shall be subject to the following conditions, namely:—

(a) if the property is acquired and no agreement is arrived at as regards the amount of compensation payable to the person giving notice of his intention to construct a building, the same shall be determined in accordance with the provisions of this Act regard being had to the likely benefit which would have accrued to such person if the permission had not been refused;

(b) if within a period of four months from the date of resolution of the Council proposing to acquire the land,—

(i) the land is not acquired by the Council by agreement; or

(ii) an application has not been made to the State Government for the institution of proceedings for compulsory acquisition under the provisions of the Land Acquisition Act, 1894; or

(iii) if the Council abandones the proposal to acquire the land;

the notice given under section 169 shall be deemed to have been revived with effect from the date on which the said period of four months expires, or with effect from the date on which the decision of the Council to abandon the proposal is arrived at, as the case may be;

(c) a decision in the matter shall be communicated to the person giving notice within fifteen days from the date of the decision; and the notice shall be dealt with as if the Council had not passed a resolution to acquire the land;

(d) the Council shall be liable to pay compensation to the said person in respect of the loss which he may prove to have incurred by reason of refusal by the Council to grant the permission:

Provided further that the Council shall not be liable to pay compensation if the notice under section 169 was given subsequent to the passing of the resolution by the Council to acquire the land.

Completion certificate and permission to occupy or use.

173. (1) Every person who :—

(i) erects or re-erects any building; or

(ii) makes any material external alteration in or addition to any existing building; or

(iii) constructs or re-constructs any projecting portion of a building which the Council is empowered under section 166 to require to be set back or is empowered to give permission to construct or reconstruct;

shall within one month of the completion of the work deliver to the Council at its office a notice in writing of such completion and shall give to the Council all necessary facilities for the inspection of such work.

[(2) Within seven days after the receipt of the said notice the Council shall depute an officer to commence the inspection of such work:]

(2) No person shall occupy or permit to be occupied any such building or use or permit to be used any building or part thereof effected by any such work until permission has been granted by the Council in this behalf in accordance with the bye-laws made under this Act:

Provided that if the Council fails within a period of fifteen days after the receipt of notice of completion under sub-section (1) to communicate its refusal to grant such permission, such permission shall be deemed to have been granted.

[(3) Within seven days from the date of commencement of such inspection the Council shall:—

(a) give permission for the occupation of the building erected or for the use of the part of the building re-erected; or

(b) refuse such permission in case such erection, re-erection, construction or re-construction is in contravention of any provision of this Act or any rule or bye-law made thereunder or any other enactment for the time being in force.

(4) No person shall occupy or permit to be occupied any such building or use or permit to be used any part affected by the re-erection of such building :—

(a) until the permission referred to in clause (a) of sub-section (3) has been granted in the prescribed manner; or

(b) unless the Council has failed for fifteen days after the receipt of notice of completion to intimate his refusal to grant the said permission.

(5) Whoever contravenes the provisions of this section or fails to comply with any order or requisition made thereunder shall be punished with fine which may extend to hundred rupees and, in case of continuing contravention or non-compliance with an additional fine which may extend to ten rupees for every day during which such contravention or non-compliance continues after the conviction for the first such contravention or non-compliance.]

Regulation of huts.

174. (1) No person shall, without giving previous notice to the Council of his intention so to do, erect any hut or shade or range or block of huts or sheds or add any hut or shed to any range or block of huts or sheds already existing at the time this Act comes into operation.

(2) A Council may require such huts or sheds to be built so that they may stand in regular lines with a free passage or way in front of and in between every two lines of such width as the Council thinks proper for ventilation and to facilitate scavenging and at such a level as will admit of sufficient drainage and may require such huts to be provided with such number of privies and such means of drainage as it may consider necessary.

(3) If any hut or shed or range or block be built without due notice to the Council as required under sub-section (1), or otherwise than as required by the Council, the Council may by a notice in writing served upon the owner or builder thereof, or to the owner or occupier of the land on which the same is erected, or is being erected, require him within such reasonable time as shall be specified in the notice to demolish and remove the same or to make such alterations therein or additions thereto as having regard to sanitary considerations the Council may think fit.

Improvement of hut.

175. (1) Whenever the Council is of the opinion that any huts or sheds, whether used as dwelling or stables, or for any other purposes, and whether existing at the time when this Act comes into operation or subsequently erected, are by reason of—

(a) insufficient ventilation or the manner in which such huts or sheds are crowded together; or

(b) the want of a plinth or sufficient drainage; or

(c) the impracticability of scavenging, attended with risk of disease to the persons residing in such huts or in the neighbourhood thereof;

it shall cause a notice to be affixed to some conspicuous parts of each such huts or sheds, requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the Council for that purpose, to demolish and remove such hut or shed, or to execute such operation for its improvement as the Council may deem necessary for the avoidance of such risk.

(2) If any such owner or occupier refuses or neglects to demolish and remove such huts or sheds, or to execute such operations within the time appointed, the Council may cause the said huts or sheds to be demolished or such operations to be performed in respect of such huts or sheds as it may deem necessary to prevent such risk.

(2-a) No action for removal or demolition of hut or shed shall be taken under sub-section (1) or (2) until the Council provides suitable alternative site or accommodation, for occupation by the dwellers of such hutments or sheds on such terms and conditions as may be prescribed.

(3) If such huts or sheds be demolished by the Council, the Council shall cause the materials of such hut or shed to be sold separately, if such sale can be effected, and the proceeds, after deducting all expenses, shall be paid to the owner of the hut or shed, or if the owner be unknown or the title disputed, shall be held in deposit by the Council until the person interested therein shall obtain the order of a competent Court for the payment of the same:

Provided that in case any huts or sheds, existing at the time when the land on which they are situated first became part of a municipality, should be demolished under this section by order of the Council, or in pursuance of its notice, compensation shall further be made to the owner or owners thereof, and the amount thereof, in case of dispute, shall be ascertained and determined in the manner provided in section 273.

(3) *Powers regarding external structures, etc.*—

Permission necessary for certain projections.

176. (1) The Council may, subject to any bye-laws made under the provisions of this Act, give written permission to the owners or occupiers of buildings in public street to put open varandahs, balconies or rooms, to project from any upper storey thereof, at such height from the surface of the street as the Council may fix and to an extent not exceeding four feet beyond the line of plinth or basement wall, and may prescribe the extent to which and the conditions subject to which, roofs, leaves, Weather Boards, Dasses, Shop Boards and the like may be allowed to project over such streets.

(2) (a) Any such owner or occupier putting up any such projections as aforesaid without such permission or in contravention of such orders, shall be punished with fine which may extend to two hundred and fifty rupees and if any such owner or occupier fails to remove any such projection as aforesaid in respect of

which he has been convicted under this section, he shall be punished with further fine which may extend to five rupees for each day on which such failure or neglect continues.

(b) Notwithstanding any proceedings which may be taken under clause (a), the Council may, by written notice, require the owner or occupier of any such building to remove or alter any such projection which has been constructed either without, or contrary in any manner to, the permission or order given or issued by or on behalf of the Council.

(3) The Council may by written notice require the owner or the occupier of any building to remove or alter any projections, encroachment or obstructions which, whether erected before or after the site of such building became part of a Municipality, shall have been erected or placed against or in front of such buildings, and which—

(a) overhangs or juts into or in any way projects or encroaches upon any public street, so as to be an obstruction to safe and convenient passage along such street; or

(b) projects and encroaches into or upon any uncovered aqueduct, drain or sewer in such street so as to obstruct or interfere with such aqueduct, drain or sewer, or the proper working thereof:

Provided that the Council shall, if such projection, encroachment, or obstruction shall have been made in any place before the date on which such place became part of a Municipality, or after such date with written permission of the Council, make reasonable compensation to every person who suffers damage by such removal or alteration; and if any such dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner provided in section 273.

Troughs and pipes for water.

177. A Council may by written notice require the owner of any building in any street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same, in such manner as they may think fit, in order that such water shall not fall upon the persons passing along the street.

Fixing of brackets, etc. to houses.

178. A Council may erect or fix to the outside of any building, brackets for lamps to be lighted with oil, or gas or subject to the provisions of the Indian Electricity Act, 1910, for lamps to be lighted with electricity or otherwise or subject to the provisions of the Indian Telegraph Act, 1885, for telegraph wires or telephone wires or wires for the conduct of electricity or such pipes as it may deem necessary for the proper ventilation of seweres and water works. Such brackets, wires and pipes shall be erected so as not to occasion any danger, inconvenience or nuisance to the occupants of the said building, or of any others in the neighbourhood or to the public.

Naming streets and parks and numbering houses.

179. (1) A Council may cause a name to be given to any street, parks and may from time to time cause to be put up or painted on a conspicuous part of any building at or near each end, corner or entrance to every street, the name by which such

street is to be known, and may from time to time cause a number to be affixed in a conspicuous part on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

(2) Any person who destroys, pulls down or defaces any such name or number, or puts any name or number different from that put up by the Council [and any owner or occupier of any building who shall not at his own expense keep such number in good order after it has been put up thereon] shall be punished with fine which may extend to twenty-five rupees.

Penalty for defacing buildings, etc.

180. Any person—

(a) who without the permission in writing of the Council affixes on the municipal property any poster, bill, placard or any other paper or means of advertisement against or upon any building, wall, board, fence or pole, post, lamp-post or the like ; or

(b) who without such consent as aforesaid writes upon, soils, defaces or marks any such building, wall, board, fence or pole with chalk or paint or in any other way whatsoever, shall be punished with fine which may extend to twenty-five rupees.

Removal and trimming of hedges, trees, etc.

181. The Council may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet; and to cut down, lop or trim all trees or shrubs which in any way overhang, endanger or obstruct or which the Council deems likely to overhang, endanger or obstruct any public street or to cause damage thereto, or which so overhang any public well, public tank or other provision for water supply as to pollute, or likely to pollute the water thereof.

(4) *Powers connected with drainage, etc.*—

Municipal control over drains, etc.

182. (1) All sewers, drains, privies, water-closets, house gallies and cesspools within the municipality which are not under the survey and control of the Government shall be under the survey and control of the Council.

(2) All covered sewers and drains and all cesspools, whether public or private, shall be provided by the Council or other persons to whom they severally belong, with proper traps, or other coverings or means of ventilation and the Council may by written notice call upon the owner of any such covered sewers, drains or cesspools to make provision accordingly.

Power for making and repairing drains.

183. (1) It shall be lawful for a Council for any drainage purposes to carry any drain, sewer, conduit, tunnel, culvert, pipe or watercourse through, across or under, any street or any place laid out as, or intended for, street, or under any cellar or vault which may be under any street, and after giving reasonable notice in writing to the owner or occupier, into, through or under, any land whatsoever within the Municipal area.

(2) A Council, or any person acting under its authority for such purpose may enter upon and construct any new drain in place of an existing drain in any land wherein any drain vested in the Council has been already constructed or may repair or alter any drain vested in the Council.

(3) In the exercise of any power under this section no unnecessary damage shall be done, and compensation, which shall, in case of dispute be ascertained and determined in the manner provided in section [213] 273 shall be paid by the Council to any person who sustains damage by the exercise of such powers.

Consent of other local authority

184. (1) Where it is necessary for the execution of a scheme under the provisions of this Act to carry a sewer or drain into, across or under, the land within the limits of the area of any other local authority for the purpose of the ultimate disposal of the sewage, the consent of such other local authority shall be obtained on such terms and conditions as may be mutually agreed upon, or, in default of agreement, as may be decided by the State Government.

(2) No drains or sewers or channels shall be constructed or any out-fall or disposal be carried into, across or under, the land vesting in the State Government or the Central Government except with their prior permission.

Power to require sufficient drainage of houses.

185. If any building or land or both be at any time undrained or not drained to the satisfaction of the Council, the Council may by a written notice call upon the owner to construct or lay from such building or land or both a drain or pipe of such size and materials, at such levels, with such fall as it thinks necessary for the drainage of such building or land or both into—

(a) some drain or sewer, if there be a suitable drain or sewer within 50 feet of any part of such building or land; or

(b) a covered cesspool to be provided by such owner, as approved by the Council.

Septic tanks and sanitary latrines.

186. Any owner or occupier of any house or premises or any factory or business concern, may, with the written permission of the Council, provide in lieu of or in addition to water-carriage system a septic tank or sanitary latrine for the disposal of the night soil. The effluent from the septic tank or sanitary latrine after proper treatment may be discharged into the main sewer or disposed of in such manner as may be approved by the Council.

New building not to be erected without drains.

187. (1) It shall not be lawful to erect any building or to rebuild any building, or to occupy any building newly erected or rebuilt, unless and until—

(a) a drain be constructed of such size, materials and description, at such level, and with such fall, as shall appear to the Council to be necessary for the effectual drainage of such building;

(b) there have been provided for any set up in such building and in the land appurtenant thereto all such appliances and fittings as may appear to the

Council to be necessary for the purpose of gathering and receiving the drainage from, and conveying the same off, the said building and the said land and of effectually flushing the drain of the said building and every fixture connected therewith.

(2) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place set apart by the Council for the discharge of the drainage situated at a distance not exceeding fifty feet from such building; but if there is no such drain or place within that distance, then such drain shall empty into such cesspool as the Council may direct.

Power of owner and occupiers of buildings or lands to drain into Municipal drains.

188. The owner or occupier of any building or land within the municipality shall be entitled to cause his drains to empty into the sewers of the Council:

Provided that he first obtains the written permission of the Council and that he complies with such conditions as the Council prescribe as to the mode in which and the superintendence under which the communications are to be made between the drains not vested in the Council and drains which are so vested.

Right to carry drain through land or into drain belonging to other persons.

189. (1) If the owner or occupier of any building or land desires to connect the same with any municipal drain, by means of drain to be constructed through land or to be connected with the drain belonging to or occupied by or in the use of some other person, he may make a written application to the Council.

(2) The Council may thereupon, after giving to such other person a reasonable opportunity of stating any objections to such application, and if no objection is raised or if any objection which is raised is in its opinion insufficient, by an order in writing authorise the applicant to carry his drain into, through, or under the said land, or into the said drain, as the case may be, in such manner and on such condition as to the payment of rent or compensation and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the said drains as may appear to it to be adequate and equitable.

(3) Every person in whose favour such order is made, or any agent or other person employed by him for this purpose shall be entitled after giving or tendering to the owner, occupier or user of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling, as far as possible the condition of the said order, and after giving to the said owner, occupier, or user reasonable notice in writing to enter upon the land specified in the said order with assistants and workmen at any time between sun rise and sun set and, subject to all provisions of this Act, to do all such work as may be necessary—

(a) for the construction or connection of the drain, as may be authorised by the said order;

(b) for renewing, repairing, or altering the same as may be necessary from time to time; or

(c) [pay compensation to any person who sustains damage] for discharging any responsibility attaching to him under the term of the order as to maintaining, repairing, flushing cleaning or emptying the said drain or any part thereof.

(4) In executing any work under this section as little damage as possible shall be done, and the owner or occupier of the building or lands for the benefit of which the work is done, shall—

(a) cause the work to be executed with the least practicable delay;

(b) fill in, re-instate and make good at his own cost and with the least practicable delay the ground or any portion of any building or other construction opened, broken up or removed for the purpose of executing the said work; and

(c) pay compensation to any person who sustains damage by the execution of the said work.

(5) If the owner of any land into, through or under which a drain has been carried under this section whilst such was unbuilt upon, shall at any subsequent time desire to construct a building thereon, the Council shall, if it sanctions the construction of such buildings, by written notice require the owner or the occupier of the building or land, for the benefit of which drain was constructed, to close, remove or divert the same, and to fill in, re-instate and make good the land in such manner as it may dem necessary in order to admit of the construction or safe enjoyment of the proposed building.

Provision of privies etc.

190. (1) Where the Municipal Council is of the opinion that any privy or cesspool or additional privies or cesspools, should be provided in or on any building or that in any municipality in which a water-closet system has been introduced water-closet should be substituted for the existing privies in or on any building or land, or that additional water closets should be provided therein or thereon, the Council may by written notice call upon the owner of such building or land to provide such privies, cesspools or water-closets at such sites as it may deem proper.

(2) The Council may, by written notice, require any person or persons, employing workmen or labourers exceeding twenty in number or owning or managing any market, school or theatre or other place of public resort, to provide such latrines or urinals at such sites as it may direct, and to cause the same to be kept in proper order, and to be daily cleaned.

(3) The Council may by written notice require the owner or the occupier of any land upon which there is a privy or urinal, to have such privy or urinal shut out by sufficient roof and a wall or fence, from the view of persons passing by or residing in the neighbourhood, or to alter as it may direct any privy, door or trap-door which opens on to any street, and which it deems to be a nuisance.

Power to require owners to keep drains, etc. in proper order, or to demolish close privy or cesspool.

191. (1) All sewers, drains, privies, water-closets, urinals, house-gallies and cesspools within a Municipality shall, unless constructed at the cost of the Council be altered, repaired, and kept in proper order at the cost and charge of the owner of lands or buildings to which they belong, or for the use of which they have been constructed or continuing; and the Council may by written notice require any such owner to alter, repair, and put the same in good order in such manner as it may deem fit.

(2) The Council may by written notice require the owner to demolish or close any privy or cesspool whether constructed before or after the coming into operation of this Act, which in the opinion of the Council is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleaned or kept in good order.

Power to close existing private drains.

192. When any building or land within the Municipality has a drain communicating with any cesspool or sewers, the Council, if it considers that such drain, though it may be sufficient for the drainage of such building or land and though it may be otherwise unobjectionable, is not adapted to the general sewerage of the locality, may close such drain and cesspools or sewers, whether they are or are not on the land vested in the Council, on providing a drain or drains equally effectual for the drainage of such building or land, and the Council, may subject as aforesaid, do any work necessary for the purpose.

Power in respect of sewers, etc., unauthorisedly constructed, rebuilt or unstopped.

193. The Council may by written notice require that any such sewers, drain, privy, water-closet, housegully or cesspool on any land within municipal limit constructed, rebuilt or unstopped—

(a) after such land became part of a municipality; and

(b) either without the consent or contrary to the orders, directions or general regulations or bye-laws of the municipality, or contrary to the provisions of any enactment in force at the time when it was constructed, rebuilt or unstopped ;

shall be demolished, amended or altered, as it may deem fit, by the person by whom it was so constructed, rebuilt or unstopped and every person so constructing rebuilding or unstopping any such sewers, drain, privy, water-closet, house-gully, or cesspool, whether he does or does not receive such notice or does or does not comply therewith shall, in addition to any penalty to which he may be liable on account of such non-compliance, be punished with fine, which may extend to twenty-five rupees.

Encroachments on Municipal drains.

194. (1) Whoever, without the written consent of the Council first obtained, makes or causes to be made any drain into or out from any of the sewers or drains vested in the Council, shall be punished with fine which may extend to twenty-five rupees, and the Council may by written notice require such person to demolish, alter, remake or otherwise deal with such drain as it may think fit.

(2) No building shall be newly constructed or reconstructed over any sewer or drain, culvert, or gutter vested in a Council, without the written consent of Council and the Council may by

written notice require any person who has so constructed or reconstructed any building without such written consent, to demolish or otherwise to deal with the same as it may deem fit.

Inspection of drains, etc.

195. (1) The Council or any officer appointed by it for such purposes may, after due notice to the owner and subject to the restrictions of this Act, inspect any sewer, drain, privy, water-closet house-gully or cesspool, and for that purpose at any time between sun rise and sun set, may enter upon any land or buildings with assistants and workmen, and cause the ground to be opened wherever necessary for such inspection causing as little damage as may be.

(2) The expenses of such inspection, and of restoring the ground to its former position shall be borne by the Council, unless the sewer, drain, privy, water-closet, urinal, house-gully or cesspool is found to be in bad order or condition, or was constructed in contravention of the provisions of any enactment or of any bye-law or orders thereunder in force at the time or issued in respect of such construction in which case such expenses shall be paid by the owner of such sewer, drain, privy, water-closet, urinal, house-gully or cesspool and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

Municipal Council may execute certain works without allowing person concerned to do so.

196. (1) The Council may, if it thinks fit, cause any work the execution of which may be ordered by or on behalf of the Council under the provisions of this chapter to be executed by Municipal or other agency under its own orders, without first of all giving the persons by whom the same would otherwise have to be executed the option of doing the same.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the Council shall, by a general or special order or resolution, sanction, as it is hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

(3) Any pipes, fittings, receptacles, or other appliances for or connected with the drainage of private buildings or lands shall, if supplied, constructed or erected at the expense of the Council, be deemed to be municipal property unless the Council shall have transferred its interest therein to the owner of such buildings or lands.

Sanitary and dug-well latrines.

197. In a Municipal area without any sewers, the Council may require the construction of septic tanks, dugwell privy, or sanitary latrines or other method of hygenic disposal of night-soil.

Service privies

198. In every house in any sewered area where a septic tank, dugwell privy, sanitary latrine, or any other method of hygenic disposal of night soil is not feasible, the owner of the house shall provide the service privy of the type approved by the Council.

Explanation.—Service privy means a fixed privy which is cleaned by hand but does not include a movable commode.

Common privies.

199. A Council may permit the construction of common privies, urinals and drains for any group of houses or huts in such manner as may be prescribed by bye-laws.

Distance from water supply.

200. (1) No person shall construct a drain, privy, latrine urinal, cesspool, or other receptacles within fifty feet of any source of water supply, except with the permission of the Council and on such conditions as may be prescribed by the Council.

(2) The Council may, by notice, require any owner or occupier on whose land any drain, privy, latrine, urinal, cesspool, or other receptacle for filth or refuse for the time being exists within [fifteen feet] fifty feet of any spring well, tank, reservoir or other source from which water is or may be derived for public use, to remove or close the same within one week from the service of the notice.

(5) *Powers in respect of water supply.*

Power of carrying water-mains.

201. For the purposes of obtaining a supply or an additional supply of water or of distributing the same, the Council shall have the same powers and be subject to the same restrictions for carrying, renewing, repairing and altering water-mains, pipes and ducts within or without the Municipal area as it has and is subject to under the provisions herein before contained for carrying renewing and repairing drain within the Municipal area.

Powers and duties with regard to dangerous, stagnant or insanitary sources of water supply.

202. (1) The Council may, at any time, by written notice require the owner or any person who has the control over any well, stream, channel, tank or other sources of water supply, whether such sources are private property or not within a reasonable time to be specified in the notice, or in any case falling under clause (d) within 24 hours of such notice—

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

(b) to cleanse any such source of water supply from silt, refuse and decaying vegetation ; or

(c) to protect any such source of water supply from pollution by surface drainage in such manner as the Council may direct ; or

(d) to repair, protect or enclose in such manner as the Council may approve, any such source of water supply other than stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water supply is in the opinion of the Council dangerous to health or safety of the public or any person having occasion to use or to pass or approach the same ; or

(e) to desist from using and from permitting others to use for drinking purposes any such source of water supply, other than stream in its natural flow, which is proved to the satisfaction of the Council to be unfit for drinking ; or

(f) if, notwithstanding any such notice under clause (e) such use continues and cannot in the opinion of the Council be otherwise prevented, to close

either temporarily or permanently or fill up or enclose or fence in such manner as the Council considers sufficient to prevent such use of such source of water supply as aforesaid ; or

(g) to drain off or otherwise remove from any source of water supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Council considers injurious to health or offensive to the neighbourhood.

(2) If the owner or person having control as aforesaid, fails or neglects to comply with any such requisition within the time specified by or under the provisions of sub-section (1), the Council may, and if in its opinion immediate action is necessary to protect the health or safety of any person, shall at once proceed to executive the work required by such notice ; and all the expenses incurred therein by the Council shall be paid by the owner of, or person having control over, such water supply, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII :

Provided that in the case of any well or private stream or any private channel, tank or other source of water supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by the Council or necessarily incurred by such owner or person having such control, may be paid from the Municipal fund.

(6) POWERS FOR PROMOTION OF PUBLIC HEALTH, SAFETY AND CONVENIENCE

Ruinous or dangerous buildings, precautionary measures.

203. (1) Where any building or any thing affixed thereon or any tree standing within the premises is deemed by the Council to be in a ruinous state or likely to fall or in any other way dangerous to any inhabitant of such building or of any neighbouring building or to any occupier thereof or to passers by, the Council shall immediately, if it appears to it to be necessary, cause proper hoard or fence to be put up for the protection of passers by :

Provided that if the danger be not of hourly imminence, the Council may, instead of causing a hoard or fence to be put up issue in the first instance notice in writing to the owner or occupier to put up a proper hoard or fence, and in the event of the owner or occupier failing to put up within two days from the service of such notice a hoard or fence, which the Council considers sufficient in the circumstances of the case, the Council shall at once cause such hoard or fence to be put up.

(2) The Council shall also cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure or repair such building or thing affixed thereon, or to remove such tree as the case shall require ; and if such owner or occupier does not begin to repair, take down or secure such building or thing or to remove such tree within three days after the service of such notice, and complete such

work with due deligence, the Council shall cause all or so much of such building or thing as it shall think necessary, to be taken down, repaired or secured or removed as the case may be.

(3) In cases of imminent danger the Council shall have power without giving notice to demolish such portion of the building or structure as is likely to endanger the life or property of the inhabitants of such or of any neighbouring building or the life of the passers by.

(4) All expenses incurred by the Council under this section shall be paid by the owner or occupier of such building and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Displacing pavements, etc.

204. (1) Whoever displaces, takes up, or makes any alteration in the pavement, gutter, flags or other materials of any public street or the fences, walls, or posts thereof, or any municipal lamp, lamp posts, brackets, water-posts, hydrant or other such municipal property, therein, without the written consent of the Council or other lawful authority, shall be punished with fine which may extend to one hundred rupees.

(2) Any person who, having displaced, taken up or made alteration in any such pavement, gutter, flags, or other materials or in such fences, walls, posts, municipal lamps, lamp posts, brackets, water-posts, hydrants or other municipal property, shall fail to replace or restore the same to the satisfaction of Council after notice to do so, shall be punished with fine which may extend to fifty rupees, and shall pay any expense which may be incurred in replacing or restoring the same ; and such expenses shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Obstructions and encroachments upon public streets and open spaces.

205. (1) Whoever in any place after it has become a Municipality, shall have built or set up, or shall build or set up, any wall or any fence, rail, posts, stall, verandah, platform, plinth, step or any projecting structurue or thing or other encroachment or obstruction, in any public street or shall deposit or caused to be placed or deposited any box, bale, package or merchandise, or any other thing in such street, or in or over or upon, any open drain, gutter, sewer or aqueduct in such street, shall be punished with fine which may extend to two hundred and fifty rupees and with further fine which may extend to five rupees for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(2) The Council shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open space not being private property, whether such space is vested in the Council or not, provided that if the space is vested in the Government, the permission of the Collector shall have first been obtained, and the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(3) Whoever, not being duly authorised in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon any open space which is not private property, shall be punished with fine which may extend to fifty rupees, and, in the case of an encroachment, with further fine which may extend to ten rupees for every day on which the encroachment continues after the date of first conviction for such offence.

(4) Nothing contained in this section shall prevent the Council from allowing any temporary occupation or erection in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and spaces for not more than ten days, and in such manner as not to inconvenience the public or any individual, or from allowing the occupation of, or temporary erection of structures on, any such streets or spaces for any other purpose in accordance with bye-laws made under this Act.

(5) Nothing contained in this section shall apply to any projection duly authorised under sub-section (1) of section 176.

Hoards to be set up during repairs, etc.

206. (1) A person intending to construct or take down any building or to alter or repair any building externally shall, if the position or circumstances of the work is or are likely to cause or may cause obstruction, danger or inconvenience in any street, before beginning such work,—

(a) obtain the permission from the Council ; and

(b) cause sufficient hoards or fences to be put up in order to separate the area where the work is to be carried on from the street and shall maintain such hoard or fence standing and in good condition to the satisfaction of the Council during such time as the Council considers necessary for the public safety or convenience and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the Council.

(2) Whoever contravenes any of the provisions of this section shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day, on which such contravention continues, after the date of such conviction of such offence.

Fencing and lighting during repairs etc.

207. (1) The Council shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in the Council, take proper precaution for guarding against accident by shoring up and protecting the adjoining buildings, and shall cause such bars, chains or posts as it shall think fit, to be fixed across or in any street to prevent the passage of carriages, carts or other vehicles, or of cattle or horses when such construction or repair is being carried on and shall cause any such construction or repair work in a street to be sufficiently lighted and guarded during the night.

(2) Whoever takes down, alters or removes any of the said bars, chains, or posts or removes or extinguishes any such light without the authority or consent of the Council, shall be punished with fine which may extend to fifty rupees.

Timber not to be deposited or hole made in street without permission.

208. (1) No person shall, without the written permission of the Council or otherwise than in accordance with the conditions of such permission, make a hole in any street or deposit on any street any timber, stone, brick, earth or other material that has been or intended to be used for building, such permission shall be terminable at the discretion of the Council, and when such permission is granted to any person, he shall at his own expense, cause such material or such hole to be sufficienty fenced and enclosed to the satisfaction of the Council until the materials are removed, or the hole is filled up or otherwise made secure, and shall cause such material or hole to be sufficiently lighted during the night.

(2) Whoever contravences any of the provisions of subsection (1) shall be punished with fine which may extend to twenty five rupees, and with further fine which may extend to ten rupees for every day on which such contravention continues after the date of the conviction for such offence.

Dangerous quarrying.

209. (1) If in the opinion of the Council, the working of any quarry or the removal of stone, earth or other material from the soil in any place is dangerous to persons residing in or having a right of access to the neighbourhood thereof, or creates or is likely to create a nuisance, the Council may, by written notice, require the owner of the said quarry or place or the person responsible for such working or the removing of such material not to continue or permit the working of such quarry or to make such order with such quarry or place as the Council shall direct for the purposes of preventing the danger or of abating the nuisance arising or likely to arise therefrom :

Provided that if such quarry or place is vested in the Government, or if such working thereof or removal therefrom as aforesaid is being carried on by or on behalf of the Government or any person acting with the permission or under the authority of the Government or of any servant of the Government acting as such, the Council shall not take such action, unless and until the Collector has consented to its so doing :

Provided further that the Council shall immediately cause a porper hoard or fence to be put up for the protection of passengers near such quarry or place, if it appears to it to be necessary in order to prevent imminent danger.

(2) Any expense incurred by the Council in taking action under this section shall be paid by such owners or the person reasponsible for such working or removal, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Prohibiting lopping etc., of branches of trees.

209-A. Whoever without the permission of the Council lops or cuts the branches or twigs of any tree or plant standing on a public place or plucks the fruits, flowers or leaves of such tree or plant or causes any damage thereto, shall be punishable with fine which may extend to fifty rupees or in the case of second or subsequent breach, to one hundred rupees.

210. (1) If, for any reason, it shall appear to the Council that any building or any room in a building intended for or used as a dwelling is unfit for human habitation, the Council shall give to the owner or occupier of such building notice in writing, stating such reasons, and signifying its intention to prohibit the further use of the building or room, as the case may be, as a dwelling, and shall in such notice call upon the owner or occupier aforesaid to state in writing any objection thereto within 30 days after the receipt of such notice and if no objection is raised by such owner or occupier within such period as aforesaid, or if any objection which is raised by such owner or occupier within such period appears to the Council invalid or insufficient, the Council may by order in writing prohibit the further use of such building or room as a dwelling.

Buildings or rooms in buildings unfit for human habitation.

(2) When any such objection as aforesaid has been made, the Council shall cause notice of such prohibition to be affixed to, and the letters "U. H. H." to be painted on the door or some conspicuous part of such building or room, as the case may be; and no owner or occupier of such building or room shall use or suffer the same to be used for human habitation until the Council certifies in writing that the building or room, as the case may be, has been rendered fit for human habitation.

211. It shall be lawful for the President, Vice-President, Chairman of Standing Committee, [Chief Executive Officer] Chief Municipal Officer or Councillor or any officer authorised by the Council in this behalf, at any time between sunrise and sunset after due notice to enter into and inspect all buildings and lands, and by written notice to direct for sanitary reasons all or any part thereof to be forthwith internally and externally lime-washed or otherwise cleansed.

Power to enter and inspect, etc., buildings.

211-A. (1) If the State Government is of opinion that risk of disease has arisen either to any occupier in, or to any inhabitant in the neighbourhood, of, any area by reason of any of the following defects, namely:—

Special powers which may be conferred by the Government in respect of overcrowded area.

(a) the manner in which either buildings or blocks of buildings already existing or projected therein, are, or are likely to become, crowded together; or

(b) the impracticability of cleaning any such building or blocks of buildings, already existing or projected; or

(c) the want of drainage or scavenging, or the difficulty of arranging therein for the drainage or scavenging of any such buildings or blocks or areas as aforesaid; or

(d) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or groups of buildings;

it may by notification confer on the Council to which such area is subject, all or any of the powers specified in sub-section (2), and may, if it deems necessary, at any time make rules prescribing any limitations, restrictions, modifications, conditions or regulations subject to which the

Council shall exercise within that area all powers so conferred, unless and until those powers are withdrawn by a subsequent notification of the Government.

(2) The powers all or any of which may be conferred on a Council under sub-section (1) are as follows:—

(a) power when any building or block already existing or in course of erection by reason of any defect specified in sub-section (1), has given or is in the opinion of the Council likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block and addressed, as the Council deems fit, either to the owners thereof or to the owners of the land on which such building or block is erected or is in course of erection that the persons so addressed shall, within such reasonable time as shall be specified in the notice, either pull down or remove such building or block or execute such works or take such action in connection therewith as the Council deems necessary to prevent all such risk of disease;

(b) power to Council or any other agency authorised in writting by the Council to pull down or remove such building or block, or to execute such works or take such action as aforesaid if the persons addressed in the said notice neglect so to do within the time specified therein;

(c) power subject to right of appeal as hereinafter provided, to prohibit, by written notice addressed to the owners and occupiers of any site or space hereinafter described and by general notice published in the manner provided in sub-section (3) of section 264, the erection of any building, or of any building exceeding such dimensions as may be specified in such notice—

(i) on the site of any building which has, in whole or in part, under the provisions of this section been pulled down; or

(ii) on any space not occupied by buildings, whether such space is private property or not and whether it is enclosed or not, if the Council considers that order to prevent such risk as aforesaid, such site or space should not be built upon in whole or in part; and either to acquire such site or space or to prescribe such conditions as may be deemed necessary as to the use which the owner or occupier may make or permit to be made thereof:

Provided that in every case compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 273, shall be paid to any person whose rights are affected by such prohibition.

(3) When, in pursuance of any notice under sub-section (2), any building has been pulled down, the Council shall, unless such building has been erected contrary to any provision of this Act or of any bye-law in force thereunder, pay to such owner or occupier as may have sustained damage thereby, reasonable compensation, the amount of which shall in case of dispute be ascertained or determined in the manner provided in section 273.

(4) The State Government may prescribe by rule a fine not exceeding five hundred rupees, for every breach, and a further fine not exceeding twenty rupees a day for every continuing breach, of any order made or conditions imposed by the Council in exercise of any powers conferred upon it under this section.

(7) *Powers in regard to nuisances*

Investigation and action.

212. The Council shall, as far as possible, arrange for detection, inspection, abatement and removal of nuisances.

Removal of nuisances.

213. On receipt of any information about the existence of a nuisance in any locality, the Council shall cause the matter to be investigated and if it appears to it that the nuisance is wholly or partly caused by any act or default of the owner, lessee or occupier of the premises or of any person or persons outside the premises, the Council may require the owner, lessee or occupier of the premises or other person or persons responsible for causing the nuisance to take such measure as may be specified in the notice, within the period specified therein.

Person responsible for causing nuisance.

214. Every such owner, lessee or occupier of the premises or other person responsible for causing the nuisance shall forthwith comply with the directions of the notice, failing which the Council may, without prejudice to any penalty to which he may be liable under this Act, take such action for restraint, abatement and removal of the nuisance as may be considered necessary and realise the expenses incurred by the Council from the owner lessee, occupier or the person or persons concerned in the manner provided in Chapter VIII.

Condition causing nuisance to be rectified by alteration, reconstruction or demolition.

215. If any house, building, shed or structure or any factory, workshop, workplace or any manufactory or place of trade is in such a condition that the nuisance cannot be abated or removed without structural alteration, reconstruction or demolition of such house, building, shed or structure, the Council may direct the owner, lessee or occupier to make the alteration or reconstruction in the manner specified in the direction or to demolish the house, building, shed or structure within the period specified therein failing which, the Council may, without prejudice to any penalty to which he may be liable under this Act, after giving due notice, prohibit the use of the house, building, shed or structure and may carry out the imprivement or, with the permission of a Magistrate exercising not less than second class power demolish the house, building, shed or structure and recover the expenses from the party concerned in such manner as the Council may decide and no compensation shall be payable by the Council for any such prohibition, improvement or demolition made by the Council.

Depositing dust etc., committing nuisance.

216. (1) Whoever deposits, or causes or suffers any member of his family or household to deposit any dust, dirt, dung, ashes, garden, kitchen or stable refuse, or filth of any kind, or any animal matter, or any broken glass or earthen ware or other rubbish or any other thing that is or may be nuisance in any street or in any arch under a street or in any drain beside a street or on any open space or on the bank of any river, watercourse or nullah, except at such places, in such manner and at such hours as shall be fixed by the Council, and whoever commits, or suffers any member of his family or household to commit nuisance in any such place as aforesaid shall be punished with fine which may extend to fifty rupees.

(2) Whoever throws or puts or causes or suffers any member of his family or household to throw or put any of the matters described in sub-section (1) except nightsoil, or except with the permission of the Council any nightsoil into any sewer, drain, culvert, tunnel, gutter or watercourse and whoever commits nuisance or suffers any member of his family or household to commit nuisance in any such sewer, drain, culvert, tunnel, gutter or watercourse, or in such close proximity thereto as to polute the same, shall, be punished with fine which may extend to fifty rupees.

Power to prohibit collection of inflammable materials or lighting fires.

216-A. The Council may, where it appears to it to be necessary for the prevention of danger to life or property by public notice, prohibit all persons from stacking or collecting grass, cotton, wood, timber or other inflamable materials or placing mats or thatched huts or lighting fires, in any place or within any limits specified in the notice.

Power to prohibit insanitary cultivation.

216-B. If in the opinion of the Council, the cultivation of any description of crop, or the use of any kind of manure or the irrigation of land in any specified manner—

(a) in any place within the limits of the municipality, is injurious or facilitates practices which are injurious to the health of persons dwelling in the neighbourhood; or

(b) in any place within or without the limits of the municipality, is likely to contaminate the water-supply of the municipality or otherwise render it unfit for drinking purposes;

the State Government may, by notification, prohibit the cultivation of such crop, the use of such manure, or the use of the method of irrigation so reported to be injurious, or impose such conditions with respect thereto as may prevent the injury:

Provided that, if the act prohibited has been practiced in the ordinary course of husbandry at any time during the five years next preceding the date of the prohibition, compensation shall be paid from the municipal fund to all persons interested therein for any damages caused to them by such prohibition.

217. Whoever causes or allows the water of any sink or sewer or any other liquid or other matter which is or which is likely to become offensive, from any building or land under his control to run, drain, or be thrown or put upon any street or open space, or to soak through any external wall, or causes or allows, any offensive matter from any sewer or privy to run, drain or to be thrown into a surface drain in any street without the permission in writing of the Council or who fails to comply with any condition prescribed in such permission shall be punished with fine which may be extended to twenty-five rupees. Discharging sewage, etc.

218. Whoever being the owner of any building or land keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or noxious or offensive matter in or upon surh building or land or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from and to cleanse and purify such receptacle or keeps or allows to be kept in or upon such building or land any animal in such a way as to cause nuisance, shall be punished with fine which may extend to fifty rupees and with further fine which may extend to five rupees for every day on which such offence is continued after the date of the first conviction for such offence. Non-removal of filth, etc.

219. (1) The Council may from time to time fix the hours within which only it shall be lawful to remove any night-soil or any other offensive matter. Removal of Night-soil

(2) Whoever—

(a) when the Council has fixed such hours, and given public notice thereof by beat of drum, removes, or causes to be removed, along any street any such offensive matter at any time except within the hours so fixed ; or

(b) at any time, whether such hours have been fixed by the Council or not—

(i) uses for any such purpose any cart, carriage, receptacle or vessel not having a covering adequate for preventing the escape of the contents thereof, and of the stench therefrom ; or

(ii) wilfully or negligently slops or spills any such offensive matters in the removal thereof ; or

(iii) does not carefully sweep and clean every place in which any offensive matter has been slopped or spilled ; or

(iv) places or sets down in any public place any vessel containing any such offensive matter ; or

(v) drives or takes or causes to be driven or taken any cart, carriage, receptacle or vessel used for any such purpose as aforesaid, through any street or by any route other than such as shall from time to time be appointed for that purpose by the Council by public notice ;

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

Filthy building etc.

220. (1) Whoever, being the owner or the occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy or unwholsome state, or in the opinion of the Council, a nuisance to persons residing in the neighbourhood, or over-grown with prickly-pear or rank and noisome vegitation and who shall not, within a reasonable time after notice in writing by the Council to cleanse, clear or otherwise to put such building or land in a proper state, have complied with the requisition contained in such notice, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which the failure to comply with the said notice is continued after the date of the first conviction for such offence.

Deserted and offensive buildings.

(2) Where any building, by reason of dilapidation, neglect, abandonment, disuse or disputed ownership, or of being vacant has—

(a) become a resort of idle and disorderly person or of persons who have no ostensible means of subsistence or who cannot give satisfactory account of themselves ;

(b) come into use for any insanitary or immoral purpose ; or

(c) been affording a shelter to snakes, rats or other dangerous or offensive animals ;

and is therefor open to objection that it is a nuisance, or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building, the Council, if it considers that such objection cannot under any other provision of this Act be otherwise removed, may, if there is any person known or resident within the Municipality who claims to be the owner of such building by written notice directed to such person, require such person, or in any other case by written notice, fixed on the door or any other conspicuous part of the building, require all persons claiming to be interested in such building, within a period which shall be specified in the notice and shall not be less than seven days from the date of such notice, to cause such building to be taken down and the materials thereof to be removed. In the event of non-compliance with such requirements, the Council may, on the expiration of the period specified as aforesaid, forthwith cause the building to be taken down and the materials to be removed, and may sell such materials and apply the proceeds to defray any expenses incurred by it in so doing. All such expenses not thereby defrayed shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(3) If in the opinion of the Council the land or building under question requires to be enclosed, it may, for getting the enclosure put up, give notice according to the procedure laid down in sub-section (2). In the event of non-compliance with such requirement, the Council may, on the expiration of the period specified, get the enclosure put up and recover the cost from the person concerned in the manner prescribed in Chapter VIII.

221. A Council shall cause public dust-bin or other convenient receptacles to be provided at suitable intervals and in proper and convenient places and shall direct by public notice, that all sweepings in any house or premises, and all rubbish, garbage or offensive matter accumulating therein, shall be collected by the occupier of the house or premises and deposited in such public dustbins. **Dustbins for refuse and garbage.**

222. Every Council shall make arrangements for daily sweeping of the public streets under its control and for removing the rubbish, dirt and other matter from such street and from the public dustbins and other receptacles, and for cleansing and flushing of the roadside drains. **Cleaning of road and roadside drains.**

223. The Council may arrange for controlled tipping or dumping of refuse and offensive matter in low lands without causing any nuisance or injury to health of the people of the locality or in lands away from the inhabited areas or may arrange for their satisfactory disposal by incineration or by composting on scientific lines. **Equipments and vehicles.**

224. Whoever, except with the written permission of the Council, and in accordance with the conditions of such permission, stores, or uses night-soil or other manue or substance emitting offensive smell, shall be punished with fine which may extend to twenty-five rupees. **Using offensive manure, etc.**

225. (1) A Council may provide and maintain public bathing places or swimming pools with sheds, booths and other conveniences and may permit any person, club or association to provide and maintain such bathing places and swimming pools open to general public or to members only of the clubs or associations. **Provisions of bathing places.**

(2) All public bathing places except those maintained by the Council shall be licensed by the Council and every such licence shall be renewable every year, but may be revoked or cancelled by the Council if in its opinion the management of any public bathing place is not satisfactory from the hygienic point of view.

(3) The Council may fix the charges for the use of the sheds, booths and other conveniences provided by the Council at any bathing place.

(4) The Council may order the closure of any bathing place under its control or licensed by it which, in the opinion of the Council, is unsafe for use or is likely to endanger the life or health of the bathers or people generally.

226. (1) The Council may set apart sufficient public places, not being private property for the purpose of being used as bathing places, and may also provide or set apart a sufficient number of tanks or runs of water for the inhabitants to bath in, and may also set apart tanks or reservoirs or runs of water for washing animals or clothes, and for all purposes connected with the health, cleanliness and comfort of the inhabitants and may prohibit the use for any purpose mentioned in this section of any or all other public places within the Municipality. **Bathing places.**

(2) Copies of all orders passed and notices issued by the Council and for the time being in force under this section, shall be kept at the Municipal office and shall be open to inspection by the public at all reasonable times.

Regulation of washing of clothes by washermen.

227. (1) The Council may by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as it shall appoint for this purpose ; and when any such prohibition has been made, no person who is, by calling a washerman shall wash clothes at any place not appointed for this purpose by the Council, except for such person himself or for the owner or occupier of such place.

(2) The Council may provide suitable places for the exercise by washerman of their calling and may require payment of such fees for the use of any such place as shall from time to time be determined by it.

(3) The Council shall, before issuing any public notice under sub-section (1) publish in such manner as shall in its opinion be sufficient for the information of persons likely to be affected thereby a list of washing places proposed to be provided under sub-section (2), together with a notice specifying a date on or after which the list shall be taken into consideration ; and shall, before finally fixing the said places, receive and consider any objection or suggestion in respect thereto which may be made in writing by any person before the date so specified.

Fouling water.

228. Whoever, in disobedience of any order of the Council under section 226, or of any bye-laws, baths in any stream, pool, tank, reservoir, well, cistern, conduit or aqueduct belonging to the Council or washes, causes to be washed therein, any animal or anything whatever, or throws, puts or casts or causes to enter therein any animal or anything or cause or suffers to run, drain, or be brought there into anything that is, or may become, a nuisance, or does anything whatsoever whereby any water therein shall be in any degree fouled or polluted, and whoever without permission of the Council, steps in any tank, stream, or ditch within, or on the boundary of the Municipality any animal, vegetable or mineral matter likely to render the water of such tank, stream, or ditch offensive or a nuisance, shall be punished with fine which may extend to fifty rupees.

Abatement of nuisance from wells, etc.

229. (1) If, in the opinion of the Council,—

(a) any pool, ditch, quarry, hole, excavation, tank, well, pond, drain, water-course, or any collection of water; or

(b) any cistern or other receptacle for water whether within or outside the building ; or

(c) any land on which water accumulates and which is situated within a distance of 100 yards from any building used as a dwelling house ;

is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance or otherwise injurious to the health of the inhabitants, the Council may, by notice in writing require the owner thereof to fill up, cover or drain up the same in such manner and with such materials as the Council shall prescribe,

or to take such measures for removing or abating the nuisance as the Council shall prescribe.

(2) (a) No new well, tank, pond, cistern or fountain shall be dug or constructed without the previous permission in writing of the Council.

(b) If any such work is begun or completed without such permission, the Council may either—

(i) by written notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Council may direct; or

(ii) grant written permission to retain such work ; but such permission shall not exempt such owner from proceedings for contravening the provisions of clause (a) of this sub-section.

Provisions as to dogs.

230. (1) The Council may, by public notice, require that every dog while in the streets and not being led by some person shall be muzzled in such a way as to allow the dog freely to breath and to drink, while actually preventing it from biting.

(2) Subject to the provisions of sub-section (3), the Council may take possession of any dog found wandering un-muzzled in any public place and may either detain such dog until its owner has claimed it, has provided a proper muzzle for it, and has paid all the expenses of its detention or cause it to be destroyed.

(3) When a dog which has been detained under the last preceding sub-section is wearing a collar with owner's name and address thereon, such dog shall not be destroyed until a letter stating the fact that it has been so detained has been sent to said address and the dog has remained unclaimed for three clear days, provided that any dog which is found to be rabid may be destroyed at any time.

(4) Any unclaimed dog and a dog, the owner of which refuses to pay all the expenses of its detention may be sold or destroyed, after having detained for the said period of three clear days.

(5) All expenses incurred by the Council under this section may be recovered from the owner of any dog which has been taken possession of or detained in the manner provided by Chapter VIII.

Provision as to keeping of pigs.

231. (1) If it shall appear to the Council at any time that nuisance or annoyance is caused to the public by the keeping of pigs within the limits of the Municipal area, the Council may direct by public notice that no person shall, without the written permission of the Council or otherwise than in conformity with the terms of such permission, keep any pigs in any part of the Municipal area.

(2) Whoever shall after such direction keep any pigs in any place within the municipal area without the permission required as aforesaid, or otherwise than in accordance with the terms thereof shall be punishable with fine which may extend to fifty rupees.

(3) Any pigs found straying may be forthwith destroyed and the carcass thereof disposed as the Council shall direct. No claim shall lie for compensation for any pig so destroyed.

Tethering cattle, etc.

232. Whoever tethers cattle or other animals or causes or suffers them to be tethered by any member of his family or household, in any public street or place so as to obstruct or endanger the public traffic therein, or to cause nuisance, or whoever causes or suffers such animals to stray about without a keeper shall, on conviction, be punishable—

(a) for a first offence, with fine which may extend to twenty-five rupees;

(b) for any subsequent offence, with fine which may extend to fifty rupees.

Consumption of smoke.

233. (1) It shall be lawful for the Council to direct by public notice that every furnace employed or to be employed, in any works or building used for the purpose of any trade or manufacture whatsoever, within the limits of the Municipality whether a steam engine be or be not used or employed therein, shall in all cases be constructed, supplemented or altered so as to consume or burn, or reduce as far as may be practicable the smoke arising from such furnace.

(2) If any person shall, after such direction, use or permit to be used, any such furnace not so constructed, supplemented or altered, or shall so negligently use, or permit to be used, any such furnace that smoke arising therefrom shall not be effectually consumed or burnt as far as may be practicable, such person being the owner or occupier of the said works or buildings or an agent or other person employed by such owner or occupier for managing the same, shall be punished with fine which may extend to fifty rupees and upon such subsequent conviction to five hundred rupees:

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway or for the repair of roads.

Feeding animals on filth.

234. Whoever feeds any animal which is kept for dairy purposes or is intended for human food, on excrementitious matter, stable refuse, filth or other offensive matter or permit such animal to feed or be fed on such matter shall be punishable with fine which may extend to fifty rupees.

Playing any game causing annoyance.

235. Whoever files kites, or discharges fire-arms or lets fire works or fire baloons or engages in any game, in such a manner as to cause or likely to cause danger or annoyance to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with fine which may extend to twenty-five rupees.

Prohibiting spitting on public streets, etc.

235-A. Whoever spits in any place other than a drain or receptacle provided for the purpose by the Council shall be punishable with fine which may extend to twenty-five rupees.

(8) *Markets.*

236. A Council may establish and maintain market at suitable place for the convenience of the people of the municipal area and may permit by issue of licences to private persons to establish and maintain such markets. **Establishment of markets.**

And for this purpose the Council may acquire, purchase or take on lease any land, building or structure for establishing a market or may take over an existing market from the owner thereof on payment of such compensation as may be determined under the provisions of this Act.

237. (1) It shall be lawful for the Council to direct that no place other than a municipal market shall be used for the sale of animals, meat, fish, fruits, vegetables or such other articles as the Council may, with the prior sanction of the prescribed authority, specify in this behalf except under and in accordance with the conditions of a licence from the Council which may at its discretion from time to time grant, suspend, withhold or withdraw such licences either generally or in individual cases. **Licensing markets.**

(2) Whoever uses or permits the use of any place contrary to such direction or without the licence required as aforesaid, or in contravention of any of the conditions or during the suspension or after the withdrawal of such licence, shall be punished with fine which may extend to fifty rupees.

(3) Upon a conviction being obtained in respect of any place under sub-section (2), the Magistrate shall, on the application of the [Chief Executive Officer] Chief Municipal Officer or any officer authorised by him but not otherwise, order such place to be closed, and thereupon appoint persons or take other steps to prevent such place being so used; and every person who so uses or permits the use of a place after it has been so ordered to be closed, shall be punished with fine which may extend to five rupees for each day during which he continues so to use, or permits such use of, the place after it has been so ordered to be closed.

238. Every market shall be provided with sufficient water-supply, drainage, sanitary latrines and urinals; and stalls for sale of meat, fish, fruits or vegetables and shall be on raised plinth with, as far as practicable, such impervious floor as may be specified by the Council. An owner of a private market who shall not comply with the aforesaid provisions as regards the plinth or floor of stalls shall be liable to have his licence cancelled in addition to any penalty to which he may be liable under this Act. **Water supply and sanitary conveniences.**

239. (1) The Council may, from time to time, open or close any market or slaughter-house. It may also either take stallage or other rent or fees for the use by any person of any such market or slaughter-house or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in or of otherwise using any such markets or slaughter-house. **Opening, closing markets and slaugther-house and letting of**

(2) Whoever, without the permission of the Council sells or exposes for sale any article in the said market or uses the said slaughter-house shall be punished with fine which may extend to twenty-five rupees.

(3) It shall be lawful for the Council to lease by public auction or private contract the collection of any rent or fees which may be imposed under this section or section 241:

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

Power to remove persons from Municipal markets.

240. If any officer specially empowered in this behalf by the Council is satisfied that any person occupying any stall or space in any municipal market is in unauthorised occupation of the stall or space or continues to occupy the stall or space after authority to occupy has ceased, he may, with the previous sanction of the Council, require such person to vacate the stall or space within such time as may be mentioned in the requisition and if such person may, in addition to any penalty to which he may be liable under this Act, be summarily removed from the stall or space.

Places for slaughter of animals for sale.

241. (1) The Council may, and when required by State Government, shall fix places, with the approval of the State Government either within or without the limits of the municipality, for the slaughter of animals or of any specified description of animals, for sale, and may with the like approval grant and withdraw licences for the use of such premises, or if they belong to the Council may charge rent or fees for the use of the same.

(2) When such places have been fixed by the Council beyond municipal limits it shall have the same power to make bye-laws for the inspection and proper regulation of the same as if they were within those limits.

(3) When any such premises have been fixed no person shall slaughter any such animal for sale within the municipal area at any other place.

(4) Any person who slaughters for sale any animal at any place within the municipal area other than the one fixed by the Council under this section shall be punishable with fine which may extend to fifty rupees.

(5) Nothing in this section shall apply to the killing of cattle or animals as part of religious offerings.

Power to regulate slaughter of animals not for sale.

241-A. The Council may, with the previous sanction of the Collector, and by notification published in accordance with rules made under this Act, fix premises within the limits of the municipality in which the slaughter of animals of any particular kind not for sale shall be permitted, and prohibit, except in case of necessity, such slaughter elsewhere within those limits:

Provided that the provisions of this section shall not apply to animals slaughtered for any religious purpose.

Inspection before and after slaughter.

242. A Council shall arrange for inspection of the animal by a Veterinary Surgeon or a competent person before the animal is killed and may also arrange for inspection of the meat and organs for the purpose of certification, as may be prescribed by byelaws of the meat for use as food.

243. No person shall carry on the profession of a butcher except under a licence from the Council. **Licensing of Butcher.**

(9) *Control of food Stuffs*

244. (1) No person shall sell or offer or expose for sale at any place within the municipality— **Licensing and condition for sale of certain articles of food and drinks.**

(i) any animal or any meat or fish intended for human food; or

(ii) any milk or dairy product, sweetmeat, fruits, vegetables, betels (ready for chewing), ice, ice-cream, aerated waters, syrups or soft drinks, fruit juice or neera, confectionary and prepared food or drink of any kind;

except under and in accordance with the conditions of a licence granted by the Council.

(2) No sale of any such article shall be permitted at any place near any stable, public latrine, drain or manhole.

(3) The provisions of sub-section (2) shall apply to sale of any such article from any house, shop, or stall (movable or otherwise) and to sale on roads and roadsides.

(4) The Council, may at its discretion from time to time grant, suspend, withhold or withdraw such licences either generally or in individual cases.

(5) Whoever uses or permits the use of any place without the licence required as aforesaid, or in contravention of any of the conditions or during the suspension or after the withdrawal of such licences, shall be punishable with fine which may extend to fifty rupees.

(6) Upon a conviction being obtained in respect of any place under sub-section (5), the Magistrate shall, on the application of the [Chief Executive Officer] Chief Municipal Officer or any officer authorised by him but not otherwise, order such place to be closed, and thereupon appoint persons or take other steps to prevent such place being so used ; and every person who so uses or permits the use of a place after it has been so ordered to be closed, shall be punishable with fine which may extend to five rupees for each day during which he continues so to use, or permits such use of, the place after it has been so ordered to be closed.

245. (1) The President, Chairman of the Standing Committee, [Chief Executive Officer] Chief Municipal Officer Health Officer or any Councillor or officer authorised by the Council in this behalf— **Search for and inspection of unwholesome articles.**

(a) may at all reasonable times enter into any place for the purpose of inspecting and may inspect any animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter or other articles intended for human consumption or drink or for medicine, whether exposed or brought to any place for the purpose of sale or of preparation for sale, or may enter into and inspect any place used as a Slaughter-house, and may examine any thing which may be therein ; and

(b) in case any such animals, carcasses or other articles heretobefore mentioned appears to be diseased or

unsound or unwholesome or unfit for human consumption or drink or medicine or it is adulterated in such a manner as to lessen its efficacy or to change its operation may seize the same.

(2) Any article seized under sub-section (1) which is of a perishable nature may under the order of the President, [Chief Executive Officer] Chief Municipal Officer or Municipal Health Officer forthwith be destroyed. Every animal and every article which is not of perishable nature, if seized as aforesaid, shall be taken before a Magistrate.

(3) If it appears to the Magistrate upon sufficient evidence that any such animal or article is diseased or unsound or unwholesome or unfit for human consumption, drink or medicine or it is adulterated in such a manner as to lessen its efficacy or to change its operation, the owner or person in whose possession it was found, not being merely a bailee or carrier thereof shall if in such case the provisions of section 279 of the Indian Penal Code, 1860 (XLV of 1860) do not apply, be punishable with fine which may extend to five hundred rupees and the Magistrate shall cause such animal or article to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for human consumption or drink or medicine.

Presumption in prosecution.

246. In any prosecution for adulterated and misbranded food the Court shall, unless and until the contrary is proved, presume that any article of food found in the possession of a person who is in the habit or manufacturing, preparing, selling, storing, distributing or carrying on in transit like articles has been manufactured, stored or carried for sale or distribution for human consumption by such person.

(10) *Milk Supply Daries and Cattle Sheds*

Model Dairy by Council.

247. A council may establish a model dairy with farm for production and supply of good milk and the State Government may lay down standard requirements for such establishment.

Licensing o. dairies.

248. (1) No persosn shall, for the purposes of trade, use or permit to be used any place for stabling milch cattle or for storing or selling milk or for making, storing or selling butter except under and in accordance with the terms of a licence from the Council.

(2) The Council may grant such licence subject to such conditions as it may deem fit and may at any time withdraw such licence on giving one month's notice to the licensee:

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdraw without any such notice.

(3) Whoever so uses or permits to be used any place for any of the aforesaid purposes without or in contravention of any of the conditions of, or after the withdrawal of, or during the suspension of, such licence shall be punished with fine which

may extend to fifty rupees and in the case of a continuing offence with additional fine which may extend to ten rupees for each day during which such offence is continued after the date of the conviction for the first such offence.

(4) Upon a conviction being obtained in respect of any place under sub-section (3), the Magistrate shall on the application of the [Chief Executive Officer] Chief Municipal Officer or any other officer authorised by him but not otherwise, order such place to be closed, and thereupon, appoint persons or take other steps to prevent such place being so used.

Inspection of dairies and domestic cattle.

249. Any officer of the Council when so authorised by the Council shall have the power to inspect dairies and the milch cattle so as to ensure that proper sanitary arrangements are made—

(a) for securing the purity of milk ;
(b) for the health and good condition of the milch cattle;
(c) for cleanliness of milk vessels used therein ; and
(d) for protection of milk against infection or contamination.

Duties of Council in respect of diseases among cattle, sheep or goats.

250. If in any municipality any infectious disease amongst cattle, sheep or goats breaks out or if the introduction of any such disease appears to be likely, the Council shall take all such measures as it deems necessary for the purpose of preventing meeting, mitigating or suppressing the disease or the outbreak or introduction thereof.

(11) *Registration of Births, Deaths and Marriages.*

Registration of all births deaths and marriages.

251. All births, deaths and marriages occuring within the municipal area shall be registered in the manner prescribed by rules.

Reporting of births.

252. (1) It shall be the duty of the father or of the mother of every child born within the limits of any municipality or in the case of death, absence or disability of the father or mother, the head of the family in which the child is born, or the occupier of the house or any person assisting at the time of birth of such child to give information within 8 days of such birth either in person or in writing to the [Chief Executive Officer] Chief Municipal Officer with such particulars as are required for the registration of the birth of such child.

(2) It shall be the duty of the head of the family in which death has occurred or the occupier of the house or any neighbour to give information wihthin 8 days of such death either in person or in writing to the [Chief Executive Officer] Chief Municipal Officer, with such particulars as are required for the registration of the death.

Reporting by medical attendants.

253. Any Medical Practitioner (which term shall include any person practising any system of medicine) or any midwife, nurse, Dai, or any person attending a case of birth or of death shall duly notify to the [Chief Executive Officer] Chief Municipal Officer, the birth or death attended by him or her. The information shall be given either personally or in such a manner as may be convenient within 8 days of the occurrence of the birth or the death.

Penalty for neglect or refusal.

254. Any person who neglects or refuses to give any information which it is his duty to give under section 252 or section 253 shall be liable to punishment which may extent to fifty Rupees.

(12) *Park, Play-ground and open spaces*

Council to provide places for recreation.

255. (1) The Council may provide open space, parks, play-grounds, *commons,* swimming tanks and amenities for the use and enjoyment of the people and may frame bye-laws regulating their use.

(2) The Council may reserve any such place for the exclusive use of women and children.

(3) Two or more local authorities may jointly provide and maintain open spaces, parks, play-grounds and swimming pools.

Pasture lands.

256. (1) The Council may likewise provide common pasture lands for the use of domestic cattle.

(2) Common pasture land may be let out at such fees as the Council may from time to time prescribe. No person shall graze his cattle on such common pasture land without permission from the Council, and payment of such fees as may be fixed by the Council.

(3) In all common pasture lands there shall be adequate water-supply for the cattle to drink and for washing of cattle.

Hours and closures.

257. The Council may prescribe the hours and restrictions for the use of any park, play-ground or common pasture land and may, at any time, prohibit the use of any such place for any purpose other than games and recreation or close any such place.

A—Power to Develop Certain Areas

Reservation of certain areas for special purposes of public utility.

257-A. (1) The State Government may, either on its own motion or on the request of a Council in respect of any Municipality, and after making such inquiry as it deems necessary, notify, by a notice published in the Official Gazette any area or areas to be reserved from a date fixed therein, for use in the future for any special purpose of public utility such as public parks, play-grounds, educational and medical or public health institutions, markets, stands for vehicles and animals, public recreation centres and housing colonies.

(2) After such reservation has been notified—

(a) no construction shall take place on any area or areas so declared without the special permission of the State Government in this behalf; and

(b) if any construction, structure or building is sought to be transferred by the owner to another party; an option to purchase shall be first given to the State Government, and on its refusal to exercise the option, the owner may transfer the property.

(3) The Government may cancel such notification at its discretion after consulting the Council.

(4) If any construction takes place on any area in contravention of sub-section (2), the Council may without prejudice to any other action that might be taken under

this Act or rules framed thereunder or under any other law for the time being in force demolish such construction and recover the cost incurred in such demolition from the owner or occupier of the land, building or structure.

(13) *Offencive or Dangerous Trades.*

258. (1) If it be shown to the satisfaction of the Council that any building or place used or intended by any person to be used— Regulation of certain trades.

(a) for boiling or storing offal, blood, bone or rags ;
(b) for salting, curing and storing fish ;
(c) for storing hides, horns and skins ;
(d) for tanning ;
(e) for the manufacture of the leather or leather goods ;
(f) for dyeing ;
(g) for melting tallow or sulpher;
(h) for washing or drying wool or hair ;
(i) as a brick, pottery or lime kiln ;
(j) for soap making ;
(k) for oil boiling or oil extracting ;
(l) as a distillery ;
(m) for storing hay, straw, fodder, wood, coal or other cumbustible material ;
(n) as a manufactory or place of business of any other kind from which offensive or unwholesome smell arise, or which may arise, or which may involve risk of fire ;
(o) as a manufactory of snuff ;
(p) for the manufacture or sale of sweetmeats ;
(q) as a factory, workshop or place of business in which animals are employed or intended to be employed for doing work or in which steam, water or any mechanical power is used or intended to be used ;
(r) as a hair dressing saloon or a barber's shop or a Hammamkhana ;

is or is likely by reason of such use of, and of its situation to become a nuisance to the neighbourhood or is so used or is so situated as to be likely to be dangerous to life, health or property, the Council by written notice require the owner or the occupier—

(i) at once to discontinue the use of or at once to desist from carrying out, or allowing to be carried out, the intention so to use, such building or place ; or
(ii) to use it in such manner, or after such structural alterations as the Council in such notice prescribe, so that it may not become, or may be no longer, a nuisance or dangerous.

Explanation.—For the purpose of this section, nuisance shall include any contamination of the atmosphere where by a deposit of soot is caused or any mechanical noise.

(2) Whoever, after notice has been given under sub-section (1) uses any building or place or permits it to be used in such

a manner as to be a nuisance to the neighbourhood or dangerous to life, health or property, shall be punished with fine which may extend to two hundred rupees and with further fine which may extend to forty rupees for every day on which such use or permission of use is continued after the date of first conviction.

(3) Upon a conviction being obtained under this section the Magistrate shall, on the application of the [Chief Executive Officer] Chief Municipal Officer or any officer authorised by him but not otherwise, order such place to be closed and thereupon appoint persons or take other steps to prevent such place being used for any purpose mentioned in sub-section (1).

(4) Whoever uses without a licence, or during the suspension or after the withdrawal of a licence, any place for any purpose mentioned in sub-section (1) in any municipality in which bye-laws are for the time being in force prescribing the conditions on or subject to which, the circumstances in which, and the areas or locality in respect of which licences for such use may be granted, refused, suspended or withdrawn, shall be punished with fine which may extend to Rupees fifty and with further fine which may extend to Rupees ten for every day on which such use is continued after the date of first conviction.

Provision of sanitary conveniences.

259. The owner, keeper or manager incharge of offensive or dangerous trade shall make adequate provision for sanitary conveniences in all premises and houses used for such trades and maintain them in good condition.

Prohibition of use of steam whistles, etc.

260. (1) No person shall use or employ in any Factory or any other place any whistle or trumpet operated by steam or by mechanical means for the purpose of summoning or dismissing workmen or persons employed except under and in accordance with the condition of a licence from the Council.

(2) The Council may grant such licence subject to such condition as it may deem fit and may at any time withdraw such licence on giving one month's notice to the licensee:

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdrawn without any such notice.

(3) Whoever uses or employs any such whistle or trumpet as aforesaid without or in contravention of any of the conditions or after the withdrawal of such licence, shall be punishable with fine which may extend to fifty rupees.

(14) *Powers in case of fire.*

Establishment and maintenance of fire-brigade.

261. (1) A Council may and if directed by the State Government shall establish and maintain a Fire-Brigade and provide any implements, machinery or means of communicating intelligence which it thinks necessary for prevention and extinction of fire.

(2) It shall be the duty of all Police Officers and all Municipal Officers and servants to aid a Fire-Brigade in the execution of its duties.

262. (1) On the occasion of a fire within the limits of the municipality, any Magistrate, the President of the Municipal Council, [Chief Executive Officer] Chief Municipal Officer, or any member of a Fire-Brigade then and there directing the operations of men belonging to the Brigade, and, if directed so to do by a Magistrate or the President of the Municipal Council, or [Chief Executive Officer] Chief Municipal Officer, any Police Officer above the rank of Constable, may— **Power of Fire-Brigade and other persons for suppression of fires.**

(a) remove or order the removal of any person who by his presence interferes or impedes the operations of extinguishing the fire or for saving life or property ;

(b) close any street or passage in or near which any fire is burning ;

(c) for the purpose of extinguishing the firebreak into or through or pull down or cause to be broken into or through or pulled down, or use or cause to be used for the passage of hoses or other appliances, any premises ;

(d) cause mains and pipes to be shut off so as to give greater pressure of water in or near the place where the fire has occurred ;

(e) call on the persons incharge of any fire engine to render such assistance as may be possible ; and

(f) generally take such measure as may appear necessary for the preservation of life and property.

(2) No person shall be liable to pay compensation for any act done by him in good faith under sub-section (1) but the Government may direct that such compensation as it may decide to be reasonable shall be paid from the municipal fund.

(3) Any damage done in the exercise of a power conferred or a duty imposd by this section shall be deemed to be damage by fire within the meaning of any policy of Insurance against fire.

(4) The powers conferred by sub-section (1), shall be subject to such regulations, conditions and restrictions as may be prescribed, by rules.

(15) *Begging for Alms.*

263. (1) Whoever, in any street or public place within the limits of a municipality to which the provisions of this section may be applied by the State Government by notification, begs for alms, or exposes or exhibits any sore or wound or any deformity, disease or bodily aiment with the object of exacting or extorting alms, shall be punishable with imprisonment of either description for a term which may extend to three months, or with fine which may extend to fifty rupees, or with both. **Prohibition from begging for alms.**

(2) If the Court finds that a person has committed an offence punishable under sub-section (1), it may, if in its opinion the person is unable to earn a livelihood owing to physical infirmity or debility, or is otherwise a fit person to be committed to a poor-house, in lieu of passing a sentence, order that he be committed to a poor-house maintained by the Council or approved by the State Government, for such term and subject to such conditions as may be prescribed by rules made under this Act ;

Provided that no such order shall be made without giving the person in charge of the poor-house an opportunity to submit objections and be heard in support of them if he so desires.

(3) If the person committed to a poor-house under sub-section (2) escapes from it or commits a breach of any condition subject to which he was committed to the poor-house, he shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

(4) If the Court finds that the person who has committed an offence punishable under sub-section (1) was not born within the limits of that municipality or has not been continuously resident therein for more than one year, it may, in lieu of passing a sentence or order referred to in the aforesaid sub-sections, by order in writing direct the said person to leave the said limits within such time and by such route or routes as may be stated in the order and not to return thereto without the permission in writing of the District Magistrate. If the said person fails to comply with the order within the time specified therein, the Court may cause the said person to be removed beyond the limits of that municipality under such escort as it may direct.

(5) If the said person returns within the limits of the municipality without the permission of the authority specified in sub-section (4), he shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

(6) Until and during the trial, a person accused of an offence under this section may be detained either in custody under section 344 of the Code of Criminal Procedure 1898, (V of 1898) or in a poor-house, according as the Court may, from time to time, direct.

(7) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), an offence punishable under this section shall be cognizable.

(15-A) (1) *Disposal of dead animals.*

Special provision with respect to disposal of bodies of dead animals.

263-A. (1) Whenever any animal in the charge of any person dies otherwise than by slaughter for sale or for a religious purpose, such person shall within twenty-four hours, either—

(a) convey the carcass to the place, if any, fixed by the Council for the disposal of the dead animals or if no such place had been fixed to any place atleast one mile beyond the limits of the municipality where such bodies may lawfully be deposited;

(b) give notice of death to the Chief Municipal Officer who shall cause the carcass to be disposed of.

(2) For the disposal of dead animals under clause (b) of sub-section (1) the Chief Municipal Officer may charge such fees as the Council may fix by public notice.

(3) For the purposes of this section, the word "animal" shall include horned cattle, elephants, camels, horses, ponies asses, mules, deer, sheep, goats, swine and other large animals.

(15-B) *Disorderly Hou*

263-B. (1) The Council may, by a notice in the prescribed manner, prohibit in any specified part of the municipal area— Power over disorderly houses and prostitutes.

(a) the keeping of a brothel;

(b) the residence of any person who practises prostitution.

(2) Whoever after the date of the notice issued under sub-section (1)—

(a) keeps or manages or acts or assists in the management of a brothel within the prohibited area;

(b) being the tenant, lessee or occupier of any premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution within the prohibited area; or

(c) being the lessor or landlord, of any premises or the agent to such lessor or landlord, lets the same or any part thereof, within the prohibited area with the knowledge that such premises or some part thereof, are, or is used as a brothel, or for the purpose of habitual prostitution, or is wilfully a party to the continued use of such premises as a brothel or for the purposes a habitual prostitutiin; or prohibited area.

(d) being a practising prostitute resides within the

shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and in the case of a continuing ocence with an additional fine not exceeding fifty rupees for every day after the first during which the offence continues.

263-C. On the complaint of the President, or of three or more persons residing within the municipal limits, that a house within the said limits is used as brothel, or by disorderly persons of any description, to the annoyance of the inhabitants of the vicinity, or that any such house is used as a brothel in the neighbourhood of a cantonment or of an educational or charitable institution or boarding house or of any place of worship, any Magistrate of the first class having jurisdiction in the place where the house is situated, may summon the owner or the occupier of the house, and on being satisfied that the house is so used and that it is a source of annoyance or offence to the neighbours, or that it is in the neighbourhood of a cantonment or of an educational or charitable institution or boarding house, or of any Brothels.

place of worship, may order the owner or the occupier to discontinue such use of it, and if he fails to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter, the house is so used.

Control of prostitution.

263-D. The Council may in accordance with the bye-laws made in that behalf control the practice of prostitution within the municipality.

Provision of this Act to be in addition to Central Act, No. 104 of 1956.

263-E. The provisions contained in sections 263-B, 263-C and 263-D shall be in addition to and not in derogation of the provisions of the Suppression of immoral traffic in Women and Girls Act, 1956 (104 of 1956) and anything done or ony action taken under these sections shall be subject to the provisions of the said Act.

(16) Service of Notices, Penalties on non-compliances therewith.

and execution of works on default.

Service of notices, addressed to individuals.

264. (1) The service of every notice, and presentation of every bill under this Act, on any person or to any person to whom it is by name addressed, shall in all cases not otherwise specially provided for in this Act, be effected by a Municipal Officer, servant or other person authorised by the Council in this behalf—

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

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

(c) if such person does not reside within the municipal limits, and his address elsewhere is known to the President or other person directing the issue of the notice or bill, then by forwarding the notice or bill by Registered Post Acknowledgement Due under cover bearing the said address ; or

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

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

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

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

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

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

(4) No notice or bill shall be invalid for defect of form.

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

(6) In the event of non-compliance with the terms of any notice under this Chapter, it shall be lawful, for the Council to take such action or such steps as may be necessary for the completion of the act thereby required to be done, and all the expenses incurred therein by the Council shall be paid by the person or persons upon whom the notice was severed, and shall be recoverable in the manner provided in Chapter VIII.

Power to take the re-cognisance bond.

[265. (1) Before giving any final orders with regard to matter contained in section 169 and 176 if interim or provisional order is passed by or on behalf of a Council or any officer authorised by the Council in this behalf against any person, the Council or such officer may along with issuing such order require such person by a written notice to executive a re-cognisance bond of an amount not exceeding five hundred rupees for the compliance of such order.

(2) In such a case the Council shall pass the final order within two months from the execution of the re-cognisance bond after which period it shall be deemed that the re-cognisance bond has been cancelled.

(3) If any person who is required by notice to execute recognisance bond in accordance with the provisions of sub-section (1) refuses to execute the said bond he shall on conviction be punished with fine which may extend to five hundred rupees and in the case of continuing non-compliance with an additional fine which may extend to five rupees for every day during which such non-compliance continues after the conviction for the first such non-compliance.

(4) The Magistrate concerned may order the forfeiture of the amount of the bond in case the person concerned contravenes the terms of the recognisance bond executed by him in accordance with the provisions of sub-section (1).

(5) The amount forfeited in accordance with the provision of sub-section (4) may be realised in the manner as a fine.]

Relief to agent, receiver and trustees.

265-A. (1) If any person, by reason of his receiving the rent of immovable property as agent, receiver or trustee, or of his being as agent, receiver or trustee of the

place of worship, may order the owner or the occupier to discontinue such use of it, and if he fails to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter, the house is so used.

Control of prostitution.

263-D. The Council may in accordance with the bye-laws made in that behalf control the practice of prostitution within the municipality.

Provision of this Act to be in addition to Central Act, No. 104 of 1956.

263-E. The provisions contained in sections 263-B, 263-C and 263-D shall be in addition to and not in derogation of the provisions of the Suppression of immoral traffic in Women and Girls Act, 1956 (104 of 1956) and anything done or ony action taken under these sections shall be subject to the provisions of the said Act.

(16) Service of Notices, Penalties on non-compliances therewith.

and execution of works on default.

Service of notices, addressed to individuals.

264. (1) The service of every notice, and presentation of every bill under this Act, on any person or to any person to whom it is by name addressed, shall in all cases not otherwise specially provided for in this Act, be effected by a Municipal Officer, servant or other person authorised by the Council in this behalf—

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

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

(c) if such person does not reside within the municipal limits, and his address elsewhere is known to the President or other person directing the issue of the notice or bill, then by forwarding the notice or bill by Registered Post Acknowledgement Due under cover bearing the said address ; or

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

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

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

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

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

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

(4) No notice or bill shall be invalid for defect of form.

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

(6) In the event of non-compliance with the terms of any notice under this Chapter, it shall be lawful, for the Council to take such action or such steps as may be necessary for the completion of the act thereby required to be done, and all the expenses incurred therein by the Council shall be paid by the person or persons upon whom the notice was severed, and shall be recoverable in the manner provided in Chapter VIII.

Power to take the re-cognisance bond.

[265. (1) Before giving any final orders with regard to matter contained in section 169 and 176 if interim or provisional order is passed by or on behalf of a Council or any officer authorised by the Council in this behalf against any person, the Council or such officer may along with issuing such order require such person by a written notice to executive a re-cognisance bond of an amount not exceeding five hundred rupees for the compliance of such order.

(2) In such a case the Council shall pass the final order within two months from the execution of the re-cognisance bond after which period it shall be deemed that the re-cognisance bond has been cancelled.

(3) If any person who is required by notice to execute recognisance bond in accordance with the provisions of sub-section (1) refuses to execute the said bond he shall on conviction be punished with fine which may extend to five hundred rupees and in the case of continuing non-compliance with an additional fine which may extend to five rupees for every day during which such non-compliance continues after the conviction for the first such non-compliance.

(4) The Magistrate concerned may order the forfeiture of the amount of the bond in case the person concerned contravenes the terms of the recognisance bond executed by him in accordance with the provisions of sub-section (1).

(5) The amount forfeited in accordance with the provision of sub-section (4) may be realised in the manner as a fine.]

Relief to agent, receiver and trustees.

265-A. (1) If any person, by reason of his receiving the rent of immovable property as agent, receiver or trustee, or of his being as agent, receiver or trustee of the

person who would receive the rent if the property were let to a tenant, is, under this Act, bound to discharge any obligation imposed by this Act on the owner of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, in his hands funds belonging to the owner sufficient for the purpose.

(2) The burden of proving the fact entitling an agent receiver or trustee to relief under this section shall lie on him.

(3) If any agent, receiver or trustee has claimed and established his right to relief under this section, the Council may give him notice to apply to the discharge of such obligation as aforesaid the first moneys which shall come to his hands on behalf, or for the use, of the owner, and should he fail to comply with such notice, he shall be deemed to be personally liable to discharge such obligation.

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

266. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by or on behalf of a Council under any power conferred by this Chapter or fails to comply with the conditions subject to which any permission was given to him by the Council under any power conferred shall, if the disobedience or failure is not an offence punishable under any other section, be punished with fine which may extend to five hundred rupees, and in the case of a continuing offence with further fine which may extend to five rupees for every day on which the said disobedience or failure continues after the date of the first conviction :

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

General penalty.

267. Whoever does or omits to do an act in contravention of any provisions of this Act or the rules or bye-laws made thereunder or the conditions of a licence or permission granted by Council or any of its officers under the said provision or rules or bye-laws shall, if such act or omission is not an offence under the said provision or rules or bye-laws, be punished with fine which may extend to fifty rupees and with further fine which may extend to five rupees for every day on which such act or omission continues after the date of the first conviction.

Council in default of owner or occupier may execute works and recover expenses.

268. (1) Where under the provisions of this Act, any work is required to be executed by the owner or occupier of any building or land and the default is made in execution of such work, the Council whether any penalty is, or is not provided for such default, may cause such work to be executed; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to it by the person by whom such work ought to have been executed, and shall be

recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII either in one sum or by instalment as the Council may deem fit:

Provided that—

(a) where any Drainage Scheme or Water Works Scheme has been commenced by any Council, it shall be lawful for the Council, without prejudice to its power under section 183 or any other provision of this Act, to make a special agreement with the owner of any building or land as to the manner in which the Drainage and Water connection thereof shall be carried out, and the pecuniary or other assistance, if any, which the Council shall render, and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement or in default, in the manner prescribed in sub-section (2) and (3);

(b) where an order or requisition has been passed under sub-section (1) of section 162, sub-section (3) of section 169, or under sections 182, 185, 190 or 191 or where permission has been given under section 189 or where an arrangement has been made under clause (a) the Council may, without prejudice to any other powers under this Act, if it thinks fit, declare any expenses incurred by the Council in the execution of such order or in the carrying out of such requisition, permission or arrangement to be improvement expenses. Improvement expenses shall be charged upon the premises or land, and shall be levied in such instalments as the Council may decide including interest at the rate of 6¼ per cent per annum, and shall be recoverable in the manner described in sub-sections (2) and (3).

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

(3) No occupier of any land or building shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable, at the time of the demand made upon him or which at any time after such demand and notice not

to pay rent to the landlord has accrued and become payable by such occupier, unless he neglects or refuses, upon application made to him for this purpose by the Council, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier:

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

Occupier in default of owner may execute work and deduct expenses from his rent.

269. Where default is made by the owner of any building or land in the execution of any work required to be executed by him, the occupier of such building or land may, with the approval of the Council, cause such work to be executed and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings, if any occupier opposes the execution of the Act.

270. If the occupier of any building or land prevents the owner thereof from carrying into effect in respect of such building or land, any of the provisions of this Act, after notice of his intention so to carry them into effect has been given by the owner to such occupier; any Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land, as may be necessary for carrying into effect the provisions of this Act, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order; and if, after the expiration of 8 days from the date of the order, such occupier continues to refuse to permit such owner to execute any such work, such occupier for every day during which he so continues to refuse be punished with fine which may extend to fifty rupees and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

(17) *Summary powers regarding certain offences.*

Summary powers regarding certain offences.

271 The State Government may appoint an officer of the Council to be a Magistrate under the Code of Criminal Procedure, 1898 (V of 1898) to try offences with regard to matters relating to sections 193, 194, 216, 217, 218, 219, sub-section (1) of section 220, 224, 228, and [243] 245 and may empower to try them summarily.

(18) *Miscellaneous*

Entry for inspection Act.

272. It shall be lawful for the President, [Chief Executive Officer] Chief Municipal Officer, Municipal Mealth Officer or Municipal Engineer or any Councillor authorised by the Council or any officer or servant authorised by the [Chief Executive Officer] Chief Municipal Officer for such purposes, to enter for the purposes of this Act, between

sunrise and sunset with such assistants as he may deem necessary, into and upon any building or land, as well for the purpose of making any survey or inspection they may be entitled to make for the purpose of executing any work authorised by this Act to be executed by them:

Provided that, except when herein otherwise provided no building or land which may be occupied at the time shall be entered unless with the consent of the occupier thereof without 24 hours' written notice thereof having been given to the said occupier:

Provided further that in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers.

Arbitration in cases of compensation etc.

273. (1) If an agreement is not arrived at with respect to any compensation or damages which are by this Act directed to be paid, the amount and if necessary the apportionment of the same shall be ascertained and determined by a Panchayat of three persons of whom one shall be appointed by the Council, one by the party to or from whom such compensation or damages may be payable or recoverable, and one, who shall be Sarpanch, shall be selected by the members already appointed as above.

(2) If either party or both parties fail to appoint members within one month from the date of either party receiving written notice from the other of claim to such compensation or damages, or if the members fail to select a Sarpanch, such members as may be necessary to constitute the Panchayat shall be appointed at the instance of either party, by the [District Judge] District Court.

(3) In the event of the Panchayat not giving a decision within one month from the date of the selection of the Sarpanch or of the appointment by the District Court of such members as may be necessary to constitute the Panchayat, the matter shall, on application by either party, be determined by the District Court which shall, in cases in which the compensation is claimed in respect of land follow, as far as may be, the procedure provided in the Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the Court:

Provided that—

(a) no application to the Collector for a reference shall be necessary; and

(b) the Court shall have full power to give and apportion the costs of all proceedings in the manner it thinks fit.

(4) In any case where the compensation is claimed in respect of land and the Panchayat has given a decision, either party, if dissatisfied with the decision, may within a month of the date thereof apply to the District Court and the matter shall be determined by the District Court in accordance with the provisions of sub-section (3).

(5) In any case where the compensation is claimed in respect of any land or building the Council may after the award has been made by the Panchayat or the District Court as the

case may be, take possession of the land or building after paying the amount of the compensation determined by the Panchayat or the District Court to the party to whom such compensation may be payable. If such party refuses to accept such compensation, or if there is no person competent to alienate the land or building, or if there is any dispute as to the title to the compensation or as to the apportionment of it, the Council shall deposit the amount of the compensation in the District Court.

(6) In the absence of any express provision to the contrary, the compensation payable under this Act shall be determined in accordance with the principles laid down in the Land Acquisition Act, 1894.

Costs or expenses how determined and recovered.

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

Certain sections when to take effect in the case of a third or fourth class Municipality.

275. In the case of Class [II], III or IV Municipality, all or any of the following sections will take effect only when so notified by the State Government in this behalf :—

162, 163, 167, 189, 210, 221, 233, [245] 248 and 249.

Certain powers of the Council to be exercised by the Chief Executive Officer in a first class Municipality.

[276. In the case of a Class I Municipality the Chief Executive Officer may by written notice make a demand, give sanction or permission, issue orders and exercise all the powers and discharge all the functions that a Council is authorised to make, give, issue, exercise or discharge under any of the provisions of the following sections :—

124, 162, 165, (5) (a) and (b), 166, 167, 168, 169, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, (2), 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 212, 213, 214, 216, 217, 219, 220, 224, 228, 229, 240, 244, 258 and 260].

Certain powers of the Council to be exercised by the President and the Chief Municipal Officer.

276. Notwithstanding anything contained in this Act, all the powers and functions of the Council under—

(a) Sections 165 (5), 166, 168, 169, 172, 185, 187, 188, 189, 191, 192, 193, 194, 200, 210, 244, and 258 shall be exercised and discharged by the President; and

(b) Sections 162 (1) and (2), 167, 173, 174, 176, 177, 178, 180, 181, 182 (2), 186, 190, 195, 197 198, 199, 202, 203, 204, 205, 206, 207, 208, 209, 212, 213, 214, 216, 217, 219, 220, 224, 228, 229, 230 and 260 shall be exercised and discharged by the Chief Municipal Officer.

CHAPTER X.—APPEALS

[Appeal against the order of the Chief Executive Officer.]

277. [(1) In the case of a Class I Municipality any person aggrieved by—

(a) any notice or order issued or other action taken by the Chief Executive Officer under sections 162, 165 (5) (a) and (b), 166, 167, 169, 172, 173, 174, 175, 176, 185, 187, 188, 189, 190, 191, 192, 193, 194, 202, 203, 205, 209, 210, 220, 229, 258 and 260 or any bye-law made for the purposes of such sections; or

(b) any order of the Chief Executive Officer regarding granting or refusing a licence or permission ; or

(c) any other order of the Chief Executive Officer that may be made appealable by byelaws made under section 324.

may appeal to the Council within 30 days from the date of such order and such appeal shall be heard and disposed off by a committee to be called the Appeal Committee.]

Appeal against the orders of the President, and the Chief Municipal Officer.

(1) In the case of a Class I and Class II Municipality ny person aggrieved by—

(a) a notice or order issued or other action taken by the President under sections 165 (5) (a) and (b), 166, 169, 172, 185, 187, 188, 189, 191, 192, 193, 194, 210, 244 and 258 or any rules or bye-laws madè for the purposes of the said sections or for any order made appealable by such rules or byelaws or any order granting or refusing to grant a licence or permission, may appeal to the Council within thirty days from the date of such order and such appeal shall be heard and disposed of by the Council in the prescribed manner;

(b) any notice or order issued or other action taken by the Chief Municipal Officer under sections 162 (1) and (2), 167, 173, 174, 176, 190, 202, 203, 205, 209, 220, 229 and 260 or any rules or byelaws made for the purposes of the said sections or any order made appealable by such rules or byelaws or any order granting or refusing to grant a licence or permission, may appeal to the Appeal Committee within thirty days from the date of such order and such appeal shall be heard and disposed of by the Appeal Committee in the prescribed manner.

(2) The Appeal Committee shall be appointed by the Council consisting of the President of the Council and four other councillors who shall be appointed in accordance with the rules made in this behalf.

[(3) The Appeal Committee may for sufficient cause extend the period prescribed for appeal.]

(3) The Council or the Appeal Committee may, for sufficient reasons to be recorded in writing, admit any appeal, after the expiry of the period specified in sub-section (1).

(4) [The Appeal Committee] The Council or the Appeal Committee as the case may be may remand any case for further enquiry or decision or may pass any other order that may be deemed just and proper ; and no appeal or revision shall lie against this decision:

Provided that no orders shall be passed to the prejudice of any person until he has been given a reasonable opportunity of being heard.

(5) [The Appeal Committee] The Council or the Appeal Committee as the case may be may allow any Executive Officer or any other official deputed by the [Chief Executive Officer] Chief Municipal Officer for the purpose to appear before it in any appeal and to watch, or represent the interest of the Council.

(6) In case [when] the [Chief Executive Officer] Chief Municipal Officer himself or any other person is appointed to exercise all the powers and duties of the Council under section 298 an appeal against orders passed by him pertaining to matters mentioned in sub-section (1) shall lie to such person or committee of persons as the State Government may by notification, from time to time, appoint in this behalf and such person or committee of persons shall exercise all the powers of the Appeal Committee mentioned in this section.

Appeals against orders of Council, in second, third and fourth class Municipality.

278. [(1) In the case of Municipalities of Class II, III and IV, any person aggrieved by :—

(a) any notice or order issued or other action taken by the Council under section 162, 165 (5) (a) and (b), 166, 167, 169, 172, 173, 174, 175, 185, 187, 188, 189, 190, 191, 192, 193, 194, 200, 201, 205, 209, 210, 220, 229, 258 and 260 of this Act or under any byelaw made for the purposes of these sections; or

(b) any order of the Council or the Chief Executive Officer, as the case may be, regarding granting or refusing a licence or permission; or

(c) any order of the Council made appealable by byelaws framed under section 324;

may appeal to the Collector of the District within thirty days from the date of such order.

(2) The Collector, may for sufficient cause extend the period prescribed for appeal.]

Appeals against orders of Council, President and Chief Municipal Officer in III and IV Class Municipalities.

278. (1) In the case of municipality of Classes III and IV any person aggrieved by—

(a) any notice or order issued or other action taken by the Council under sections 175, 179, 201 and 211-A or under any rules or byelaws made for the purposes of the said sections, and

any order made appealable by such rules or byelaws;—

(b) any notice or order or other action taken by the President under sections 165 (5) (a) and (b), 166, 169, 172, 185, 187, 188, 189, 191, 192, 193, 194, 200, 210, 244 and 258 or under any rules or byelaws made for the purposes of the said sections and any order made appealable by such rules or byelaws ;

(c) any notice or order or other action taken by the Chief Municipal Officer under sections 162, (1) and (2) 167, 173, 174, 176, 190, 202, 203, 205, 209, 220, 229 and 260 or under any rules or byelaws made for the purposes of the said sections and any order made appealable by such rules or byelaws;

(d) any order of the Council, President or the Chief Municipal Officer, as the case may be, granting or refusing to grant a licence or permission ;

may appeal to the Collector within thirty days from the date of such order and such appeal shall be heard and disposed of by the Collector in the prescribed manner.

(2) The Collector may, for sufficient reasons to be recorded in writing, admit any appeal after the expiry of the period specified in sub-section (1).

(3) The Collector, may remand any case for further enquiry or decision or may pass any other order that may be deemed just and proper and no appeal or revision shall lie against this decision:

Provided that no order shall be passed to the prejudice of any person until he has been given a reasonable opportunity of being heard.

(4) The Collector may allow an Executive Officer or any other official deputed by the Council for the purpose to appear before him in any appeal and to watch or represent interest of the Council.

[279. When an appeal has been instituted against an order under section 277 and 278 all proceedings to enforce such order and all prosecutions for a breach thereof may, by order of the appellate authority, if deemed fit by it so to be done for sufficient reason with such restrictions as it may think proper to impose or otherwise, be suspended pending the decision of the appeal and, if such order is set aside on appeal, disobedience thereof shall not be deemed to be an offence.]

279. (1) An appeal under section 277 or section 278 or any other provision of this Act or rules made thereunder shall not operate as a stay of proceedings under a notice or order appealed from except so far as the appellate authority may order, nor shall execution of a notice or order be stayed by reason only of an appeal having been preferred from the notice or order ; but the appellate authority may,

for sufficient cause, order stay of execution of such notice or order.

(2) No order for stay of execution shall be made under sub-section (1) unless the appellate authority making it is satisfied—

(a) that substantial loss may result to the party applying for stay of execution unless the order is made ; and

(b) that the application has been made without unreasonable delay ;

(3) Notwithstanding anything contained in sub-section (2), the appellate authority may make an *ex-parte* order for stay of execution pending the hearing of the application.

Procedure to be followed by appeal committee.

280. [The appeal committee] the Council, the appeal committee or the Collector shall follow such procedure as may be prescribed by rules.

Pending cases.

281. [(1) Notwithstanding anything contained in this Act an appeal pending before any authority under any of the enactments repealed by this Act, immediately before the commencement of this Act, shall be heard and disposed of by such authority in accordance with provisions of the enactments so repealed.]

(1) Notwithstanding anything contained in this Act,—

(a) an appeal or revision pending before any authority under any of the enactments repealed by this Act immediately before the commencement of this Act ; or

(b) where a right for appeal or revision has accrued against a notice issued or an order passed immediately before the commencement of this Act and the limitation set out therefor under any of the enactments repealed by this Act has not expired ;

such appeal or revision shall be heard and disposed of by the authority competent to hear such appeal or revision in accordance with the provisions of the enactment so repealed.

(2) Notwithstanding any subsequent change in the classification of a Municipality under section 4 an appeal pending before any authority competent to hear the appeal under this Act immediately before such change shall be heard and disposed of by such authority.

CHAPTER XI.—PROSECUTIONS, SUITS AND POWERS OF POLICE

Power to institute legal proceedings and obtain legal advice.

282. With the previous sanction of the Council the [Chief Executive Officer] Chief Municipal Officer or such other officer as may be authorised by the Council in this behalf may on behalf of the Council :—

(a) institute, defend or withdraw from legal proceedings under this Act, or under any rule or byelaw made

thereunder or any other enactment for the time being in force;

(b) admit, compromise or withdraw any claim made under this Act or under any rule or byelaw made thereunder, or under any other enactment for the time being in force; and

(c) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain for any purpose referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vesting in or imposed upon the Council, any of its committees or any municipal officer or servant.

Council may prosecute.

283. (1) The Council, the [Chief Executive Officer] Chief Municipal Officer or any other officer authorised by the Council in this behalf in the case of Class I Municipality and the Council or any other officer authorised by the Council in this behalf in the case of other Classes of Municipalities may direct:—

(i) any prosecution for any offence under this Act or under any rule or byelaw made thereunder;

(ii) proceedings to be taken for the recovery of any penalties and for the punishment of any persons offending against the provisions of this Act or of any rule or byelaw made thereunder; and

(iii) that the expenses of such prosecutions or other proceedings be paid out of the Municipal fund:

Provided that no prosecution for an offence under this Act or under any rule or byelaw made thereunder shall be instituted except :—

(i) within 12 months next after the date of the commission of such offence; or

(ii) if such date is not known or the offence is a continuing one, within twelve months next after the date on which the commission or existence of such offence was first brought to the notice of the Council or of any officer or servant whose duty it is to report such offence to the Council.

(2) Any prosecution under this Act or under any rule or byelaw thereunder may, save as therein otherwise provided, be instituted before any Magistrate ; and every fine or penalty imposed under or by virtue of this Act or any rule or byelaw thereunder, and any compensation, expenses, charges or damages for the recovery of which no special provision is otherwise made in this Act may be recovered on application to any Magistrate by the distress or sale of any movable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

Distress lawful though defective in form.

284. No distress or attachment made by virtue of this Act shall be deemed unlawful nor shall any party making the same be deemed a trespasser on account of any defect or want of form in any summons, conviction or warrant of distress or attachment or other proceedings relating thereto, nor shall such party be deemed a trespasser *ab inito* on account of any irregularity

afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any court of competent jurisdiction.

Compensation to be paid by affective against this Act for any damage caused by them.

[285. (1) Any person who has been convicted of an offence punishable under this Act or under any rule or byelaw made thereunder shall, notwithstanding any punishment for which he may have been sentenced for the said offence, be liable to pay such compensation for any damage to any property of the Council resulting from the said offence as the Chief Executive Officer may consider reasonable.

(2) In the event of dispute regarding the amount of compensation payable under sub-section (1), such amount shall, on application made to him, be determined by the Magistrate before whom the said person was convicted of the said offence and on his failure to pay the amount of compensation so determined the same shall be recovered under a warrant issued by the said Magistrate as if it were a fine inflicted by him on the person liable to pay the compensation.]

Damage to Municipal property how made good.

285. If through any act, neglect or default, on account whereof any person shall have incurred penalty imposed by or under this Act, any damage to the property of a municipality shall have been caused by such person, he shall be liable to make good such damage as well as to pay such penalty and the amount of damage shall, in case of dispute, on the application in writing of the Chief Municipal Officer, be determined by the court by whom the person incurring such penalty is convicted; and on non-payment of such amount on demand the same shall be levied by distress and such Court shall issue the warrant accordingly.

Alternative procedure by suit.

286. In lieu of any process of recovery allowed by or under this Act or in case of failure to realise by such process the whole or any part of any amount recoverable under the provisions of Chapter VIII or of any compensation, expenses, charges or damages payable under this Act, it shall be lawful for the Council to sue in any court of competent jurisdiction the person liable to pay the same.

Power to compound offence.

287 (1) The Council or, with the authorisation of the Council, its President, Vice-President [Chief Executive Officer], Chief Municipal Officer or health officer or any committee thereof, may accept from any person against whom a reasonable suspicion exists that he has committed an offence against this Act or any rule or byelaw made thereunder, a sum of money by way of composition for such offence.

(2) On payment of such sum of money, the suspected person, if in custody, shall be discharged, and no further proceedings shall be taken against him in regard to the offence or alleged offence so compounded for.

(3) Sums paid by way of composition under this section shall be credited to the municipal fund.

(4) Authorization under sub-section (1) to accept composition for alleged offences may be given by the Council either generally in regard to all offences under this Act and the rules

and byelaws made thereunder or particularly in regard only to specified offences or offences of a specified class, and may, at any time, be withdrawn by the Council.

(5) The State Government may make rules under this Act regulating the procedure to be followed by persons empowered to accept composition for offences.

(6) The provisions of this section shall apply to such Council as the State Government may be notification specify.

Indemnity for acts done in good faith.

288. No suit shall be maintainable against the Council or any of its committees, or any municipal officer or servant, or any person acting under or in accordance with the direction of the Council or any of its committees or any municipal officer or servant, or of a Magistrate, in respect of anything in good faith done or intended to be done under this Act or under any rule or byelaw made thereunder.

Bar of suit in absence of notice.

289. (1) No suit shall be instituted against any Council or any councillor, officer or servant thereof or any person acting under the direction of any such Council, councillor, officer or servant for anything done or purporting to be done under this Act, until the expiration of two months next after a notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of a Council, delivered or left at its office, and, in the case of any such member, officer, servant or person as aforesaid, delivered to him or left at his office or usual place of abode; and the plaint shall contain a statement that such notice has been so delivered or left.

(2) Every such suit shall be dismissed unless it is instituted within [six] eight months from the date of the accrual of the alleged cause of action.

(3) Nothing in this section shall be deemed to apply to any suit instituted under section 54 of the Specific Relief Act, 1877 (I of 1877).

Powers of police to arrest offenders.

290. (1) Any police officer may arrest any person who commits any offence against this Act or any rule or byelaw made thereunder :—

(a) if the name and address of the person are unknown to him; and

(b) if the person declines to give his name and address or there is reason to doubt the accuracy of the name and address given.

(2) Any person arrested under this section may be detained until his name and address are correctly ascertained:

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a Magistrate unless an order of Magistrate for his detention is obtained.

(3) It shall be the duty of every police officer employed within the limits of the municipality :—

(i) to communicate without delay to the Council any information which he receives of a design to

commit or of the commission of any offence against this Act or any rule or byelaw made thereunder; and

(ii) to assist any Municipal Officer or servant reasonably demanding his aid for the lawful exercise of any power vested in the Council or in any municipal officer or servant under this Act or any rule or byelaw made thereunder.

Police protection at fairs, etc.

[291. When special police protection is, in the opinion of the State Government, necessary on occasion of any fair, agricultural show or industrial exhibition managed by the Council, or on the occurrence of any epidemic disease, the State Government may provide such protection, and the Council shall pay the whole charge thereof or such portion of the charge as the State Government may consider equitably to it.]

Police protection of fairs etc.

291. When special police protection is, in the opinion of the Council necessary on occasion of any fair, agricultural show or industrial exhibition managed by the Council, or on the occurrence of any epidemic disease, the State Government may, on the request of the Council, provide such protection.

CHAPTER XII.—CONTROL

Power of inspection and supervision.

292. The Divisional Commissioner, Collector or any officer authorised by the State Government in this behalf by general or special order may—

(a) enter on and inspect or authorise any other person to enter on and inspect any immovable property occupied by Council or any of its committees or any institution under its control or management or any work in progress under its direction:

(b) call for or inspect any record or extract from the proceedings of any meeting of the Council or of any of its committees and any book or document in the possession of or under the control of a Council;

(c) call for any return, statement, account or report which he may think fit to require such Council to furnish;

(d) require a Council to take into its consideration any objection which appears to him to exist to the doing of any thing which is about to be done or is being done by or on behalf of such Council or any information which it is able to furnish and which appears to him to necessitate the doing of a certain thing by the Council, and to make a written reply to him within a reasonable time stating its reason for not desisting from doing, or for not doing such thing.

Power to suspend execution of orders, etc., of Council.

293. (1) If, in the opinion of the Divisional Commissioner, the Collector, or any other officer authorised by the State Government in this behalf the execution of any [other] order

or resolution of a Council, or of [any other authority] any of its Committee or any other authority or officer subordinate thereto, or the doing of any act which is about to be done or is being done by or on behalf of the Council, is not in conformity with law or with the rules or byelaws made thereunder and is detrimental to the interests of the Council or the public or is causing or is likely to cause injury or annoyance to the public or any class or body of persons or is likely to lead to a breach of the peace, he may by order in writing under his signature suspend the execution of such resolution or order or prohibit the doing of any such act.

(2) When any order under sub-section (1) is passed, the authority making the order, shall forthwith forward to the State Government and to the Council affected thereby a copy of the order with a statement of reasons for making it; and it shall be in the discretion of the State Government to rescind the order, or to direct that it shall continue in force with or without modification, permanently or for such period as it thinks fit:

Provided that the order shall not be revised, modified or confirmed by the State Government without giving the Council reasonable opportunity of showing cause against the order.

Extraordinary powers in case of emergency.

294. (1) In cases of emergency the State Government or any officer, authorised by the State Government in this behalf may direct or provide for the execution of any work, or the doing of any act, which a Council is empowered to execute or do, and the immediate execution or doing of which is in its or his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the Council.

(2) If the expenses and the remuneration are not so paid, the State Government or any officer authorised in this behalf may make an order directing any person, who for the time being has custody of any moneys on behalf of the Council, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

(3) Provisions of sub-section (2) of section 293 shall, so far as may be, apply to any order made under this section.

Power to prevent extravagant establishment.

295. If in the opinion of the State Government the number of persons who are employed by the Council as officers or servants, or whom the Council may propose to employ as such or the remuneration assigned by the Council to those persons, or to any of them, is excessive, the Council shall, on the requirement of the State Government reduce the number of those persons or the remuneration, as the case may be.

Enquiry into Municipal matters.

296. (1) The State Government may order an enquiry to be held by any officer appointed by it in this behalf into any matter concerning the municipal administration of any Council or any matter with respect to which its sanction, approval or consent is required under this Act.

(2) The Officer holding such inquiry shall for the purposes thereof have the powers which are vested in a court under the Code of Civil Procedure, 1908 (V of 1908), in respect of the following matters:—

(a) discovery and inspection;

(b) enforcing the attendance of witnesses; and requiring the deposit of their expenses;

(c) compelling the production of documents;

(d) examining the witnesses on oath;

(e) granting adjournments;

(f) reception of evidence taken on affidavit; and

(g) issuing commissions for the examination of witnesses;

and may summon and examine *suo motu* any person whose evidence appears to him to be material; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (V of 1898).

Explanation.—For the purpose of enforcing the attendance of witnesses the local limits of such officer's jurisdiction shall be the limits of Madhya Pradesh State.

(3) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the officer holding the inquiry to such person and shall be deemed to be part of the costs.

(4) Costs shall be in the discretion of the Government and the Government shall have full power to determine by and to whom and to what extent such costs are to be paid, and to allow interest on costs at a rate not exceeding 6¼ per cent per annum and such cost and interest shall be leviable as an arrear of land revenue.

Power to provide for performance of duties in default of Council.

297. (1) If, on a complaint made to it or otherwise, the State Government is satisfied, after such enquiry, if any, as it may deem necessary, that a Council has made default in performing any duty imposed on it or undertaken by it by or under this Act, or by or under any enactment for the time being in force, the State Government may, by an order in writing, fix a period for the performance of that duty:

Provided that no order shall be passed until reasonable opportunity has been given to the Council to furnish an explanation of showing cause against the proposed order.

(2) If that duty is not performed within the period so fixed, the State Government or any officer authorised in this behalf, may appoint some person to perform it, and may direct that the expense of performing it, with reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the Council.

(3) If the expense and remuneration are not so paid, the State Government or any officer authorised by the State Government in this behalf may make an order directing the Bank in which any moneys of the Council are deposited or the person

incharge of the Government Treasury or of any other place of security in which the moneys of the Council are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the Council in such Bank or may be in the hands of such persons or as may from time to time be received from or on behalf of the Council by way of deposit by such Bank or person; and such Bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such Bank or person from all liability to the Council in respect of any sum or sums so paid by it or him out of the moneys of the Council so deposited with such Bank or person.

Powers to dissolve a Council for incompetence, default or abuse of powers.

298. [(1) If at any time upon representation made or otherwise it appears to the State Government that the Council is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act or any other law for the time being in force, or exceeds or abuses its powers or fails to carry out any order passed by the State Government under this Act, the State Government may, by an order stating the reasons therefor published in the Gazette dissolve such Council and may order a fresh election to take place].

298. (1) If at any time upon representation made or otherwise it appears to the State Government that—

(a) the Council is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act or any other law for the time being in force, or exceeds or abuses its powers or fails to carry out any order passed by the State Government under this Act ;

(b) the President of the Council or any of its committee is not competent to perform, or persistently makes default in the performance of the duties imposed on him or it by or under this Act or any other law for the itme being in force, or exceeds or abuses his or its powers or fails to carry out any order passed by the State Government under this Act and the Council has failed or neglected to take action against the President or the Committee;

the State Government may, by an order stating the reasons therefor published in the Gazette dissolve such Council and may order a fresh election to take place.

(2) If after fresh election the new Council continues to be incompetent to perform or to make default in the performance of such duties or orders or abuses its powers the State Government may, by an order stating the reasons therefor published in the Gazette, declare the Council to be incompetent or in default or to have exceeded or abused its powers or to have failed to carry out Government orders, as the case may be, and supersede it for a period to be specified in the order.

(3) Notwithstanding what is stated in sub-sections (1) and (2) if in the opinion of the State Government the conditions in the Council are such as to justify supersession straight way instead of first dissolving the Council, the State Government may by an order, stating the reasons for taking such action, published in the Gazette, supersede the Council for a period to be specified in the order.

(4) No order under sub-section (1) or sub-section (2) or sub-section (3) shall be passed until reasonable opportunity has been given to the Council to furnish an explanation.

(5) If in the opinion of the State Government the circumstances of any Council superseded under sub-section (2) or (3) are such as to justify the extension of the period of supersession specified under the said sub-sections the State Government may from time to time, by an order stating the reasons therefor, published in the Gazette, extend the period of supersession for such further period as may be specified in such order:

Provided that the total period of supersession under sub-sections (2) and (3) together with its extension under this sub-section shall not exceed two years or the un-expired term of the Council, whichever is less.

(6) If the Council is dissolved or superseded as provided in the preceding sub-sections, the following consequences shall ensue :—

(a) all the Councillors of the Council shall, as from the date of the order vacate their offices as Councillors;

(b) all powers and duties of the Council under this Act may, until the Council is reconstituted, be exercised and performed by such person or a Committee of persons as the State Government may appoint in that behalf;

(c) all properties vested in the Council, shall, until the Council is reconstituted, vest in the State Government ;

(d) when more than one person are appointed under clause (b) any one of them, duly authorised in this behalf by a resolution passed by them, may sue or institute or defend any action-at-law by or against the Council.

(7) Any person or persons appointed by the State Government to exercise and perform the powers and duties of a Council during the period of its dissolution or supersession may receive payment, if the State Government so directs, for his or their services from the municipal fund.

Power to demand punishment and dismissal.

299. Notwithstanding anything contained in this Act, if in the opinion of the State Government any officer or servant of the Council is negligent in the discharge of his duties the Council shall, on the requirement of the State Government, suspend, fine

or otherwise punish him and if in the opinion of the State Government he is unfit for his employment the Council shall dismiss him from service.

Provided that no such order shall be passed until reasonable opportunity has been given to the person concerned to furnish his explanation and the same has been considered.

Control of the Government.

300. The State Government may, at any time, for the purpose of satisfying itself, as to the legality or propriety of any order passed by the [Chief Executive Officer] Chief Municipal Officer or the President in exercise of the powers conferred by this Act, or as to the regularity of the proceedings of any meeting of the Council or any of its Committees held in pursuance of the provisions of this Act call for and examine the record of any case pending before or disposed of by the [Chief Executive Officer] Chief Municipal Officer, the President, the Council or such Committee and may pass such order in reference thereto as it thinks fit:

Provided that no order shall be varied or reversed unless notice has been given to the parties interested to appear and to be heard in support of such order.

Power of Government of Revision.

300-A.—(1) The Government may for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed by a Divisional Commissioner, Collector, prescribed authority or any officer appointed or authorised by the Government under this Act, call for the connected records and may in doing so direct that pending the examination of the record such order be held in abeyance.

(2) On examining the records the Government may modify or reverse the order of a Divisional Commissioner, Collector, prescribed authority or any other officer appointed or authorised by the Government under this Act as it deems fit:

Provided that no order shall be varied or reversed unless notice has been given to the parties interested to appear and to be heard in support of such order.

Power of review.

300-B. (1) The State Government may, either on its own motion or on the application of any party interested, review any order passed by itself, and the Commissioner, the Collector, the prescribed authority or any other officer authorised under this Act may, similarly, review any order passed by himself and pass such order in reference thereto as it or he thinks fit:

Provided that—

(i) no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard in support of such order;

(ii) no order from which an appeal has been made, or which is the subject of any revision proceedings, shall, so long as such appeal or proceedings are pending, be reviewed;

(iii) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings and no application for the review of such order shall be entertained unless it is made within ninety days from the passing of the order.

(2) An order which has been dealt with by the State Government in appeal, revision or review shall not be reviewed by the Commissioner or the Collector or the prescribed authority or the officer authorised under this Act and an order which has been dealt with in appeal or revision shall not be reviewed by any of such authorities.

Enforcement of orders.

301. In all matters connected with this Act, if a Council makes default in carrying out any order made by the State Government or by any authority other than the Council in exercise of any of the powers conferred by this Act or any rule made thereunder, the State Government shall have all the powers necessary for the enforcement of such order at the cost of the Council.

Dispute between Council and other local body.

302. (1) In the event of any dispute arising between a Council and any other local authority established under any State Act on any matter in which they are jointly interested, such dispute shall be referred to the State Government, whose decision shall be final.

(2) The State Government may, by rules made under this Act, regulate the relations between Councils and other local authorities as aforesaid in matters in which they are jointly interested.

Deputation of Government servants.

303. Subjects to the provisions of section [76] 76-C where any Government servant is deputed to the service of the Council, the terms and conditions of deputation of such servant shall be determined by the State Government in consultation with the Council and the terms and conditions so determined shall be binding on the Council.

Powers of the [Chief Executive Officer] Chief Municipal Officer to be exercised by the President in certain cases.

304. The State Government may, by notification, direct that all or any of the powers conferred on the [Chief Executive Officer] Chief Municipal Officer by or under this Act shall, in respect of such municipalities or classes of municipalities as may be specified therein, be exercised by the President thereof and such powers shall thereupon be exercised by the President to the exclusion of the [Chief Executive Officer] Chief Municipal Officer.

Dissolution of Council in event of large number of vacancies.

305. If at any time due to a large number of vacancies having occurred in a Council, either simultaneously or in quick succession, the number of Councillors becomes less than the quorum fixed under section 50, the State Government may dissolve the Council and thereupon the provisions of section 298 shall apply to such Council.

[306. (1) If any sweeper employed by the Council in the absence of a written contract authorising him so to do, and without reasonable cause resigning his employment or absents himself from his duties without giving one month's notice to the Council or neglects or refuses to perform his duties or any of them, he shall be liable to imprisonment which may extend to two months or to fine which may extend to fifty rupees or to both.

Certain services to be essential.

(2) The State Government may, by notification, direct that, on and from a date to be specified in such notification, the provisions of sub-section (1) with respect to sweepers, shall apply also to any specified class of servants employed by any Council whose functions intimately concerns the public health or safety.]

306-A. (1) Such public works as in the opinion of the Government require a degree of professional skill which may not be at the disposal of the Council shall be carried out by the Government or by such agency as the Government may direct.

Agency for execution of Public Works.

(2) All other works of the Council shall be executed by such agency and subject to such supervision as the Council thinks fit, subject to the rules presribed in this behalf.

(3) When any work is executed for a Council by the Government or by any other agency under the orders of the Government, the expenses incurred on the work together with the charges for supervision and for tools and plant at such rates as may be fixed by the Government from time to time, unless waived by the Government, be payable to the Government.

(4) If the amount due to the Government under sub-section (3) is not paid within a reasonable time, the Government may make an order directing the person having the custody of the municipal fund to pay it in priority to any other charge against such fund, and such person shall, so far as the funds to the credit of the Council admit, be bound to comply with such order.

307. On occurrence of war, floods or any similar emergency, the Council shall immediately comply with any requisition made by the State Government for the services of any of the municipal employees and shall meet [such proportion of the charge connected with the requisitioning] such proportion of the expenses with respect to travelling and daily allowances as the State Government may determine.

Requisition of services in case of emergencies.

CHAPTER XIII.—NOTIFIED AREAS

308. [(1) The State Government may, by notification, declare that, with respect to sum or all of the matters upon which a municipal fund may be expended under this Act, improved arrangements are required within a specified local area which, nevertheless, it is not expedient to constitute as a municipality.]

Constitution of notified areas.

308. (1) If in the opinion of the State Government improved arrangements are required within a specified local area which it is not expedient to constitute as a municipality, the State Government may by notification declare such local area to be a "notified area".

[(2) A local area in regard to which a notification has been issued under sub-section (1) is hereinafter called a "notified area".]

(3) The provisions of section 5 shall apply to the issue of notification under this section.

Power of State Government to impose taxation and regulate expenditure of proceeds thereof.

309. (1) The State Government may—

(a) impose in any notified area any tax which could be imposed there by the Council if the notified area were a municipality ;

(b) apply or adapt to the notified area, for the assessment and recovery of any tax imposed under clause (a), any of the provisions of this Act, or of any rules for the time being in force with respect to the assessment and recovery of any tax imposed under this Act ;

(c) arrange for the due expenditure of the proceeds of taxes imposed under clause (a), and for the preparation and maintenance of proper accounts ;

(d) appoint, for the purposes of clauses (b) and (c), a single person or a committee of persons elected and nominated of such number and in such proportion as the State Government may fix:

Provided that a majority of the members shall be elected :

(e) frame rules regulating the election of members, the election of a President by the committee, and the term of office of the President and members, and such rules may provide for the appointment of a President by the State Government in the event of a committee failing to elect a President within a reasonable time;

(f) extend to any notified area the provisions of any section of this Act, subject to such restrictions and modifications, if any, as the State Government may think fit.

(2) The proceeds of any tax levied in any notified area under this section, together with all sums otherwise received by the committee on behalf of the notified area, shall be expended only in the same manner and subject to the same restrictions to which the municipal fund of such notified area might be expended if the notified area were a municipality.

Application of Act to notified areas.

310. For the purposes of any section of this Act which may be extended to a notified area, the committee appointed for such area under section [307] 309 shall be deemed to be municipal council under this Act and the area to be a municipality.

311. When any notification declaring a local area to be a notified area under section 308 is cancelled, the unexpended proceeds of any taxes levied under section [310] 309 and any property vested in the committee of the notified area shall, after satisfying any liabilities of such committee, be applied for the benefit of the inhabitants of such area in such manner as the State Government may think fit.

Application of funds of areas ceasing to be notified.

312. (1) When the State Government has decided, under section 5, to declare any notified area to be a municipality, it may, before making the declaration, take steps to establish a municipal council.

Declaration of notified area to be Municipality and its effect.

(2) When such declaration is made :—

(i) the Council so established shall be the first municipal council of such area and the unexpended proceeds of any taxes levied under section [310] 309 and any property vested in the committee of such notified area shall vest in, and any liabilities of such committee shall be transferred to, such municipal council; and

(ii) all appointments, rules, orders and byelaws made, notifications and notices issued, taxes imposed, contracts entered into, suits instituted and proceedings taken by or in respect of such committee shall so far as may be, deemed to have been respectively made, issued, imposed, entered into instituted and taken by or in respect of such municipal council.

CHAPTER XIV.—MISCELLANEOUS

[313. The State Government may by notification delegate to any officer subordinate to it all or any of the powers conferred upon it by or under this Act.

Delegation of power by Government.

314. If any difficulty arises in giving effect to the provisions of this Act or by reason of anything contained in this Act or any other enactment for the time being in force, the State Government may, as occasion requiries, by order, do anything which appears to it necessary for the purpose of removing the difficulty :

Power to revenue difficulties.

Provided that no order regarding the Council shall be made under this section after the expiry of eighteen months from the date on which this Act comes into force.]

313. (1) The State Government may, by notification, delegate to any officer subordinate to it all or any of the powers conferred upon it by or under this Act except the powers under sections 4, 5, 27, 28, 31 (3) 32, 34, 82, (4), 115, 117, 144, 298, 303, 304, 305, 308, 312, 314 and 324.

Delegation of powers.

(2) The State Government may, by notification, confer on any officer subordinate to it, the powers conferred by or under this Act on the Commissioner, Collector, or the prescribed authority.

(3) The exercise of any power delegated or conferred under sub-section (1) or sub-section (2) shall be subject to such restrictions and conditions as may be specified in the notification.

Power to remove difficulties.

314. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, do anything not inconsistent with the provisions of this Act which appears to it to be necessary or expedient for the purpose of removing the difficulty.

Mode of proof of Municipal records.

315. A copy of any receipt, application, plan, notice, order, entry in a register or other document in the possession of a Council shall if duly certified by the legal keeper thereof or other person authorised by any byelaw in this behalf, be received as *prima facie* evidence of the existence of the entry or document and shall be admitted as evidence of the entry or document and shall be admitted as evidence of the matters and transactions therein recorded in every case, where, and to the same extent as, the original entry or document would, if produced, have been admissible to prove such matter.

Restriction on the summoning of Municipal servants to produce documents.

316. No municipal officer or servant shall in any legal proceeding to which a Council is not a party be required to produce any register or document the contents of which can be proved under the preceding section by a certified copy, or to appear as a witness to prove the matters and transactions recorded therein unless by order of the Court made for special cause.

Fees for licenses and permission.

317. The Council may charge such fee as may be prescribed by byelaws for :—

(i) any licence granted under this Act;

(ii) any permission granted under this Act for making any temporary erection or for putting up any projection or for the temporary occupation of any public street or any land or building belonging to the Council.

(iii) any application or appeal made to or filed before the Council under this Act and for giving copies of its orders or other documents.

Contribution by Government to Municipal fund in certain cases.

318. All fines imposed by a Court under the provisions of this Act or any rule or byelaw framed thereunder or under any other enactment which may be notified by the State Government in this behalf, in respect of offences committed within a municipality shall be credited to the Revenue of the State and the total amount so credited during any financial year shall after making such deduction on account of cost of collection and other incidental expenses as the State Government may determine be contributed by the State Government to the fund of the Council of such municipality.

319. The State Government may, by notification, declare any area round about any municipal area as may be specified therein to be a sanitary zone attached to such municipal area for purposes of sanitation and public health and upon such declaration the Council shall exercise all powers relating to sanitation in that zone.

Power of State Government to declare any area to be sanitary zone.

[320. Every Chief Executive Officer, Councillor, Officer or servant and every lessee for the levy of any Council and every servant or other person employed by any such lessee for the levy of any municipal-tax shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.]

Councillors, etc., to be deemed public servants.

320. Every Councillor and every officer or servant employed by a Council, every contractor or agent appointed by it for the collection of any tax and every person employed by such contractor or agent for the collection of such tax shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

Public servants.

321. No councillor shall be granted any remuneration or allowance of any kind whatsoever by the Council except with the previous sanction of the Government and in accordance with the rules made by the Government in this behalf.

Prohibition of remuneration to Councillors.

322. With the previous sanction of the President, any Councillor may inspect any work or institution constructed or maintained in whole or in part out of the municipal fund.

Inspection of Municipal works by Councillors.

CHAPTER XV.—RULES AND BYELAWS

323. (1) In addition to any power specially conferred by this Act, the State Government may [frame] prescribe forms and make rules generally for the purpose of carrying into effect 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 provide for all or any of the following matters namely :—

(i) procedure to be followed in disposal of election petition;

(ii) conditions subject to which the Standing Committee to exercise the powers of the Council;

(iii) conditions subject to which the powers of the Council are to be delegated to the President or Vice-President, Chairman of the Standing Committee or other Committees ;

[(iv) (a) appointment of Chief Executive Officer;

(b) constitution of municipal service for the State;

(c) qualifications, recruitment and the conditions of service for appointment to municipal service;]

(iv) (a) constitution of municipal service for the State and recruitments and appointments thereto;

(b) qualifications, scale of pay, leave, leave allowance, acting allowance, loan, pension, gratuity, annuity, compassionate fund, provident fund, dismissal, removal, conduct, departmental punishments, appeals and other service conditions of the members of the State Municipal service;

(v) classes or grades of officers who shall have right to appeal in case of any departmental punishment other than censure;

[(vi) utilization of fire-brigade outside municipal limits;]

(vi) formation and working of municipal fire brigade and utilisation of municipal fire brigade within or without municipal limits;

(vii) minimum cash balance to be mantained by a Council;

(viii) regulation of transfer of municipal property;

(ix) form and manner in which budget estimates shall be prepared and laid before the Council;

(x) closing balance which a Council shall maintain at its credit at the end of the year;

[(xi) publication of accounts;]

(xi) the manner in which accounts shall be kept and publication of such accounts;

(xii) the time within which and the manner in which matters shall be referred to Government with respect to audit report under section 108;

(xiii) maximum cost which may be incurred on any public reception, ceremony, entertainment or exhibition;

(xiv) extent of the independent authority of the Council in respect of management of public institutions maintained out of the municipal fund;

[(xv) regulation of imposition of taxes and the prescription of maximum and minimum amount of rates of any such tax;]

(xv) the manner of making applications for permission to borrow money; the enquiries to be made in relation to loans and the manner of conducting such enquiries; the inspection of such works carried out by means of loans; and the utilization of unexpended balances of loans;";

(xvi) manner of publication of notice and the form in which notice under section 115 (2) shall be published;

(xvii) manner of publication of reduction under section 116 (3);

(xviii) form in which notice of transfer of title shall be given;

(xix) form in which notice of demand shall be served on the person liable for payment of tax;

(xx) (i) form in which warrant for recovery shall be issued under section 149 (1); and

(ii) form in which notice regarding sale of property distrained shall be given;

(xxi) regulation of procedure for sale of immovable property;

(xxii) manner of registration of births, deaths and marriages;

(xxiii) regulation of powers conferred under section 262 (1) and conditions and restrictions subject to which such powers shall be exercised;

(xxiv) term for which and conditions subject to which a person shall be committed to a poor house;

[(xxv) procedure to be followed by the Appeal Committee;]

(xxv) regulation of establishment, maintenance and management of primary schools and other educational institutions;

(xxvi) rules regulating the procedure to be followed and the maximum amount which may be accepted by way of composition by the persons empowered to accept composition for offences;

(xxvii) manner in which the appointment of the Appeal Committee shall be made;

(xxvii-a) intermediate office or offices through which correspondence between councils or their subordinate agencies and the Government or Government authorities shall pass;

(xxvii-b) regulation of representations made under the Act;

(xxvii-c) manner of preparation and submission of returns, statements and reports to the Government or Government authorities;

(xxvii-d) control which may be exercised over councils in respect of financial matters generally and as to the authority which may exercise such control;

(xxvii-e) cases in which, and the authorities to whom and the conditions subject to which orders and decisions given under the provisions of this Act, and not expressly provided for as regards appeal, shall be appealable;

(xxvii-f) authorising inspection by servants of Government or institutions and works which are done under the management or control of a Council and regulating such inspection;

(xxvii-g) preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of the Council;";

(xxviii) all matters required to be prescribed by rules under this Act.

General provisions regarding rules.

324. (1) All rules for which provision is made in this Act shall be made by the State Government and shall be consistent with this Act.

(2) A rule may be general for all municipalities or for all municipalities not expressly exempted from its operation, or

may be special for the whole or any part of any one or more municipalities, as the State Government may direct.

(3) All rules shall be subject to previous publication.

(3-a) All rules shall be laid on the table of the Assembly.

(4) In making any rule the State Government may direct that a breach thereof shall be punishable with fine which may extend to [fifty] five hundred rupees.

General provision regarding byelaws.

325. (1) All byelaws for which provision is made in this Act shall be made by the Council and shall be consistent with this Act and with the rules made thereunder.

(2) A byelaw may be general for the whole municipality under the jurisdiction of the Council making it, or special for any part of such municipality, as the Council may direct.

(3) Unless specially excepted in this Act from the operation of this sub-section no byelaw shall take effect until it has been confirmed by the State Government.

(4) Unless specially excepted in this Act from the operation of this sub-section, no byelaw shall take effect until it has been published in the manner prescribed by rules made under this Act.

(5) In making any byelaw the Council may direct that a breach thereof shall be punishable with fine which may extend to [fifty] five hundred rupees, and where the breach is a continuing breach, with further fine which may extend to five rupees for every day after the first during which the breach is proved to have been persisted in.

Power to make byelaws.

[326. In addition to any power specially conferred by this Act, the Council may and if so required by the State Government shall make byelaws for—

(i) regulating the conduct of its business;

(ii) regulating the appointment and constitution of Committees;

(iii) regulating the conduct of business of Committees;

(iv) regulating the inspection of minute books and the supply of copies of minutes to councillors or other person on payment of fees or otherwise;

(v) fixing the amount and the nature of security to be furnished by any officer or servant from whom it may be deemed expedient to require security in view of the nature of duties performed by such officer or servant;

(vi) generally for the guidance of municipal officers and servants in all matters relating to municipal administration;

(vii) regulating the management of nazul land transferred to a Council by the Government;

(viii) regulating the contracts made by or on behalf of a Council;

(ix) determining the rates of fees for notice, warrant or maintenance of live stock under Chapter VIII;

(x) regulating the conditions subject to which permission may be given for temporary occupation of or erection of temporary structures, or public streets or for projections over public streets and places;

(xi) regulating the structure and dimensions of plinths, walls, foundations, roofs and chimneys of new buildings for the purpose of securing stability and the prevention of fire, and for purposes of health and determining the purposes for which existing or newly erected buildings may be used in any area;

(xii) preventing the erection of buildings without adequate provision being made for the location and laying of streets, and for the payment of compensation in such cases, when necessary;

(xiii) ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means for securing a free circulation of air;

(xiv) requiring an owner of a building divided into two or more separate tenements to provide adequate means of lighting at night time a staircase, passage, private court of or any such building, the space near or leading to latrines or urinals and washing places therein and of extinguishing such lights;

(xv) the qualifications of surveyors or persons by whom plans required under section 153 are to be prepared, or of plumbers, for licensing persons to be surveyors or plumbers and, fixing the fees chargeable for such licences; and for modifying the provisions of or revoking such licences; and prohibiting any alterations or repairs or fittings to water or drainage pipes or house connections to be carried out or made except by such persons;

(xvi) (a) regulating in any particular way not specifically provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cesspools, water-closets, privies, latrines, urinals and drainage or sewerage works of every description, whether the property of the Municipality or not;

(b) prescribing the conditions for construction of a drain, privy, latrine, urinal, cesspool or other receptacle within fifty feet of any source of water:

(xvii) determining the information and plans to be submitted to the muncipality in connection with application for permission to layout new street or to construct or reconstruct buildings;

(xviii) the regulation and inspection of markets and slaughter houses for the proper and cleanly conduct of business therein and for inspection of animals before slaughter and of organs and meat after slaughter for the purpose of certification;

(xix) fixing the rent and other charges to be levied for the use of markets and slaughter houses belonging to the Council and for regulating the conduct of business therein ;

(xx) prescribing the conditions on or subject to which, and the circumstances, in which and the areas or localities in respect of which, licences may be granted, refused, suspended or withdrawn for the use of any land, premises or place not belonging to Council—

(a) as a market;
(b) as a slaughter house;
(c) for the manufacture, preparation, storing, sale or supply for the purpose of trade of any article or thing intended for human food or drink, whether such food or drink is to be consumed in such place or not;

(d) for carrying on any offensive or dangerous trade and providing for the inspection and regulation of the conduct of business in any land, premises or place used as aforesaid, so as to secure cleanliness therein and to minimise any injuries, offensive or dangerous effect arising or likely to arise therefrom;

(xxi) the regulation and inspection of all places used by or for animals which are for sale or hire or the produce of which is sold and for the proper and cleanly conduct of business therein ;

(xxii) prohibiting stalling or herding of horses, camels, cattle, donkeys, sheep or goats otherwise than in accordance with regulation prescribed in such byelaws in regard to the number thereof, and the places to be used for the purpose as may be necessary to prevent danger to the public health;

(xxiii) the inspection of milch cattle, and prescribing and regulating the construction, dimensions, ventilation lighting, cleaning, drainage and water supply of dairies and cattle sheds in the occupation of persons following the trade of dairymen or milksellers;

(xxiv) the regulation and inspection of places used for manufacture and|or sale of sweetmeats;

(xxv) prescribing the conditions on and subject to which and the circumstances in which and the areas or localities in respect of which licences may be granted, refused, suspended or withdrawn for the use of whistles and trumpets operated by steam or mechanical means in factories and other places for the purposes of summoning or dismissing workmen or persons employed;

(xxvi) prescribing the conditions or subject to which, and the circumstances in which, and the areas and localities in respect of which licences may be granted, refused, suspended or withdrawn for the use of any place or building for use as Sarai or

Dharamshala and providing for the inspection and regulation of such places or buildings;

(xxvii) for enforcing the supply of such information by inhabitants of the municipal areas as may be necessary to ascertain their respective liabilities to any tax imposed therein;

(xxviii) fixing octroi limits and stations providing for the exhibition of tables of octroi, regulating, subject to any general or special orders which Government may make in this behalf, the system under which the refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods again exported, and the custody and storage of animals or goods declared not to be intended for sale, use or consumption within the municipality and prescribing a period of limitation after which no claim for refund of octroi shall be entertained and the minimum amount for which any claim to refund may be made;

(xxix) fixing terminal limits and stations providing for the exhibition of tables of Terminal tax, and regulating the mode of recovering such tax;

(xxx) for conserving and preventing injury to sources and means of water supply and appliances for the distribution of water, whether within or without the limits of the municipality and regulating all matters and things connected with the supply and use of water and turning on or turning of and preventing the waste of water and the construction, maintenance and control of municipal water works, and of pipes and fittings in connection therewith whether the property of the municipality or not:

Explanation.—Sources and means of water supply shall include private wells, which are used by the public.

(xxxi) regulating the use of public bathing and washing places within the Municipality;

(xxxii) regulating the sanitation and conservancy, abatement of nuisances and disposal of the carcasses of dead animals, by municipal agency or otherwise;

(xxxiii) (a) securing the protection of public parks, gardens, open spaces, play grounds, commons, swimming tanks, vested in or under the control of the municipality, from injury or misuse, regulating their management and the manner in which they may be used by the public, and providing for the proper behaviour of persons in them;

(b) regulating the use of common pasture land provided by the Council and the rates of fees for use thereof;

(xxxiv) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn, for the use of any vehicles and barrows,

and providing for the seizure and detention of any vehicle or barrows which have not been duly licensed in pursuance of the byelaws made under this section;

(xxxv) (a) vehicles or animals plying for hire within the limits of the municipality, the issue of licences to proprietors or drivers of such vehicles or animals, the prescription of types and specification of vehicles or animals to be licensed and the fixing of fees payable for such licensed and the conditions on which they may be granted, suspended or revoked ;

(b) the rates which may be demanded for the hire of any carriage, cart or other conveyance or animals hired to carry loads on persons, and restriction on the loads or persons which may be carried by any animals or carriage, cart or other conveyance plying for hire, within the limits of the municipality:

Provided that no byelaws made under clauses (a) and (b) shall apply to vehicle to which the Hackney Carriage Act, 1879, applies in any area where that Act is in force :

Provided further that the operation of any byelaws made under the provisions of clause (a) or (b) or of any rules made under the Hackney Carriage Act, 1879, may, with the sanction of the Government, be extended to :—

(i) any railway station;

(ii) the whole or any part of any street so far as such street is situate within ten miles of the limits of the Municipality;

(iii) the whole or any part of any street leading from the limits of the municipality to the limits of any municipality notified area, cantonment or panchayat if the distance between the limits of the municipality and the boundaries of these authorities does not exceed fifty miles, and the municipality and the authorities concerned each consent to the extension of such byelaws or rules;

(xxxvi) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn for hawking or exposing for sale in any public place or street any article whatsoever, whether it be for human consumption or not;

(xxxvii) prescribing the conditions on and subject to which permission may be granted, renewed, refused, suspended or withdrawn for erecting, exhibiting, fixing or retaining any business advertisement, over any land, building, or structure, or for announcing any business advertisement by loud-speaker;

xxxviii) for protecting from injury or interference anything within the limits of the municipality being the

property of Government or of the Committee, or under the control or management of the Council;

(xxxix) for inspecting and regulating the use of encamping grounds, halting places;

(xl) for licensing brokers, commission agents, measurers and weighmen practising their calling in public places within the municipality, and fixing the fees payable for such licences and the conditions on which they are to be granted and may be revoked;

(xli) for controlling and regulating the duties of sweepers and other persons employed by the Council or any other agency for the purpose of sanitation and conservancy;

(xlii) for regulating and prohibiting the stationing of carts or picketing of animals on any ground under the control of the Council or the using of such ground as halting place of vehicles or animals or as a place for encampment or the causing or permitting of any animal to stray;

(xliii) for the seizure and confiscation of owner less animals straying within the limits of the municipality;

(xliv) for prohibiting, except under certain conditions and on payment of fees, if any, the letting off of firearms;

(xlv) for regulating the posting of bills and advertisements and the position, size, shape and style of name-boards, sign-boards and sign-posts;

(xlvi) for regulating the beating of drums and the sounding of musical instruments;

(xlvii) prohibiting vehicular traffic in any particular street, so as to prevent danger, obstruction or inconvenience to the public by fixing up posts at the both ends of such streets or portion of such streets prohibiting the transit of any vehicle of such form, construction, weight or size or laden with such heavy or unwiedly objects as may be deemed likely to cause injury to the roadways or to any construction thereon or risk of obstruction to other vehicles or to pedestrians along or over any street, except under such condition as to time, mode of traction or locomotion, use of appliances for protection of the roadway, number of lights and assistants and other general precaution as may be prescribed either generally in such byelaws or in special licence to be granted in each case upon terms as to time of application and payment of fees thereof as may be prescribed in such byelaws;

Provided that no such byelaws relating only to any particular street or portion of any street shall be deemed to be in force, unless and until notices of such prohibition shall have been posted up by the Council in conspicuous at or near both ends of such street or portion of a street;

(xlviii) the holding of fairs and industrial exhibitions within the municipality or under the control of the Council and fixing the fees to be levied thereat;

(xlix) generally for the regulation of all matters relating to municipal administration.]

Power to make bye-laws.

326. In addition to any power specially conferred by this Act, the Council may and if so required by the State Government shall make byelaws for—

(1) Municipal administration—

(a) regulating the conduct of its business;

(b) regulating the appointment and constitution of Consultative Committees;

(c) regulating the conduct of business of Committees;

(d) regulating the mode of asking and answering of questions connected with the administration of this Act, at the meetings of the Council and its Committees;

(e) regulating the inspection of minute books and the supply of copies of minutes to councillors or other person on payment of fees or otherwise;

(f) fixing the amount and the nature of security to be furnished by any officer or servant from whom it may be deemed expedient to require security in view of the nature of duties performed by such officer or servant;

(g) regulating the contracts made by, or on behalf of a council;

(h) determining the rates of fees for notice, warrant or maintenance of livestock under Chapter VIII;

(i) to regulate entry and inspection for the purposes of this Act;

(j) generally for the guidance of municipal officers and servants in all matters relating to municipal administration;

(2) Taxation—

(a) the maintenance of tax books and registers by Chief Municipal Officer and the particulars which such books and registers should contain;

(b) the inspection of and the obtaining of copies and extracts from such books and registers and fees, if any, to be charged for the same;

(c) the requisition by the Chief Municipal Officer of information and returns from persons liable to pay taxes;

(d) the notice to be given to the Council by any person who becomes the owner or possessor of a vehicle or animal in respect of which any tax is payable under this Act;

(e) the submission of returns by persons liable to pay any tax under this Act;

(f) fixing octroi limits and stations providing for the exhibition of tables of octroi, regulating, subject to any general or special orders which Government may make in this behalf, the system under which the refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods again exported, and the custody and storage of animals or goods declared not to be intended for sale, use or consumption within the municipality and prescribing a period of limitation after which no claim for refund of octroi shall be entertained and the minimum amount for which any claim to refund may be made;

(g) fixing terminal limits and stations providing for the exhibition of tables of terminal tax, and regulating the mode of recovering such tax;

(h) any other matter relating to the levy, assessment, collection, refund or remission of taxes under this Act;

(3) Buildings—

(a) the regulation or restriction of the use of sites for building for different areas;

(b) the regulation or restriction of buildings in different areas;

(c) the form of notice of erection of any building or execution of any work and the fee in respect of the same;

(d) the plans and documents to be submitted together with such notice and the information and further information to be furnished;

(e) the level and width of foundation level of lowest floor and stability of structure;

(f) the construction of buildings and the materials to be used in the construction of buildings;

(g) the height of buildings whether absolute or relative to the width of streets or to different areas;

(h) the number and height of storeys composing a building and height of rooms and the dimensions of rooms intended for human habitation;

(i) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried;

(j) the provision of open spaces, external and internal, and adequate means of light and ventilation;

(k) the provision of means of egrees in case of fire, fire-escapes and water lifting devices;

(l) the provisions of secondary means of access for the removal of house refuse;

(m) the materials and methods of construction of external and party walls, roofs and floors;

(n) the position, materials and methods of construction of hearths, smoke escapes, chimneys, stair-cases, latrines, drains and cesspools;

(o) the provision of lifts;

(p) the paving of yards;

(q) the restrictions on the use of inflammable materials in buildings;

(r) the restriction on construction of foundation on certain sites;

(s) the measures to be taken to protect buildings from damp arising from sub-soil;

(t) the wells, tanks and cisterns and pumps for the supply of water for human consumption in connection with buildings;

(u) in the case of wells, the dimensions of the well, the manner of enclosing it and if the well is intended for drinking purposes the means which shall be used to prevent pollution of the water;

(v) the supervision of buildings;

(w) the setting back of garages and shops from the regular line of a street;

(x) the construction of portable structures and permission for such construction;

(y) requiring an owner of a building divided into two or more separate tenements to provide adequate means of lighting at night time a staircase, passage, private court of or any such building, the space near or leading to latrines or urinals and washing places therein and of extinguishing such lights;

(z) the qualifications of surveyors or persons by whom plans required under section 169 are to be prepared, or of plumbers, for licensing persons to be surveyors or plumbers and, fixing the fees chargeable for such licenses; and for modifying the provisions of or revoking such licences, and prohibiting any alterations or repairs or fittings to water or drainage pipes or house connections to be carried out or made except by such persons;

(aa) preventing the erection of buildings, without adequate provision being made for location and laying of streets, and for the payment of compensation in such cases, when necessary;

(bb) regulating in any manner not specifically provided for in this Act, the erection of any enclosure wall, fence, tent, awning or other structure

of whatsoever kind or nature or any land within the municipal limits;

(4) Streets—

(a) determining the information and plans to be submitted to the Council in connection with application for permission to lay out new street or to construct or reconstruct buildings;

(b) regulating the conditions subject to which permission may be given for temporary occupation of or erection of temporary structures, on public streets or for projections over public streets and places;

(c) the closure of streets when any work is in progress and alternative passage during the progress of such work;

(d) the erections of a temporary nature during festivals;

(e) the setting up of hoards on buildings adjacent to streets during their construction or repair;

(f) the precautions to be taken when permission is granted to any private individual for opening or breaking up any public street and the fees to be paid for the restoration of a street in its original condition;

(g) the permission, regulation or prohibition of use or occupation of any street or place by itinerant vendors or hawkers or by any person for the sale of articles or the exercise of any calling or the setting up of any booth or stall and the fees chargeable for such occupation;

(h) any other matter in connection with the construction, repair, maintenance, naming, numbering and lighting of streets for which provision is necessary or should be made;

(5) Drains, Privies, cesspools, sewage disposal and scavenging—

(a) regulating in any particular way not specifically provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cesspools, water-closets, privies, latrines, urinals and drainage or sewarage works of every description, whether the property of the Council or not;

(b) prescribing the conditions for construction of a drain, privy, latrine, urinal, cesspool or other receptacle within fifty feet of any source of water;

(c) the regulation or prevention of the discharge into municipal drains of sewage, sullage, polluted water and other offensive matter from private buildings, lands and factories;

(d) for controlling and regulating the duties of sweepers and other persons employed by the council or any other agency for the purpose of sanitation and conservancy,

(e) provision for any other matter relating to house scavenging;

(6) Water Supply—

Conserving and preventing injury to sources and means of water supply and appliances for the distribution of water, whether within or without the limits of the municipality and regulating all matters and things connected with the supply and use of water and turning on or turning of and preventing the wast of water and the construction, maintenance and control of municipal water works, and of pipes and fittings in connection therewith whether the property of the Council or not;

Explanation.—Sources and means of water supply shall include private wells, which are used by the public.

(7) Public Health, Safety, Nuisance and Sanitation.

(a) regulation of sanitation and conservancy by municipal agency or otherwise:

(b) controlling and regulating the use and management of burial and burning grounds and fixing the fees to be charged where such grounds have been provided by the Council and prescribing or prohibiting routes for the removal of corpses to burial or burning grounds;

(c) declaring that no place, unless specially exempted, shall be used as a lodging house unless it has been duly licensed as such by the Council. and prescribing the conditions subject to which such licences may be granted, refused. suspended or withdrawn and fixing the fees payable for such licences;

(d) providing, in default of a byelaw made under the preceding sub-head, for the registration and inspection of lodging houses, the prevention of over crowding the promotion of cleanliness and ventilation and prescribing the notices to be given and the precautions to be taken in the case of any infectious of contagious disease breaking out therein, and generally for the proper regulation of lodging houses;

(e) prohibiting the digging of excavations, cesspools, tanks, or pits within specified areas except with the permission of the council, and specifying the conditions subject to which such permission may be given;

(f) prohibiting or regulating, with a view to sanitation or the prevention of disease any act which occasions or which is likely to occasion, a public nuisance and for the prohibition or regulation of which no provision is made under this heading;

(g) regulating or prohibiting any particular description of traffic in a street;

(h) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn, for the use of any vehicles and barrows, and providing for the seizure and detention of any vehicle or barrows which have not been duly licensed in pursuance of the byelaws made under this section;

(i) (a) Vehicles or animals plying for hire within the limits of the municipality, the issue of licences to proprietors or drivers of such vehicles or animals, the prescription of types and specification of vehicles or animals to be licensed and the fixing of fees payable for such licensee and the conditions on which they may be granted, suspended or revoked;

(b) the rates which may be demanded for the hire of any carriage, cart or other conveyance or animals hired to carry loads or persons, and restriction on the loads or persons which may be carried by any animals or carriage, cart or other conveyance plying for hire, within the limits of the municipality;

Provided that no byelaws made under clauses (a) and (b) shall apply to vehicle to which the Hackney Carriage Act, 1879, applies in any area where that Act is in force:

Provided further that the operation of any byelaw made under the provisions of clause (a) or (b) or of any rules made under the Hackney Carriage Act, 1879, may, with the sanction of the Government, be extended to:—

(i) any railway station;

(ii) the whole or any part of any street so far as such street is situate within ten miles of the limits of the Municipality;

(iii) the whole or any part of any street leading from the limits of the municipality to the limits of any municipality, notified area, cantonment or panchayat if the distance between the limits of the municipality and the boundaries of these authorities does not exceed fifty miles,

and the municipality and the authorities concerned each consent to the extension of such byelaws or rules;

(j) prohibiting vehicular traffic in any particular street, so as to prevent danger, obstruction or inconvenience to the public by fixing up posts at the both ends of such streets or portion of such streets prohibiting the transit of any vehicle of such form, construction, weight or size or laden with such heavy or unwidely objects as may be deemed likely to cause injury to the roadways or to any construction thereon or risk of obstruction to other vehicles or to pedestrians along or over any street, except under such condition as to time, mode of traction or locomotion, use of appliances for protection of the roadways, number of lights and assistants and other general precaution as may be prescribed either generally in such byelaws or in special licence to be granted in each case upon terms as to time of application and payment of fees thereof as may be prescribed in such byelaws:

Provided that no such byelaws relating only to any particular street or portion of any street shall be deemed to be in force, unless and until notices of such prohibition shall have been posted up by the Council in conspicuous place at or near both ends of such street or portion of a street;

(k) measures to be taken with stray animals or animals likely, if at large, in any street or public place, to cause annoyance or intimidation;

(l) regulating transport of animals within municipal limits;

(m) regulating and prohibiting the stationing of carts or picketing of animals on any ground under the control of the Council or the using of such ground as halting place of vehicles or animals or as a place for encampment or the causing or permitting of any animal to stray;

(n) the seizure and confiscation of owner less animals straying within the limits of the municipality;

(o) providing for the registration of cattle and dogs and imposition of fees for the same;

(p) search for inflammable material;

(q) prohibiting, except under certain conditions and on payment of fees, if any, the letting off of fire-arms, fire works, fire balloons, etc;

(r) regulating the beating of drums and the sounding of musical instruments;

(s) regulating the abatement of nuisance;

(t) regulating the use of public bathing and washing places within the Municipality;

(u) the safety, sanitation and internal arrangements of theatres or other places of public entertainment or resort and the control and inspection thereof, in order to ensure the safety, health and convenience of persons employed in or visiting, attending or resorting to the same:

(v) inspecting and regulating the use of encamping grounds and halting places.

(8) Markets, Slaughter houses, Trades, Occupations and Sale of Food-Stuffs—

(a) the regulation and inspection of markets and slaughter houses for the proper and cleanly conduct of business therein and for inspection of animals before slaughter and of organs and meat after slaughter for the purpose of certification;

(b) fixing the rent and other charges to be levied for the use of markets and slaughter houses belonging to the Council and for regulating the conduct of business therein;

(c) prescribing the conditions on or subject to which, and the circumstances, in which and the areas or localities in respect of which, licences may be granted, refused, suspended or withdrawn for the use of any land, premises or place not belonging to Council—

(i) as a market;

(ii) as a slaughter house;

(iii) for the manufacture, preparation, storing, sale or supply for the purpose of trade of any article or thing intended for human food or drink whether such food or drink is to be consumed in such place or not;

(iv) for carrying on any offensive or dangerous trade and providing for the inspection and regulation of the conduct of business in any land, premises or place used as aforesaid, so as to secure cleanliness therein and to minimise any injuries, offensive or dangerous effect arising or likely to arise therefrom;

(d) the regulation and inspection of all places used by or for animals which are for sale or hire or the produce of which is sold and for the proper and cleanly conduct of business therein;

(e) licensing and conditions for sale of articles of foods and drinks mentioned in section 244;

(f) licensing of butchers;

(g) the regulation and inspection of places used for manufacture and/or sale of sweet-meats;

(h) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn for hawking or exposing for sale in any public place or street any article whatsoever, whether it be for human consumption or not ;

(i) for licensing brokers, commission agents, measurers and weighmen practising their calling in public places within the municipality, and fixing the fees payable for such licences and the conditions on which they are to be granted and may be revoked;

(j) for regulating the posting of bills and advertisements and the position, size, shape and style of name-boards, sign boards and signposts;

(k) prescribing the conditions on and subject to which permission may be granted, renewed, refused, suspended or withdrawn for erecting, exhibiting, fixing or retaining any business advertisement, over any land, building, or structure, or for announcing any business advertisement by loud-speaker;

(l) regulation of smoke and sanitation in factories workshops and trade premises;

(m) prescribing the conditions on and subject to which and the circumstances in which and the areas or localities in respect of which licences may be granted, refused, suspended or withdrawn for the use of whistles and trumpets operated by steam or mechanical means in factories and other places for the purposes of summoning or dismissing workmen or persons employed;

(n) prevention of nuisance in any market building, market place, slaughter house or any factory, workshop or trade premises;

(9) Miscellaneous—

(a) prevention and extinction of fire;

(b) prohibiting stalling or herding of horses, camels, cattle, donkeys, sheep or goats otherwise than in accordance with regulation prescribed in such byelaws in regard to the number thereof, and the places to be used for the purpose as may be necessary to prevent danger to the public health;

(c) the inspection of milch cattle, and prescribing and regulating the construction, dimensions, ventilation, lighting, cleaning, drainage and water supply of dairies and cattle sheds in the occupation of persons following the trade of dairymen or milksellers;

(d) prescribing the conditions subject to which and the circumstances in which, and the areas and localities in respect of which licences may be granted, refused, suspended or withdrawn for the use of any place or building for use as Sarai or Dharamshala and providing for the inspection and regulation of such places or buildings;

(e) regulating the management of Nazul lands transferred to the Council by the Government.

(f) protecting from injury or interferance anything within the limits of the municipality being the property of Government or of the Council or under the control or management of the Council;

(g) (i) securing the protection of public parks, gardens, open spaces, play grounds, commons, swimming tanks, vested in or under the control of the Council, from injury or misuse, regulating their management and the manner in which they may be used by the public, and providing for the proper behaviour of persons in them;

(ii) regulating the use of common pasture land provided by the Council and the rates of fees for use thereof;

(h) the holding of fairs and industrial exhibitions within the municipality or under the control of the Council and fixing the fees to be levied thereat;

(i) prohibiting, in any specified street or area, the residing of public prostitutes and the keeping of a brothel, or the letting or otherwise desposal of house or building to public prostitutes or for a brothel;

(j) inspection and control of brothels;

(k) fixing and regulating the use of places, at which boats may be moored, loaded and unloaded, prohibiting the mooring, loading and unloading of boats, except at such places as may be prescribed by the Council;

(l) prohibiting or regulating, with a view to promoting the public safety or convenience, any act which occasions, or is likely to occasion, a public nuisance, and for the prohibition or regulation of which no provision is made;

(m) providing for the installation and maintenance of radio receiving stations;

(n) providing for the establishment and maintenance of baby-folds and rescue homes for women;

(o) providing for the removal of social disabilities of scheduled castes and backward classes;

(p) taking measures for the control of beggary;

(q) taking measures for the removal of prostitutes from a specified area to another specified area;

(r) generally for the regulation of all matters relating to municipal administration."

Model byelaws.

327. (1) The State Government may, from time to time, make model byelaws for any matter in respect of which a Council is empowered to make byelaws under this Act and publish them in the Gazette for the guidance of Councils.

(2) If it appears to the Government that in any municipality byelaws are necessary for any matter in respect of which model byelaws have been published under sub-section (1), it may require the Council to adopt such model byelaws modified to suit local conditions.

(3) If any Council fails to comply with a requisition made under sub-section (2) within six months of the making thereof the State Government may apply to such municipality the model byelaws modified as it thinks fit.

Copies of rules and byelaws, etc., to be kept for.

[328. Copies in English and Hindi in Devanagri script of this Act and all rules made thereunder and of all byelaws made for the municipality shall be kept in the office of the Council and shall be open, during office hours without charge to the inspection of any inhabitant. Such copies shall also be made available for sale on payment.]

Copies of rules and byelaws, etc., to be kept for.

328. Copies in English and Hindi in Devanagri script of all rules and byelaws made for the Municipality under this Act shall be kept in the office of the Council and shall be open, during office hours without charge, to the inspection of any inhabitant of the municipality and they shall also be made available for sale on payment.