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PART V.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

The following Bill, together with the Statement of Objects and Reasons accompanying it, is published in accordance with Rule 15 of the Rules for the Conduct of Business at Meetings of the Council of His Excellency the Governor of Bombay for making Laws and Regulations:—

Bill No. 7 of 1873.

To provide for the periodical inspection and the management by competent Engineers of Steam Boilers, and Prime Movers attached thereto, in the City of Bombay and within certain Districts in the Presidency of Bombay.

WHEREAS it is expedient to provide for the inspection by competent Inspectors and for the management by competent Engineers of Steam Boilers, and Prime Movers attached thereto, situate in the City of Bombay and in certain Districts within the Presidency of Bombay, with a view to the security of persons and property; It is enacted as follows:—

I. Bombay Act No. VI. of 1869 ("The Bombay Boiler Inspection Act, 1869") is hereby repealed.

II. The provisions of this Act shall apply to the City of Bombay and to such Districts within the Presidency as the

Governor in Council shall from time to time declare them to be applicable by notification in the *Government Gazette*.

III. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless where a contrary intention shall appear from the context; that is to say—

The word "Boiler" shall include any cylinder or vessel for generating steam under pressure.

The words "Prime Mover" shall include any steam engine, fly-wheel, first driving shaft, and pulley attached to any such engine.

The word "owner" shall include any agent or hirer using any Boiler or Prime Mover.

"Owner."

IV. The Government shall be empowered from time to time to appoint one or more Inspectors for the purposes of this Act, and from time to time to remove the same or any of them. It shall be the duty of the Inspectors to inspect all Boilers, and Prime Movers attached thereto, in the City of Bombay or in the Districts of the Presidency of Bombay assigned to them, in the manner hereinafter provided. Subject to such rules as may from time to time be framed by Government, the Inspectors appointed under this Act shall be under the control of the Collector of Bombay or of the Collector of the District assigned to such Inspectors, and it shall be lawful for the Collector of Bombay or for the Collector of any District, from time to time, as he shall think fit, to apply to Government and require the appointment of a Commission for the revocation of any certificate on all or any of the grounds mentioned in Section X. of this Act.

V. It shall not be lawful for the owner of any such Boiler or Prime Mover as aforesaid to use the same, unless a certificate shall have been duly granted in respect thereof in the manner hereinafter provided, and it shall not be lawful for such owner to continue to use such Boiler or Prime Mover after the period for which such certificate shall have been granted.

VI. The owner of any such Boiler or Prime Mover as aforesaid, in respect whereof a certificate shall not be in force in manner hereinafter described, shall, if such Boiler or Prime Mover be situate in the City of Bombay, before using the same, give notice to an Inspector appointed under this Act for the City of Bombay, or, if such Boiler or Prime Mover be situate in a District to which the provisions of this Act have been made applicable, to the Inspector appointed under this Act for the District in which the said Boiler or Prime Mover is situate, of his intention to use or continue to use the same. The Inspector to whom such notice shall be given shall appoint a time between sun-rise and sun-set, and within four days after the receipt of such notice, for the inspection of such Boiler or Prime Mover, and at such time

shall carefully examine such Boiler or Prime Mover and every part thereof, and the owner or person in charge thereof shall afford to such Inspector all reasonable facilities for such examination, and all such information as may reasonably be required.

VII. An Inspector making an inspection under this Act of any such Boiler or Prime Mover as aforesaid, if he be satisfied that such Boiler or Prime Mover is in good condition, shall, on payment by the owner or person in charge thereof of such fees as shall be fixed in the rules hereinafter mentioned, give to the owner a certificate signed by him to that effect, in the form in the schedule to this Act annexed and such certificate shall state the period for which such Boiler or Prime Mover may be used, and shall cease to be in force on the expiration of such period.

VIII. Government shall from time to time appoint a Commission for hearing any appeal preferred by any owner as provided by this Act, or for conducting an inquiry on an application made by a Collector under Section IV. of this Act, and also, under such rules as may from time to time be framed by Government, for controlling the Inspectors appointed under this Act. And such Commission shall consist of such persons as the Government from time to time shall nominate, and every Commissioner shall be removable at the pleasure of Government.

IX. If an Inspector refuse to give a certificate to the owner of any Boiler or Prime Mover under Section VII. of this Act, he shall be bound to give to such owner, in writing, his reasons for such refusal, and any owner aggrieved by the decision of the Inspector may, within one month from the date of the said refusal, appeal to the Commission appointed under Section VIII. of this Act. The Commission shall, as soon as may be possible, inquire into and determine such appeal, and shall, if it think fit, grant a certificate. If the Commission is of opinion that any appeal is unfounded or frivolous, it shall have the power of awarding any sum not exceeding Rs. 50 as costs to be paid by the owner. The costs when recovered shall be disposed of as directed by Section XXIV. of this Act. The inquiry shall be held in public, and the decision of the Commission shall be final.

X. Any Commission appointed under this Act may revoke any certificate granted under this Act in any case in which the fees for inspection, periodical or otherwise, shall not be paid after having been duly demanded, or in any case in which there shall be reason to believe that such certificate has been fraudulently obtained or erroneously granted, or has been granted without sufficient inspection, or in case there shall be reason to believe that the Boiler or Prime Mover in respect whereof such certificate shall have been granted since the granting such certificate has sustained injury or is not in good condition. After such revocation the Boiler or Prime Mover in respect whereof a certificate has been revoked shall not again be used until a further inspection shall have been made as required by this Act, and until a certificate shall have been granted by the Inspector, with the countersignature of a majority of the said Commission.

XI. Government shall from time to time frame and publish in the *Bombay Government Gazette* rules in conformity with the provisions of this Act regulating the fees payable for certificates and the duties of any Commission and of Inspectors appointed under this Act.

XII. The owner of any such Boiler or Prime Mover as aforesaid who shall have obtained a certificate for the same, shall at all reasonable times, during the period for which the same may be in force, be bound to produce such certificate when called upon to do so by any Magistrate having jurisdiction within the City of Bombay if such Boiler or Prime Mover be situate in the said City, or if such Boiler or Prime Mover be situate in any District to which this Act is made applicable when called upon to do so by the Collector of the said District or by any person authorized in writing by such Magistrate or Collector to demand its production. And any such owner refusing or neglecting to produce such certificate shall be liable on conviction to a penalty not exceeding one hundred Rupees.

XIII. The owner of any such Boiler or Prime Mover as aforesaid who shall use the same without a certificate duly obtained and in force in respect thereof under this Act, shall be punished with a fine not exceeding five

hundred Rupees; and if the said owner shall continue to use the same Boiler or Prime Mover as aforesaid after such fine shall have been imposed, he shall be held to have committed a separate offence, and shall be punished with a further fine not exceeding five hundred Rupees.

XIV. Examinations shall be instituted for persons who intend to become Engineers for the management of Boilers and Prime Movers, or who wish to procure certificates of competency as hereinafter mentioned.

XV. The Governor of Bombay in Council, or any Commission appointed under Section VIII. of this Act duly authorized by him in that behalf, shall from time to time nominate two or more competent persons for the purpose of examining the qualifications of applicants for examination, and may make rules for the conduct of such examination and as to the qualifications to be required and the fees to be paid by all applicants for examination.

XVI. The Governor of Bombay in Council, or such Commission as aforesaid shall deliver to every applicant who is reported by the examiners to have passed the examination a certificate of competency to the effect that he is competent to act as Engineer.

XVII. It shall be lawful for the Governor of Bombay in Council, or Commission as aforesaid, in case of the misconduct, negligence, or incompetency of any Engineer possessing a certificate of competency, to cancel such certificate, or to suspend the same for such time as to him or them shall seem fit.

XVIII. Every Engineer's certificate of competency which may be granted by any competent authority in the United Kingdom shall have in all respects the same validity and effect as if the same had been granted under the provisions of this Act.

XIX. All certificates of competency which may be granted under this Act shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as

the Governor in Council shall direct. All orders made for cancelling, suspending, altering, or otherwise affecting any certificate, in pursuance of the powers herein contained, shall be entered on the record of certificates.

XX. Whenever any Engineer proves to the satisfaction of the Governor in Council, or of such Commission as aforesaid, that he has, without fault on his part, lost or been deprived of any certificate already granted to him, a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled, shall be delivered to him, and shall have all the effect of the original certificate.

XXI. No person who does not possess a certificate of competency granted under Section XVI., or Section XVIII., or Section XX. of this Act shall be deemed a fit and proper person to manage or be in charge of a Steam Boiler or Prime Mover situate in the City of Bombay or in a District to which the provisions of this Act are made applicable; and if any owner of any Steam Boiler or Prime Mover as aforesaid knowingly places or permits to be placed in management or charge of such Steam Boiler or Prime Mover any person who does not possess a certificate of competency as aforesaid, such owner shall be liable to a fine not exceeding five hundred Rupees, and, in default of payment of fine, to imprisonment of either description for a term not exceeding three months.

XXII. No certificate under Section VII. or Section IX. of this Act shall be granted for any Steam Boiler or Prime Mover, unless the owner thereof shall have in his employ as Engineer thereof a person possessing a certificate of competency under Section XVI. or Section XVIII. or Section XX. of this Act.

XXIII. No proceeding shall be taken to enforce the penalties mentioned in Sections XIII. and XXI. of this Act, nor shall Section XXII. of this Act take effect before such day

after this Act shall have come into operation, or shall have been declared applicable to any District, as Government shall fix by notification in the *Bombay Government Gazette*.

XXIV. All costs and penalties imposed under the provisions of this Act within the City of Bombay may be recovered in the manner prescribed by Act XIII. of 1856 (for regulating the Police of the Towns of Calcutta, Madras and Bombay) and Act XLVIII. of 1860 (to amend Act XIII. of 1856) or any other Act for regulating the Police of the City of Bombay for the time being in force, and all offences against this Act committed in any District to which this Act shall have been declared applicable may be tried by any Magistrate with powers not inferior to those of a Magistrate of the Second Class, and the provisions of Sections 63 to 70, both inclusive, of the Indian Penal Code, and of Section 307 of the Code of Criminal Procedure, shall apply to all cost and fines imposed under the authority of this Act in any District to which this Act shall have been declared applicable. All fines and costs to be levied under this Act shall be disposed of in such manner as Government from time to time shall direct.

XXV. No charge shall be brought against any person for the recovery of any fine under this Act, except within six months after the commission of the offence, nor shall such charge be brought except with the sanction or under the direction of the Commission appointed under this Act or of the Collector of the District in which the offence is laid.

XXVI. This Act shall not apply to any Locomotive Engine used upon any Railway in the City of Bombay or in any District to which this Act is made applicable, nor to any Steam Vessel in the Port of Bombay or in any Port or River situate within any District to which this Act is made applicable.

XXVII. This Act may be cited as "The Boiler Inspection Act, 1873."

Recovery of Fines and disposal of Fines and Costs.

Charges within what period to be brought.

Act not to apply to Railway Engines nor to Steam Vessels.

Short Title.

SCHEDULE.

Form of Inspector's Certificate.

NAME OF OWNER.	Description of Boiler, and age.	Description of Prime Mover, and age.	Power.	When and where made.	When and where last repaired.	Time for which Boiler or Prime Mover is to be used and Certificate to be in force.	REMARKS.

I, the undersigned, certify that I have examined the abovenamed Boiler (or Prime Mover), and to the best of my judgment the Boiler (or Prime Mover), as shown in the above statement, is in good condition.

A. B., Inspector.

STATEMENT OF OBJECTS AND REASONS.

In consequence of the extension of late years of steam machinery to the ginning and pressing of cotton in the Mofussil a great number of factories worked by steam power has started up in different parts of the country. These factories are in many instances managed by men who have but a very slight acquaintance with the nature and proper regulation of steam machinery, and there is reason to believe that in some cases the boilers and machinery in use are defective, old and almost if not quite worn out. The danger to human life arising from these causes has become a matter for serious consideration. Already accidents attended with loss of life and destruction of property have occurred at Broach and Ahmedabad. Act VI. (Bombay) of 1869 provided for the inspection of Steam Boilers and Prime Movers situated in the City of Bombay, but it contained no clause by which its operation could be extended to the Mofussil, and further more it included no provisions insisting upon the competency of the persons employed as factory engineers and directing the examination of such engineers with a view to testing their qualifications. In place of having two Acts on this subject, one relating exclusively to the City of Bombay and the other referring to the Mofussil only, it has been deemed advisable to repeal Act VI. (Bombay) 1869, to withdraw Bill No. I. of 1873, and to substitute for them a measure applicable to both the Mofussil and the City of Bombay, embodying with certain modifications rendered necessary by its extended sphere of operation the provisions of Act VI. of 1869, and providing for the examination of engineers and the management by those persons only who are found to be competent of steam machinery. To accomplish these objects this Bill is introduced.

(Signed) A. ROGERS.

28th July 1873.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under-Secretary to Government.

Poona, 28th July 1873.

The following Bill, together with the Statement of Objects and Reasons accompanying it, is published in accordance with Rule 15 of the Rules for the Conduct of Bussiness at Meetings of the Council of His Excellency the Governor of Bombay for making Laws and Regulations:—

Bill No. 8 of 1873.

THE BOMBAY DISTRICT MUNICIPAL ACT OF 187 .

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DRAFT ACT.

An Act for the better management of Municipal affairs in Mofussil Towns and Cities.

WHEREAS it is expedient to consolidate and amend the law relating to the management of Municipal affairs in cities and towns in the Bombay Presidency other than the City of Bombay; it is enacted as follows:—

I.—PRELIMINARY.

I. Act XXVI. of 1850 and (Bombay)

Laws repealed.

Acts II. and IX. of 1862 and I. of 1871

are repealed, except as to any assessment made, or act done, or liability incurred, or money due, or proceedings commenced under them; provided always that in any places to which the said Acts have been made applicable such repeal shall not take effect until the expiration of six months from the date of the passing of this act, or until any date within that period in which such places may be included in a Municipal District constituted under this Act.

II. This Act shall be cited as the Bombay District Municipal Act.

Short title.

III. The following words and expressions in this Act shall

Interpretations.

have the meanings

hereby assigned to them unless there be something in the subject or context repugnant to such construction:—

The word "Collector" shall mean the chief revenue officer of a District constituted by Regulation XVI. of 1827, and shall include a Sub-Collector or other officer exercising under the authority of Government the powers of a Collector under this Act.

The words "Magistrate of the District," and "Magistrate," shall bear the meanings attached to them in the Code of Criminal Procedure.

The word "Commissioner" shall mean any person legally a member of a Municipality constituted under this Act.

The word "place" shall mean any city, town, suburb, station, or bazaar, with any village or lands in the vicinity thereof, which shall be constituted a Municipal District as in this Act provided, and also any number of such places when declared to be united as in this Act provided.

The word "land" shall include buildings, trees, and appurtenances thereupon.

The word "bazaar" shall include any place of trade where there is a collection of shops or warehouses, and any place where a market, fair, or pilgrimage takes place.

The word "street" shall include any way, road, street, square, court, alley, passage, or open space, whether a thoroughfare or not, over which the public have a right of passage or access, or shall have, during a period of twenty years, passed or had access without interruption; and also the roadway and footway over any public bridge or causeway.

The word "building" shall mean any house, hut, shed or enclosure, whether used as a human dwelling or otherwise, and shall include compound walls, door steps, verandahs, and the like.

The word "owner" shall mean the person for the time being receiving the rent of lands or buildings, or either of them, whether on his own account or as agent, or trustee for any other person or society, or for any religious or charitable purposes, or who would so receive the same if such land or building were let to a tenant.

II.—CONSTITUTION OF MUNICIPALITIES.

IV. For the purposes of this Act, the Governor of Bombay in Council, may from

time to time by notification in the Bombay "Government Gazette," and in the local newspapers, if any, as also by proclamation to be posted up in conspicuous parts of the place or places affected thereby, declare his intention to constitute as a Municipal District any city, town, suburb, station, or bazaar, or any village, or lands in the vicinity thereof, not being within the limits of the Island of Bombay, and to define the limits thereof, or to constitute as a Municipal District and declare to be united for the purposes of this Act, any number of such places or any parts thereof.

Clause 2. Any inhabitant of such place or places objecting to such formation of a Municipal District, may, within six weeks of the said notification, send in his objection in writing to a Secretary to Government, and the Governor in Council shall take such objection into consideration.

Clause 3. When six weeks from the said notification have expired the Governor in Council, if no objections have been sent as aforesaid, or (where such objections have been so sent in) if in his opinion they are insufficient, may by like notification constitute the said Municipal District, and may declare from time to time who shall be deemed inhabitants thereof within the meaning of this Act, and by what name such District shall be designated.

V. In every place which shall have been constituted a Municipal District the Governor of Bombay in Council, or any officer duly authorized by him, shall in like manner notify who, under Section VII. or IX. of this Act, are to be the Municipal Commissioners for carrying out in such place the purposes of this Act. The Municipal Commissioners of such place shall, by the name of "The Municipality of—," be a body corporate, and shall have perpetual succession and a common seal, and be competent to hold property, moveable and immoveable; to them and their successors, to convey the same with the sanction of the Governor in Council, or any officer duly authorized by him, and to enter into all necessary contracts for the purposes of this Act, and by such name shall sue and be sued.

VI. Municipalities shall be of two kinds, corresponding with the nature and powers of the Commissioners, and termed "City Municipalities" and "Town Municipalities" respectively.

VII. City Municipalities shall consist of the undermentioned Commissioners:—

The Collector of the District, who shall be President.	} Ex-officio
The Assistant and Deputy Collectors having local jurisdiction.	
The Mamlutdar.	
The City Inspector or Chief Constable of the local Police.	
The Executive Engineer.	} When resident in or near the place, and not otherwise.
The Civil Surgeon.	
The Superintendent of Police.	
The Assistant Superintendent of Police.	

Such persons, resident in or near the place, as the Governor in Council, or any officer duly authorized by him, may appoint to be Commissioners: provided that the number of such Non-official Commissioners shall always be not less than double that of the ex-officio Commissioners.

The Governor in Council may, if he think fit, direct the whole or any portion of the Non-official Commissioners to be appointed by election, and in that case may fix the time and manner of the election and the qualification of the electors, and generally may make such rules as he shall think fit for regulating the election.

The Governor in Council, or other officer duly authorized by him may from time to time remove any of the Commissioners so appointed who shall desire to be discharged, or refuse or become incapable to act, or be convicted of an offence punishable under the Indian Penal Code, or who shall without sufficient excuse neglect to be present at two-thirds of the meeting

during any twelve months at which it was his duty to attend.

VIII. In City Municipalities, the entire power and responsibility for carrying out the purposes of this Act shall be vested in the Commissioners collectively, except in so far as such power may be limited by this Act, or such power and responsibility may be delegated by the Rules hereinafter required.

Clause 2. It shall be the duty of the President to preside at meetings of the Commissioners, to watch over the finances and the executive administration, to submit questions of importance for the decision of the Municipality, to perform such executive functions as may be assigned to him in the Rules hereinafter required, and, generally, so to use his influence that the Municipal administration may be legal, efficient, and according to the purposes of this Act.

Clause 3. In the decision of all questions submitted to the Municipality the President shall have a casting vote, and also a veto, provided that his reasons for such veto be recorded in his own handwriting. It shall also be competent to him to order the dismissal of any Municipal stipendiary receiving a stipend of not more than Rs. 300 per mensem, provided that the Municipality, after one month's consideration of his reasons in writing for that course, shall, in a general meeting, have refused to sanction it. In either case, it shall be lawful for the Municipality to appeal to the Governor in Council, whose decision shall be final.

Clause 4. In the event of his absence from any general meeting the President may appoint one of the Commissioners to preside on the occasion, and in default of his doing so the Commissioners present shall elect one of their number for that purpose.

IX. Town Municipalities shall consist of the undermentioned Commissioners:—

The Collector of the District, who shall be President.	} Ex-officio.
The Assistant or Deputy Collector in charge of the Talooka, who shall be Vice-President.	
The Mamlutdar or Mahalkuree having local jurisdiction, who shall be Chairman.	
The Chief Constable having local jurisdiction.	

Such persons, resident in or near the place, as the Governor in Council, or any officer duly authorized by him, may appoint to be Commissioners: provided that the number of such persons shall in no case exceed seven, and that not more than one-half of the whole number of Commissioners shall be persons holding salaried offices in the service of Government.

The Governor in Council, or other officer aforesaid, may, from time to time, accept the resignation of, or remove, any of the Non-official Commissioners, and may fill up vacancies, or complete the legal number, as may seem to him fit.

X. In Town Municipalities the power and responsibility for carrying out the purposes of this Act shall be vested in the President finally, and in the Vice-President subject to appeal to the President by either the other Commissioners, or the public, or any individual considering himself aggrieved; provided that in the event of the President or Vice-President differing on any matter from a majority of the Commissioners, he shall record in writing his reasons for overruling their opinion.

Clause 2. The local executive authority shall be vested in the Chairman and other local Commissioners, and exercised in such manner as may be provided in the Rules hereinafter required, but the detailed executive management, or any portion of it, may under their control, and as laid down in such Rules, be entrusted, with or without remuneration, to either the Chairman or one of the Commissioners, or to a separate stipendiary officer.

Clause 3. The duties of the President, Vice-President, and Chairman, shall, in their several capacities correspond with those of the President of the City Municipality as laid down in Section VIII., Clause 2 of this Act. The senior of them present shall preside at all Municipal meetings, and in the event of all three being absent the Commissioners present shall elect a Chairman for the occasion.

XI. Every Municipality shall hold four General Meetings. quarterly general meetings in every year on or about January 1st, April 10th, July 1st, and October 1st, at which the Commissioners shall meet for the transaction of general business. The President, and in Town Municipalities the Vice-President also, may, whenever he thinks fit, and shall, upon a written requisition signed by not less than one-third of the whole body of Commissioners, call a special general meeting. Seven clear days' notice of a quarterly meeting and three days' clear notice of a special meeting, specifying the time and place of such intended meeting, and the business to be transacted thereat, shall be circulated to the Commissioners, and posted up at the Municipal Office, or local Kutcherry, or other public place.

Clause 2. No business shall be transacted at any general meeting unless at least one-half of the Commissioners be present. Commissioners present may vote on behalf of absent Commissioners on production of

their proxies in writing, which shall be recorded in the minutes of the proceedings. If a quorum of Commissioners be not present at any general meeting the presiding authority shall adjourn the meeting to such convenient time and place as he shall think fit, and the business which would have been brought before the original meeting had there been a quorum present shall be brought before and disposed of by the adjourned meeting, whether there be a quorum present or not.

Clause 3. All questions which may come before the Municipality at any general meeting, shall, saving the powers reserved to the President, and, in Town Municipalities to the Vice-President, be decided according to a majority of votes.

Clause 4. The business transacted at a general meeting shall be such as may have been brought forward by the Municipal executive, or by the President, or by any Commissioner who may have given notice of the same to the President ten days before a quarterly general meeting, or in the requisition for a special general meeting, and as shall have been duly specified in the notices.

Clause 5. Any general meeting may, with the consent of a majority of members present, be adjourned from time to time; but no business shall be transacted at any adjourned meeting other than that left unfinished at the meeting from which such adjournment took place.

XII. In cases in which it may appear to the President unnecessary to convene a special general meeting he may circulate written propositions of his own, or of other Commissioners, or of the Municipal executive, for the observations and votes of the Commissioners. In such cases the decision shall, saving the powers reserved to the President and Vice-President respectively, be according to a majority of votes of the Commissioners voting, unless the prescribed proportion of such Commissioners should require a special general meeting to be convened.

XIII. All necessary contracts for the purposes of this Act shall be entered into by or on behalf of the Municipality in the manner prescribed in the Rules hereinafter required to be made.

Clause 2. No Commissioner shall be personally liable for any contract made or expense incurred by or on behalf of the Municipality, but the funds from time to time in the hands of the Municipality shall be liable for and charged with all contracts made and expenses duly incurred as afore-

said. Every Commissioner shall be liable for any misapplication of money entrusted to the Municipality to which he shall have been a party, or which shall have happened through or been facilitated by his neglect of duty, and he shall be liable to be sued for the same as for money due to the Government.

Clause 3. No Commissioner, except with the written consent of the President, and no officer or servant of the Municipality, shall be in any wise concerned or interested in any contract made with the Municipality, and if any person be so concerned or interested he shall thereby become incapable of continuing in office or in employment, and shall be liable to a fine not exceeding five hundred rupees which shall be leviable as hereinafter provided. Provided always that no person by being a shareholder in or a member of any registered or incorporated Company, shall be disqualified from acting as a Commissioner by reason of any contract entered into between such Company and the Municipality. Nevertheless it shall not be lawful for a shareholder or member to act as a Commissioner in any matter relating to any contract between the Municipality and such Company.

XIV. It shall be the duty of every Municipality, as soon after their constitution as conveniently may be, to prepare Rules, and afterward from time to time to repeal, alter, or amend the same as occasion may require, regulating the nature and action of the Municipal executive administration, provided that no Rule shall have effect until the same shall have been approved by the Governor in Council, or any officer duly authorized by him. All Rules when so approved shall, until altered or rescinded under the same authorities, have the same force as if they had been inserted in this Act.

Clause 2. The Rules prepared as above shall provide for the following matters:—

(a.) The person or persons to be primarily responsible for the current executive administration, that is to say:—

- (1) In City Municipalities: whether such administration shall be vested in a single officer, paid or unpaid, and whether such officer shall be a member of the Municipality or not; or in two or more such officers; or in a Managing Committee assisted by a Secretary, or otherwise.
- (2) In Town Municipalities; what portion of the local executive authority shall be exercised by the Chairman and Commissioners, and what by the Chairman or other executive officer alone.

(b.) The extent to which the general powers of the Municipality, and the executive functions of the President and Vice-President other than those prescribed in this Act shall be delegated to the executive authorities constituted as above, or to their subordinates.

(c.) The times and places of meeting of such executive authorities, the mode of their transacting business, the custody of moneys, the keeping and submission of accounts, the execution of contracts, and the like.

(d.) The mode of appointment, granting leave, punishment, and dismissal of all officers and servants of the Municipality, their duties, the securities to be furnished by any of them, and the salaries they shall receive.

(e.) The rates, taxes, tolls, or other imposts to be levied in the place under this Act, together with the times and mode of collection of the same.

(f.) The mode in which and the authority by whom any Bye-laws not repugnant to existing law or this Act, on the subject of markets, slaughter-houses, water-supply, conservancy, places for the disposal of the dead, and all other matters connected with the purposes of this Act shall be made, altered, amended, or repealed; the fines or penalties leviable for the infringement of such Bye-laws; and the authorities by whom such fines or penalties shall be imposed and levied.

(g.) Any other executive matters not inconsistent with the spirit and purposes of this Act.

XV. Every Municipal Commissioner, Executive Officer, Commissioners, &c., to (whether paid or not), be public servants. and servant, as also every contractor or agent for the levy of any rate, toll, tax, or other impost on behalf of the Municipality and his Agents, shall be held to be a public servant within the meaning of Section XXI. of the Indian Penal Code.

XVI. It shall rest with the Governor. Municipalities may be altered or abrogated. nor in Council or any other officer duly authorized by him, to decide whether any Municipal District constituted under this Act shall be administered by a City Municipality or a Town Municipality, as also at any time subsequently to substitute in any such place a City Municipality for a Town Municipality, or *vice versa*; and to abolish any Municipal District and Municipality, should he deem it advisable to do so.

III.—MUNICIPAL PROPERTY AND FUND.

XVII. All property of the nature here- Property vested in in after specified shall the Municipality. be vested in and belong to the Municipality, and shall, together with all other property, of what nature or kind soever, which may become vested in the Municipality, be under their direction, management, and control, and shall be held and applied by them as trustees for the purposes of this Act; that is to say:—

(a.) All public town walls, gates, markets, slaughter houses, manure and nightsoil depôts, and public build-

ings of every description not specially reserved by Government.

(b.) All public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes, pumps, and other waterworks, and all bridges, buildings, engines, works, materials, and things connected therewith or appertaining thereto, and also any 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 watercourses in, alongside, or under any street, and all works, materials, and things appertaining thereto, as also all dust, dirt, dung, ashes, refuse, animal matter, or filth, or rubbish of any kind collected by the Municipality from the streets, houses, privies, sewers, cesspools, or elsewhere.

(d.) All public lamps, lamp posts, and apparatus connected therewith, or appertaining thereto.

(e.) All land transferred by Government or by gift or otherwise for local public purposes.

(f.) All public streets and spaces and the pavements, stones, and other materials thereof, and also all trees, erections, materials, implements, and things provided for such streets and spaces.

XVIII.—All moneys received by or on behalf of the Municipality by virtue of this or any other Act; all rates, taxes, tolls, and other imposts, fines, fees, penalties, paid to or levied by them under this Act; all proceeds of land or other property sold by the Municipality, and all rents accruing from their land or property; as also all interest, profits, and other moneys accruing by gifts or transfers from Government or private individuals, or otherwise, shall constitute the Municipal Fund, and shall be held and dealt with in a similar manner to the property mentioned in the last preceding section.

XIX.—In the event of any place to which the operation of Act XXVI. of 1850 has been extended being, within six months from the date of the passing of this Act, included within the limits of a Municipal District constituted as herein provided, all property moveable and immoveable which shall, on the date on which such place shall be included within such Municipal District aforesaid, be vested in or held in trust for the Municipal Commissioners appointed under the said Act XXVI. of 1850, with all rights of way and easements, and all other rights of whatsoever description now used, enjoyed, or possessed by the said Commissioners shall, on and from the date on which such place shall be included within such Municipal District aforesaid, be vested in the Municipality constituted under this Act.

Clause 2. No action, suit, prosecution or other proceeding whatsoever, commenced or carried on either by or against the said Municipal Commissioners previously to the

date aforesaid, shall abate or be discontinued, or prejudicially affected by this Act, but shall continue and take effect both in favour of, and against, the Municipality in the same manner in all respects, as the same would have continued and taken effect in relation to the said Municipal Commissioners, or any of them, if this Act had not been passed; and all decrees and orders made, and all fines and penalties imposed and incurred respectively, previously to such date aforesaid, shall, and may be enforced, levied, recovered, and proceeded for; and all administrative proceedings commenced previously to the date aforesaid, shall, and may be continued, proceeded with, and completed in such or the like manner, as if this Act had not been passed, the Municipality constituted under this Act being in reference to the matters aforesaid, in all respects aforesaid, in the place of the said Municipal Commissioners.

XX. In the event of any place to which Existing Municipalities not made into Municipal Districts. the operation of Act XXVI. of 1850 has been extended not being, within six months from the date of the passing of this Act, included within the limits of a Municipal District constituted as herein provided, all property and rights of what nature or kind soever which may, on the date of the expiration of the said period of six months, be vested in the Municipal Commissioners appointed under the said Act XXVI. of 1850, shall become vested in the Governor in Council, and may be vested by him in the District Local Fund Committee, or otherwise disposed of as he may deem expedient.

XXI. The taxes, tolls, and other imposition of taxes, &c. posts for the levy of which, for the purposes of this Act, it shall be lawful to make provision in the Rules contemplated in Section XIV. of this Act, may be all or any one or more of the following:—

- (a) A tax on houses, buildings, and lands.
- (b) A tax on professions and trades.
- (c) A tax on carriages, horses, mules, elephants, camels, bullocks, and asses.
- (d) A toll on carriages, carts, and animals.
- (e) A tax of uniform or graduated rates, to be levied as Halacore cess, or for general purposes, from every head of a household or person occupying a separate tenement, and residing within the limits of the Municipality.
- (f) An Octroi or Town Duty upon articles brought within the limits of the Municipality for consumption, use, or deposit therein. Provided that no duty shall be levied on any article which shall be re-exported from the said limits by the importer within fourteen days, or if levied shall be refunded.
- (g) Any other tax, toll, or impost of special local expedience, or in accordance with special local usage.

XXII. Every Municipality desiring from time to time to impose any tax, toll, or other impost for the purposes of this Act shall give notice of such intention, and shall in such notice define the persons or property to be made liable thereto, and the amount to be imposed.

Clause 2. Any inhabitant of the Municipal District objecting to such tax, toll, or impost may within a fortnight from the date of the said notice send his objection in writing to the Municipality, and the Municipality shall take such objection into consideration, and report their opinion thereon to the Governor in Council.

Clause 3. When a fortnight from the date of the said notice has expired, if no such objections have been sent as aforesaid, or (where such objections have been sent in) if in the opinion of the Governor in Council they are insufficient, the Governor in Council may approve of the provision for the said tax, toll, or impost in the Rules, and such tax, toll, or impost shall be imposed accordingly.

XXIII. When any license is granted by the Municipality under this Act, or when permission is given by them for making any temporary erection or for putting up any projection, or for the temporary occupation of any street or other land vested in the Municipality, the Municipality may charge a fee for such license or permission. The rates of such fees shall be specified in the Rules contemplated in Section XIV. of this Act.

IV.—APPLICATION OF MUNICIPAL PROPERTY AND FUNDS.

XXIV. All property vested in the Municipality, and all funds received or raised by them in accordance with the provisions of this Act, shall be applied for the purposes of this Act within the limits of the Municipality. Provided always that it shall be lawful for the Municipality, with the sanction of the Governor in Council or any officer duly authorized by him, to make a contribution towards expenditure incurred in any other Municipality, or in any Local Funds District constituted under (Bombay) Act III. of 1869, for measures affecting the public health, instruction, or convenience which are calculated to benefit the residents within the limits of the contributing Municipality.

XXV. All Municipal property and funds shall be applicable to the objects connected with the public safety,

health, instruction and convenience, and in certain cases to the extent hereinafter specified, and not otherwise; that is to say:—

Public Safety.

(1) Defraying such proportion, not exceeding one-half, of the charges of every description of the Police who may be *bona fide* employed for the security of life and property within the Municipal limits, as the Governor in Council may direct after consideration of the representations of the Police Commissioner and the Municipality, to whom the estimates of the Police Commissioner shall be submitted annually for their opinion.

(2) Provision for lighting the public streets, places, and buildings, for the extinction of fires, and for the securing or removal of dangerous places, buildings, trades, and practices.

Public Health.

(1) Defraying such proportion of the total cost of the construction and maintenance of Hospitals, Dispensaries, and Lunatic Asylums; and of the charges of Vaccination, Registration of Births, Deaths, and Marriages, and taking a Census, and such other lawful sanitary measures as the Municipality may think fit.

(2) Construction and maintenance of public markets and slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, water-works, baths, wash-houses, drinking fountains, tanks, and wells, dams, parks, and gardens, reclamation of unhealthy localities, and the like.

(3) Watering of streets, cleansing of streets, sewers, scavenging, removal of noxious vegetation, and generally the abatement of all nuisances.

(4) Regulation and abatement of offensive trades and places for disposal of the dead, and the removal of and providing sites for the same.

Public Instruction.

(1) Defraying such proportion, not exceeding two-thirds, of the charges of every description of providing complete primary instruction within the Municipal limits as the Governor in Council may direct after consideration of the representations of the Director of Public Instruction and the Municipality, to whom the estimates of the Director of Public Instruction shall be submitted annually for their opinion.

(2) Erection and maintenance of public Libraries and Museums.

Public Convenience.

(1) Construction, maintenance, and alteration of streets, bridges, causeways, culverts, and the like; regulation of buildings, naming streets, and numbering houses; planting trees and removal of obstructions and projections.

(2) Erection and maintenance of public halls, offices, chokies, dhurmshalas, rest-houses, and other needful buildings.

(3) Survey of houses and lands, and generally to all objects connected with the public safety, health, and convenience not repugnant to the above or the spirit of this Act.

Clause 2. It shall be lawful for the Municipality to purchase or lease land, or buildings or other property for any of the objects above named; or to lease or sell, if not required for such purposes, any land, buildings, or other property vested in them by this Act, or acquired by them for the

purposes thereof, in such manner as they may find most convenient and advantageous, provided that the proceeds of such transactions shall be credited to the Municipal Fund.

XXVI. When there is any hinderance to the permanent or temporary acquisition of land, upon payment of any land or building required for the purpose of this Act, the Governor in Council may, after obtaining possession of the same for Government under Act X. of 1870, or other existing law, vest such land or building in the Municipality on their paying the compensation awarded.

XXVII. It shall be lawful for the Municipality to deposit at interest with the Bank of Bombay, or such other Bank as may hereafter be appointed to conduct the business of Her Majesty's Treasury at Bombay, any surplus funds in their hands which may not be required for current charges, and to invest such funds in Government securities in the name of the Municipality and from time to time to dispose of such securities as may be necessary.

Clause 2. All surplus funds over and above what may be required for current expenses shall, unless placed at interest as above, be deposited in the local Government Treasury or such other place of security as may be sanctioned in the Rules contemplated in Section XIV of this Act.

V.—GENERAL CONSERVANCY.

XXVIII. It shall be lawful for the Municipality to lay out and make new public streets or roads, and to build bridges, tunnels, and other works appertaining to the same, and to widen, open, enlarge, or otherwise improve any such streets or roads, and to turn, divert, discontinue or stop up any such streets or roads, and to sell the land, or such part thereof as may not be required for the purposes of this Act.

Clause 2. In laying out or making any new streets, or in turning, diverting, widening, opening, enlarging, or otherwise improving any public street, in addition to the land required for the carriage-way and foot-ways and drains thereof, the Municipality may purchase the land necessary for the houses and buildings to form the said street, and may sell and dispose of the same, in perpetuity or on lease for a term of years, with such stipulations as to the class and description of houses or buildings to be erected thereon as they may think fit.

XXIX. Every person intending to lay out or make any new street shall give notice in writing thereof to the Municipality, and shall furnish plans and sections showing the intended level, means of drainage, direction, and width of such street, if required by the Municipality to do so, and the level, means of drainage, direction, and width of every such street shall be fixed or approved by the Municipality. Whoever lays out, makes, or builds upon any such street otherwise than in accordance with the instructions so received shall be liable to the penalty hereinafter provided, and the Municipality may cause any street so laid out or made to be altered, and any building erected in such streets contrary to their directions to be altered or removed, and the expense thereby incurred shall be paid to them by the offender and recoverable as hereinafter provided. If no such level, means of drainage, direction, or width be fixed, and no disapproval of the level, means of drainage, direction, or width proposed be signified or *ad interim* order for a specified period not longer than one month be issued by the Municipality within one month, the street may be laid out and made in the manner specified in the notice.

XXX. When any house or building, projecting or receding any part of which porches, projects beyond the regular line of a public street either as existing or determined upon for the future, or beyond the front of the house or building on either side thereof, has been either entirely or in greater part taken down, or burned down, or has fallen down, the Municipality may, by written notice, require the same when being rebuilt to be set back to or towards the said regular line or the front of the adjoining houses or buildings, and the portion of land added to the street by such setting back shall thenceforth be deemed part of the public street and be vested in the Municipality. Provided always that the Municipality shall make full compensation to the owner of any such house or building for any damage he may sustain, and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner hereinafter provided.

Clause 2. The Municipality may, upon such terms as they think fit, allow any house or building to be set forward for improving the line of any public street in which such house or building is situated.

XXXI. The external walls and covering of roofs of huts or other buildings erected or renewed after combustible materials not to be used.

this Act comes into operation shall not be made of wood, cloth, canvas, grass, leaves, mats, or other such inflammable matters, unless with the written consent of the Municipality, and the Municipality may, by written notice, require any person who may have contravened or caused to be contravened the above provision to remove or alter the same as they may think fit. Any person may give information and institute a prosecution under this section, and all expenses incurred in such prosecutions shall be recoverable from the owner of such hut or building as hereinafter provided.

XXXII. No house or building shall hereafter be built upon a lower level than will

Level of houses. allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the Municipality, or into some stream or river, or the sea, or some cesspool, or other suitable place which may be approved of by the Municipality.

XXXIII. Before beginning to erect any building, or to alter externally or add to any existing building, the person intending so to build, alter, or add shall give to the Municipality notice thereof in writing, and shall furnish to them, if required to do so, a plan showing the levels at which the foundation and lowest floor of such building are proposed to be laid by reference to some level known to the Municipality, and all information they may require regarding the design and materials of the proposed building and the intended situation and construction of the drains, sewers, privies, and cesspools (if any) to be used in connection therewith.

Clause 2. Within one month after receiving such notice the Municipality may in writing issue such orders not inconsistent with this Act as they think proper with reference to such building. If the Municipality fail to issue written orders, whether of approval or otherwise, with reference to such building within the said period, the person originally giving notice may proceed to erect the building in question in the manner proposed by him to the Municipality, provided that such building be in accordance with the provisions of this Act.

Clause 3. If such building be begun or made without the notice or without affording the information above prescribed, or in any manner contrary to the legal orders of the Municipality issued within the period aforesaid, or in any other respect contrary

to the provisions of this Act, the person so building shall be liable to the penalty hereinafter provided, and the Municipality may, by written notice, require such building to be altered or demolished as they may deem necessary.

XXXIV. It shall not be lawful for any

Regulation of huts. person to erect any range or block of huts or sheds, or to add any hut or huts to any range or block of huts or sheds already existing when this Act comes into operation without giving previous notice to the Municipality; and the Municipality 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 between every two lines of such width as the Municipality may think proper for ventilation, and to facilitate scavenging, and at such a level as will admit of sufficient drainage, and may require such huts to be provided with such number of privies and such means of drainage as to them may seem necessary. And if any such huts or sheds be built without giving such notice to the Municipality, or otherwise than as required by the Municipality, the Municipality may give written notice to the owner or builder or builders thereof, or the owner or occupier of the land on which the same are erected or are being erected, to take down and remove the same within one month or to alter them as they may think fit.

XXXV. Whenever the Municipality are of opinion that any huts or sheds, whether used as dwellings 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 the manner in which the huts or sheds are crowded together, or of the want of drainage and the impracticability of scavenging attended with risk of disease to the inhabitants or the neighbourhood, they shall cause a notice to be affixed to some conspicuous part of each such hut or shed requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the Municipality for that purpose to execute such operations as the Municipality may deem necessary for the avoidance of of such risk. And in case such owners or occupiers shall refuse or neglect to execute such operations within the time appointed, the Municipality may cause the said huts or sheds to be taken down, or such operations to be performed in respect of such huts or sheds as they may deem necessary to prevent such risk. If such huts or sheds be pulled down the Municipality shall cause the materials of each hut or shed to be sold separate-

ly, 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 Municipality until the person interested therein shall obtain the order of a competent Court for the payment of the same. Provided always that in case any huts or sheds existing at the time when this Act comes into operation should be pulled down under this section by order of the Municipality, or in pursuance of their 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 as hereinafter provided.

XXXVI. In case the Municipality shall be of opinion that any privy or cesspool, or privies or cesspools, or additional privies or cesspools should be provided for any house or building, they may by written notice call upon the owner of such house or building to provide the same in such manner as the Municipality deem proper.

Clause 2. The Municipality may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, to provide such latrines and urinals as may seem to them fit, and to cause the same to be kept in proper order, and to be daily cleaned.

Clause 3. The Municipality may by written notice require the owner or occupier of any house or building having a privy on his premises to have such privy shut out by a sufficient roof, and wall or fence from the view of persons passing by or resident in the neighbourhood, or to alter as they may direct any privy door or trapdoor opening on to any street which they deem to create a nuisance.

XXXVII. If any house or building in or near any street be at any time undrained, or not drained to the satisfaction of the Municipality by a sufficient drain or pipe communicating with some sewer, drain, stream, river, or the sea, or other suitable place, and if there be such means of drainage within fifty feet of any part of such house or building, the Municipality may by written notice call upon the owner to construct or lay from such house or building a drain or pipe of such size and materials, at such level, and with such fall as they think necessary for the draining of such house or building.

Clause 2. All covered sewers and drains, and all cesspools, whether public

or private, shall be provided by the Municipality or other persons to whom they severally belong, with proper traps, or other coverings or means of ventilation, and the Municipality may by written notice call upon the owner of any such covered sewers, drains, or cesspools to make provision accordingly.

XXXVIII. Whoever without the written consent of the Municipality first obtained makes or causes to be made any drain into or out from any of the sewers or drains vested in the Municipality by this Act shall be liable to the penalty hereinafter prescribed, and the Municipality may by written notice require such person to demolish, alter, re-make, or otherwise deal with such drain as they may think fit.

Clause 2. No building shall be newly erected or re-built over any sewer, drain, culvert, gutter, tunnel, waterpipe, or water-course vested in the Municipality by this Act without the written consent of the Municipality, and the Municipality may by written notice require the person who may have erected or re-built such building to pull down or otherwise deal with the same as they may think fit.

XXXIX. All sewers, drains, privies, housegullies, and cesspools within the Municipal limits shall be under the survey and control of the Municipality, and if private, shall be altered, repaired, and kept in proper order at the cost and charges of the owners of the land and buildings to which the same belong, or for the use of which they are constructed or continued, and the Municipality may by written notice require such owner to alter, repair, and put the same in good order in such manner as they think fit.

Clause 2. If any such sewer, drain, privy, housegully, or cesspool be constructed after this Act comes into operation contrary to the directions or general regulations of the Municipality or the provisions of this Act, or if any person without the consent of the Municipality construct any new sewer, drain, housegully, or cesspool, privy, or construct, rebuild, or unstop any sewer, drain, privy, housegully, or cesspool which has been ordered by them to be demolished or stopped up, or not to be made, every person so doing shall be liable to the penalty hereinafter provided, and the Municipality may in addition require by written notice such person to demolish or make such amendment or alteration in any such drain or privy as they may think fit.

XL. The Municipality or any officer appointed by them for such purposes may, subject to the restrictions of this Act, inspect any sewer, drain, privy, housegully, or cesspool, and for that purpose, at any time between sunrise and sunset, may enter upon any lands or buildings with Assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be, and if upon such inspection it appears that the sewer, drain, privy, housegully, or cesspool is not in good order and condition, or that it has been constructed after this Act came into operation contrary to the provisions thereof, the expenses of such inspection shall be paid by the person to whom such sewer, drain, privy, housegully, or cesspool may belong, and shall be recoverable as hereinafter provided; but if the sewer, drain, privy, housegully, or cesspool be found to be in proper order and condition, and not to have been constructed in violation of the provisions of this Act, the Municipality or officer as aforesaid shall cause the ground to be closed and made good as soon as may be, and the expense of opening, closing, and making good as aforesaid shall be defrayed by the Municipality.

XLI. The Municipality may by written notice require the owner of every house and building in any public street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other part of such house or building, and for discharging the same in such manner as they may think fit, so that it shall not fall upon the persons passing along the street.

XLII. The Municipality may by written notice require the owner or occupier of any house or building to remove or alter any projection, encroachment, or obstruction which, although erected before this Act comes into operation in this place, shall have been erected or placed against or in front of such house or building, if the same overhangs or juts into or in any way projects or encroaches upon any public street, so as to be an obstruction to the safe and convenient passage along such street, or if the same 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 always that if such projection, encroachment, or obstruction shall have been lawfully made, the Municipality shall make reasonable compensation to every person

who suffers damage by such removal or alteration; and if any dispute shall arise touching the amount of such compensation the same shall be ascertained and determined in the manner hereinafter provided.

Clause 2. The Municipality shall possess similar power, but shall not be under the obligation of making compensation, with respect to all such projections, encroachments or obstructions which shall be erected or placed after this Act comes into operation in the place.

Clause 3. The Municipality may give written permission to the owners or occupiers of houses or buildings in public streets to put up open verandahs, balconies, or rooms, to project from any upper storey thereof to an extent not exceeding four feet beyond the line of the plinth or basement wall, and no such verandahs, balconies, or rooms shall be put up without such permission.

XLIII. The Municipality 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 they deem likely to endanger or obstruct any public road or street or to cause damage thereto, or which so overhang any public tank, well, or other provision for water supply as to pollute, or be likely to pollute the water thereof.

XLIV. The Municipality may erect or fix to the outside of any house or building brackets for telegraphic wires or lamps, and such pipes as they may deem necessary for the proper ventilation of sewers and waterworks, and such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the said house or building or any others in the neighbourhood.

XLV. The Municipality may from time to time cause to be named streets and numbering houses. put up or painted on a conspicuous part of any house 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 fix a number in a conspicuous place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street. Any person who destroys, pulls down, or defaces any such name or number, or puts up any name or number

different from that put up by the Municipality, and any owner or occupier who shall not at his own expense keep such number in good order after it has been put up, shall be liable to the penalty herein-after provided.

XLVI. If, in any street, any house, building, or wall, or any thing affixed thereon, be deemed by the Municipality to be in a ruinous state or likely to fall, or in any other way dangerous to the inhabitants of such house or building, or the neighbouring houses or buildings, or the occupiers thereof, or to passengers, they shall immediately, if it appears to them to be necessary, cause a proper hoard or fence to be put up for the protection of passengers; and shall 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 house, building, wall, or thing affixed thereon as the case shall require, and if such owner or occupier do not begin to repair, take down, or secure the same within three days after such notice, and complete such work with due diligence, the Municipality shall cause all or so much of such house, building, wall, or thing, as they shall think necessary to be taken down, repaired, or otherwise secured; and all the expenses incurred by the Municipality shall be paid by the owner or occupier of the premises, and shall be recoverable as hereinafter provided. Provided always that if the danger be not of hourly imminence, it shall be at the discretion of the Municipality to issue in the first instance notice in writing to the owner or occupier to put up a proper hoard within two days, and to take action as above in the event of non-compliance with such notice.

XLVII. Whoever displaces, takes up, or makes any alteration in the pavement, gutter, flags, or other materials, or in the fences, walls, or posts of any public street, without the written consent of the Municipality, or other lawful authority, or having displaced, taken up or made alteration in any such pavement, gutter, flags, or other materials, or in fences, walls, or posts, shall fail to replace or restore the same to the satisfaction of the Municipality after notice to do so, shall be liable to the penalty hereinafter provided, and shall pay any expense which may be incurred in restoring the street, which shall be recovered in the manner hereinafter provided.

XLVIII. Whoever after this Act comes into operation in any place, shall build any wall, or erect or set up any fence, rail, post, step, stall, or any erection or thing, or other obstruction or encroachment in any public street, or shall deposit or cause to be placed or deposited any box, bale, package of 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 liable to the penalty hereinafter provided; and the Municipality shall have power to remove any such obstruction or encroachment, and the expense of such removal shall be paid by the person erecting or depositing the same, and shall be recoverable as hereafter provided. Nothing herein contained shall prevent the Municipality from allowing any temporary erections in any public street on occasions of festivals and ceremonies, or the piling of fuel in bye streets and spaces for not more than four days, and in such manner as not to inconvenience the public or any individual.

XLIX. Every person intending to build or take down any building, or to alter or repair the outward part of any building where any street or footway will by means of such work be obstructed or rendered unsafe or inconvenient, shall, before beginning the same, and having first obtained a license in writing from the Municipality so to do, cause sufficient hoards or fences to be put up in order to separate the building where such works are being carried on from the street or footway, and shall continue such hoard or fence standing and in good condition to the satisfaction of the Municipality during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the Municipality.

L. The Municipality shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in them, take proper precaution for guarding against accident by shoring up and protecting the adjoining buildings, and shall cause such bars, chains, or posts to be fixed across or in any of the streets to prevent the passage of carriages, carts, or other vehicles, cattle, or horses, while such works are carried on, as to them shall seem proper; and the Municipality shall cause any sewer or drain or other works in streets, during the construction

or repair thereof, to be sufficiently lighted and guarded during the night; and whoever takes down, alters, or removes any of the said bars, chains, or posts, or extinguishes any light, without the authority, or consent of the Municipality, shall be liable to the penalty hereinafter provided.

LI. No person shall deposit any timber or building materials or make a hole in any street, without the written permission of the Municipality; and such permission shall be terminable at the discretion of the Municipality; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure to the satisfaction of the Municipality, and shall cause the same to be sufficiently lighted during the night. Whoever contravenes the provisions of this section shall be liable to the penalty hereinafter provided.

LII. If any place whatsoever be, for want of sufficient repair, protection, or enclosure, in the opinion of the Municipality dangerous to passengers, they may by written notice require the owner thereof to repair, protect, or enclose the same within twenty-four hours, so as to prevent danger therefrom.

LIII. Whoever deposits, or causes or permits 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 earthenware or other rubbish, or any other thing that is, or may be, a nuisance in any street or on any public quarry, jetty, or landing place, or on any part of the seashore or the bank of a tidal river, whether above or below high watermark, or on any river bank, except at such places and in such manner, and at such hours as may be fixed by the Municipality, and whoever obeys or permits any member of his family or household to obey the calls of nature in any street, shall be liable to the penalty hereinafter prescribed.

Clause 2. Whoever throws or puts, or causes or permits any member of his household to throw or put any of the matter above described, or, except with the permission of the Municipality, any night-soil, into any sewer, drain, culvert, tunnel, gutter, or watercourse, or into any drain communicating therewith, shall be liable to the penalty hereinafter prescribed.

LIV. Whoever causes or allows the water of any sink or sewer, Discharging sewage, &c. or any other offensive liquid or other matter from his premises, or being on his land, to run, drain, or be thrown or put upon any street, or to soak through a wall in any street, or causes or allows any offensive matter from any sewer or privy to run, drain, or be thrown into a surface drain in any street, or allows or causes any water to run on the street, without the permission, in writing, of the Municipality, shall be liable to the penalty hereinafter prescribed.

LV. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth, or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom and to cleanse and purify the same, or keeps or allows to be kept in or upon such building or land any animal in such a way as to be a nuisance, shall be liable to the penalties hereinafter prescribed.

LVI. The Municipality may from time to time fix the hours within which only it shall be lawful to remove any night-soil or other such offensive matter; and when they have fixed such hours and given public notice thereof by beat of battakee, whoever removes, or causes to be removed, along any street any such offensive matter at any time except within the hours so fixed, or whoever at any time, whether such hours have been fixed by the Municipality or not, uses for any such purpose any cart, carriage, receptacle, or vessel not having a covering proper for preventing the escape of the contents thereof, and of the stench therefrom, or who wilfully or negligently slops or spills any such offensive matter in the removal thereof, or who does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or who places or sets down in any public place any vessel containing such offensive matter, or who 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 Municipality by public notice, shall be liable to the penalty hereinafter prescribed.

LVII. It shall be lawful for the Municipality after notice Halalcore service. given to the occupier or occupiers of any building or land, or to the occupiers generally within the Municipal District or any recognised division thereof, to perform by their agents the duties usually performed by sweepers with regard to such building or land, and to make suitable provision accordingly.

Clause 2. When the Municipality shall have made such provision, the occupier, or the several occupiers of the building or land so served, or all the several occupiers of buildings or lands situated within the District or Division regarding which such notice may have been given, shall become liable to pay any special cess which may be levied for such purposes under the Rules contemplated in Section XIV. of this Act.

LVIII. Whoever, being the owner or Filthy buildings, &c. occupier of any building, or land, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or in the opinion of the Municipality a nuisance to those in the neighbourhood, or overgrown with rank and noisome vegetation, and who shall not, within twenty-four hours after notice in writing by the Municipality to cleanse, clear, or otherwise put the same in a proper state, have complied with the requisition contained in such notice, shall be liable to the penalty hereinafter provided: Provided that if the state of the house or building be such as in the judgment of the Municipality to render it unfit for human habitation they may further prohibit the using thereof for that purpose until it is so rendered fit.

LIX. It shall be lawful for the Municipality or any officer appointed by them for such purposes, any Power to enter and inspect, &c., buildings. time between sunrise and sunset, on giving such notice as hereinafter provided, to enter into and inspect all buildings and lands, and by written notice, to direct all or any part to be forthwith internally and externally limewashed or otherwise cleansed, for sanitary reasons.

LX. The Municipality may set apart sufficient public places, Bathing places. or any part of the seashore (not being private property) for the purpose of being used as bathing places; and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also set apart tanks or reservoirs or runs of water for washing animals

or clothes, and for all purposes connected with the health, cleanliness, and comfort of the inhabitants.

LXI. Whoever, in disobedience of any order of the Municipality under Section LX. of this Act, bathes in any stream, tank, or reservoir, well, cistern, conduit or aqueduct belonging to the Municipality, or washes, or causes to be washed therein any animal, or anything whatever, or throws, puts, or casts or causes to enter therein any animal, or anything, or causes or suffers to run, drain, or be brought thereto anything that is, or may be, a nuisance, or does anything whatsoever whereby any such water shall be in any degree fouled or corrupted, or whoever without permission of the Municipality, steeps in any tank, stream, or ditch within the Municipal District any animal, vegetable, or mineral matter likely to render the water of such tank, stream, or ditch offensive or a nuisance, shall be liable, on conviction before a Magistrate, to the penalty hereinafter provided.

LXII. When any pool, ditch, tank, pond, well, quarry, Abatement of nuisances. hole, or low ground, or any waste or stagnant water, whether the same be within any private enclosure or otherwise, shall appear to the Municipality to be likely to prove injurious to the health of the inhabitants or offensive to the neighbourhood, the Municipality may by written notice require the owner of the same to cleanse, or fill up, or drain off, or remove the same, or to take such measures as shall, in their opinion, be necessary to abate or remove the nuisance.

LXIII. Whoever, except with the written permission of the Municipality and in the way (if any) enjoined in such permission, uses night-soil, or other manure or substance emitting an offensive smell, in fields, gardens, or lime or brick-kilns, shall be liable to the penalty hereinafter provided.

LXIV. Whoever shall tether cattle or other animals, or cause Tethering cattle, &c. or permit them to be tethered by any member of his family or household, in any public street, or who causes or permits such animals to stray about without a keeper, shall be liable to the penalty hereinafter provided.

LXV. It shall be lawful for the Municipality to direct by Consumption of smoke. public notice that every furnace employed or to be employed

in any works or buildings used for the purposes 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 or altered so as to consume or burn, or reduce as far as may be practicable, the smoke arising from such furnace; and if any person shall after such direction use, or permit to be used, any such furnace which shall not be constructed or altered so as to consume or burn its own smoke, or shall so negligently use, or permit to be used, any such furnace as that the smoke arising therefrom shall not be effectually consumed or burnt, every person so offending being the owner or occupier of the premises, or being an agent or other person employed by such owner or occupier for managing the same, shall, upon conviction before any Magistrate, be liable to a penalty not exceeding one hundred rupees, and upon each subsequent conviction a sum double the amount of the penalty imposed for the last preceding conviction: 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.

LXVI. If upon the evidence of competent persons the Municipality, with the sanction of the Governor in Council or any officer authorised by him, shall certify that any place for the disposal of the dead, or of carcases of animals, is in such a state as to be offensive or dangerous to the health of persons living in the neighbourhood thereof, or that any church or other place of public worship is dangerous to the health of persons frequenting the same, by reason of the state of the vaults or graves within the walls of or underneath the same, or in any church-yard or burial-ground adjacent thereto, it shall not be lawful, after a time to be named in such certificate, not being less than two months after the publication of the same as hereinafter provided, to dispose of any corpse or carcase in, upon, within or under the place, ground, church or place of worship to which the certificate relates; and whoever after due publication of such certificate as hereinafter provided, disposes of any corpse or carcase contrary to this enactment or suffers or abets such disposal shall be liable to the penalty hereinafter provided. Provided always that every such certificate shall be posted at the Municipal Office, and published in the local newspaper, if any; and that a copy of such certificate, shall be affixed conspicuously on some part of the said ground or place.

Clause 2. The Municipality may in manner provided in Section XIV. of this Act make bye-laws for the inspection and licensing and regulation of places for the disposal of the dead, and of carcases of animals and may therein prescribe rules as to the depth of graves and places of interment, and generally as to all matters connected with the good order of such places, due regard being had to the religious usages of the several classes of the community.

LXVII. It shall be lawful for the Municipality to direct that no place shall be used as a market for animals or commodities intended for human food, or as a slaughter-house, excepting the public markets or slaughter-houses constructed or opened by the Municipality, or such other markets or slaughter-houses as may have been licensed in writing by the Municipality, who may, at their discretion, from time to time grant, withhold, or withdraw such licenses, either generally or in individual instances.

Clause 2. Whoever, contrary to such direction or without such license as aforesaid, sells or exposes for sale any such animals or commodities, or uses any place as a slaughter-house, shall be liable to the penalty hereinafter provided.

LXVIII. The Municipality may from time to time open or close any public market or slaughter-house. They may also either take stallage or other rents or fees for the use by any person of any such market or slaughter-house, or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in, or of otherwise using, any such market or slaughter-house.

Clause 2. Any person who, without the permission or licence of the Municipality, shall sell or expose for sale any article in the said markets, or use the said slaughter-houses, shall be liable to the penalty hereinafter provided.

LXIX. The Municipality, or any officer authorized by them for such purposes, may at all reasonable times, enter into and inspect any place used for the sale either wholesale or retail, or for the storing, of articles intended for food or drink, or as a slaughter house, and may examine any such articles which may be therein; and in case any such articles appear to be unfit for food or drink, may seize the same; and if it appear to a Magistrate upon sufficient evidence that the same are

unfit for food or drink, he shall order the same to be destroyed, or to be so disposed of as to prevent their being exposed for sale or used for food or drink, and the owner thereof, or the person in whose possession the same are found, shall be liable to the penalty provided by Section 273 of the Indian Penal Code.

LXX. If it be shown, to the satisfaction of the Municipality, that any building or place used for melting tallow or sulphur, or for boiling or storing offal, blood, bones, or rags, or for washing or drying wool or hair or as a soap house, oil boiling house, dyeing house, tannery, brick, pottery, or lime kiln, manufactory of sago, distillery, or other manufactory or place of storing hides, fish, horns, skins, from which either offensive or unwholesome smells arise, manufactory of gunpowder or fireworks, place of storing explosive substances or hay, straw fodder, wood, coal, or other combustible material, is a nuisance to the neighbourhood, so used or situated to be likely to be dangerous to life, health or property, the Municipality may by written notice require the owner or occupier to discontinue the use of such place, or to use it in such manner as they may deem will render it no longer a nuisance, or injurious, or dangerous, and any person who contravenes the direction of such notice shall be liable to the penalties herein after provided.

LXXI. The Municipality may, in the manner provided in Section XIV. of this Act, make bye-laws for and with respect to the inspection and management of all markets and slaughter-houses within the Municipal limits, the cleanly and proper conduct of business therein, and the charges for the use of such of them as may belong to the Municipality.

Clause 2. The Municipality may also make bye-laws for the inspection or licensing of every place used for any of the purposes mentioned in Section LXX. and for the management and conduct of such business, whether the same be newly established or not, in such manner as they may think necessary and proper, in order to prevent or diminish the noxious, injurious, offensive, or dangerous effect thereof.

LXXII. It shall be lawful for the Municipality, with the sanction of the Governor in Council, or any Officer authorized by him, to establish slaughter-houses or places for the disposal

of the dead, and of carcases of animals beyond the limits of the Municipal District, and all provisions of this Act and bye-laws relating to the management of such places within Municipal limits shall have full force therein, and all offences shall be cognizable as if such places were within the Municipal limits.

LXXIII. The Municipality may in the manner provided in Section XIV. of this Act, make bye-laws regarding the registration of births, deaths, and marriages, and the taking of a Census.

LXXIV. In the event of the Municipal District, or any part thereof, being at any time threatened or visited with an outbreak of any epidemic disease, the Municipality is hereby empowered and directed, with the sanction of the Governor in Council or any officer duly authorised by him, to take such measures as may be deemed necessary to prevent, meet, mitigate, or suppress any such outbreak.

LXXV. Any person who contravenes the provisions of the Sections of this Act hereinafter enumerated shall for each offence be liable to the penalties herein prescribed with reference to such sections respectively; that is to say:—

Sections XXXIII.; XXXVIII.; XXXIX.; XLII.; XLVII.; XLVIII.; L.; LI.; LIII.; to LVI.; LVIII.; LXIII.; LXIV.; LXVII.; LXIX....	}	Fine not exceeding Rs. Fifty.
LXI.		
XXIX., LXVI., LXX.	" "	Rs. 100.
	" "	Rs. 200.

Clause 2. Any person who after conviction or notice, as the case may be, continues the offences referred to in the sections of this Act hereinafter enumerated shall in addition to any penalty which may have been imposed under the preceding section be liable for each day of such continuance to the penalties herein prescribed with reference to such sections respectively; that is to say:—

Sections XXXVIII. XXXIX.; XLII.; LIV.; LV.; LVIII.; LXIV.	}	Fine of Five Rupees.
XLIX.; LI.; LII.		
LXX.		
	" Ten "	
	" Twenty "	

LXXVI. All written notices which may be issued by the Municipality, under Sections XXXIII. to XXXIX.; XLI. to XLIII.; XLVI.; LI.; LVIII.; LXII.; and LXX., of this Act shall prescribe a time, which

shall, at the discretion of the Municipality, be not less than three days or more than one month, within which the action prescribed in the notice should be taken by the person upon whom the notice is served. In the event of non-compliance with the terms of the notice it shall be lawful for the Municipality to take such action, or such steps, as may be necessary for the completion thereof, and all the expenses incurred by them shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner hereinafter provided.

VI.—PROCEDURE, PROSECUTIONS, SUITS, &c.

LXXVII. Every notice under this Act may be served personally upon the person to whom the same is addressed, or by leaving the same with some adult male member or servant of his family; or, if it cannot be so served, it may be put up on some conspicuous part of such person's place of abode. If the notice relates to any building or land, and the place of abode of the owner is unknown, the notice shall be deemed to be duly served if put upon some conspicuous part of the building or land to which the same relates. No notice shall be invalid for defect of form.

LXXVIII. Whenever, under the provisions of this Act, any work is required by the Municipality to be executed, or any alterations or improvements to be made, in any building, or place, and such work, alterations or improvements are executed by the occupier of such building or place, or by the Municipality at his expense, the cost thereof may be deducted by such occupier from the next and following payments of his rent due or becoming due to such owner, or may be recovered by him in any Court of competent jurisdiction. Provided always, that in case the occupier has a beneficial interest in such building, or place, he shall deduct or recover such sum only as will bear the same proportion to the entire cost of such work, alteration, or improvement, as the value of the owner's interest bears to the value of the joint interest of him and the occupier. And provided also, that in case the rents issuing out of any such building or place belong to more persons than one, who are entitled to the same, either as being joint proprietors of such building or place, or as having intermediate and other interests therein, the cost of any work, alteration, or improvement as aforesaid, payable by the owner, shall be borne by such persons in proportion to their respective interests, and any

one or more of such persons, who may have been compelled to pay more than a just proportion in the first instance, shall have like remedies against the others, for enforcing contribution by them, as are hereby given to the occupier as against the owner.

LXXIX. It shall be lawful for the Municipality, or any officer authorized by them for such purposes, to enter, for the purposes of this Act, between sunrise and sunset, into and upon any building or land, as well for the purpose of making any survey or inspection they may be entitled to make as for the purpose of executing any work authorized by this Act to be executed by them; provided that, except when herein otherwise provided, the Municipality or their said officer shall not enter upon any building or land which may be occupied at the time, unless with the consent of the occupier thereof, without previously giving the said occupier twenty-four hours' written notice of their or his intention to do so: provided also that in the case of buildings used as human dwellings, due regard shall be paid to the social and religious prejudices of the occupiers.

LXXX. If a dispute arises with respect to any compensation, damages, costs, or expenses 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 Punchayet of five persons, of whom two shall be appointed by the Municipality, two by the party to receive compensation, and one, who shall be Sir-Punch, shall be selected by the members already appointed as above. If either party, or both parties, fail to nominate representatives, or if the members fail to appoint a Sir-Punch, within one month from the date of either party receiving written notice from the other of claim to such compensation, damages, costs, or expenses, such members as may be necessary to constitute a Punchayet shall be appointed, at the instance of either party, by the District Judge. In the event of the Punchayet not giving a decision within one month from the date of the appointment of the Sir-Punch, the matter shall, on application by either party, be determined by a Court under the provisions of Act X. of 1870.

LXXXI. The Municipality may direct any prosecution for any public nuisance whatever, and may

order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, and may order the expenses of such prosecution or other proceedings to be paid out of the Municipal Fund, and no prosecution for an offence under this Act shall be instituted except within three months next after the commission of such offence.

LXXXII. If through any act, neglect, or default, on account of damage to Municipal property, how made good, whereof any person shall have incurred any penalty imposed by this Act, any damage to the property of the Municipality shall have been committed by such person he shall be liable to make good such damage as well as to pay such penalty, and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the party incurring such penalty shall have been convicted, and on non-payment of such damage on demand the same shall be levied by distress and such Magistrate shall issue his warrant accordingly.

Clause 2. It shall be lawful for the Municipality in lieu of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of any compensation, expenses, charges, or damages awarded under this Act, to sue, in any Court of competent jurisdiction, the person liable to pay the same, as also any person who may have in any other way caused, or may appear likely to cause, any loss or innovation of any of the property, rights, or privileges of the Municipality.

Clause 3. The Municipality may make compensation out of the Municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in them, their officers, and servants, under this Act.

LXXXIII. Every prosecution under this Jurisdiction of Magistrate. Act may be instituted before any Magistrate whether the said Magistrate be a Municipal Commissioner or not, and every fine or penalty imposed under or by virtue of this Act or any bye-law made in pursuance thereof, as also all arrears of taxes may be recovered by a summary proceeding before such Magistrate in the manner provided in the Code of Criminal Procedure upon information laid by the Municipality.

LXXXVI. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party Distress lawful though defective in form.

making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, or warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

LXXXV. No action shall be brought Actions against the Municipality. against the Municipality, or any of their officers, or any person acting under their direction, for any thing done or intended to be done under this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Municipality, or at the place of abode of the intended defendant stating with reasonable particularity the cause of action, and the name and place of abode of the intended plaintiff; and upon the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action, except such as is stated in the notice so delivered, and unless such notice be proved, the Court shall find for the defendant; and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards: and, if any person, to whom any such notice of action is given shall, before action brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

LXXXVI. Any Police officer may arrest Powers of Police Officers. any person committing in his view any offence against any of the provisions of this Act if the name and address of such person be unknown to him, or if such person decline to give his name and address, or if the Police officer in question shall have reason to doubt the accuracy of such name and address if given; and such person may be detained at the station-house until his name and address shall be correctly ascertained: provided that no person arrested under the provisions of this Act shall be detained in any way without the order of some Magistrate longer than shall be necessary for bringing him before a Magistrate, or than forty hours at the utmost.

Clause 2. It shall also be the duty of all Police officers to give immediate information to the Municipality of any offence committed contrary to the provisions of this

Act, and to assist all collectors and other Municipal officers and servants in the exercise of their lawful authority.

VII.—MUNICIPAL ACCOUNTS AND GOVERNMENT CONTROL.

LXXXVII. It shall be the duty of the Quarterly and annual President, or in Town Municipalities of the Vice-President, to lay or cause to be laid before the Municipality at their quarterly general meetings which take place in July, October and January complete accounts of the receipts and expenditure of the Municipal Fund during the period which may have elapsed since the commencement of the official year on April 1st preceding; and, at their annual general meeting in April, a complete such account for the year just expired, together with a budget estimate for the year then just commenced, shewing what expenditure has been, or it is proposed by the Municipal executive should be, sanctioned for such year, and the manner in which it is proposed that such expenditure should be met. Provided always that the date of commencement of the official year may at any time be changed by Government.

Clause 2. The Municipality shall thereupon, or after audit of the past year's accounts if it has not previously taken place, pass the accounts of the past year and decide upon the appropriations, and the ways and means, contained in the budget of the year then just commenced. The budget so sanctioned may be varied or altered from time to time as circumstances may render desirable.

LXXXVIII. The Municipal accounts shall from time to time, and once in every year at the least, be audited by such agency as may be prescribed in the Rules required by Section XIV. of this Act. The auditor, or auditors, shall, for the purposes of their office, have access to all the accounts and other records of the Municipality.

LXXXIX. The Municipality shall, as soon as the annual accounts have been finally passed by them, transmit to the Governor in Council or any officer duly authorized by him, a copy thereof, or an account in such form as the Governor in Council may prescribe, and shall furnish such details and vouchers relating to the same as he may from time to time direct.

XC. Whenever it shall have been ascertained by the Governor in Council, through the Commissioner of Police, or District Magistrate, or other person or persons appointed by the Governor in Council to inquire into and report on the subject, that the Municipality of any place have neglected any work or duty, falling within the scope of this Act, which is, in the opinion of the Governor in Council, emergently necessary for the public health or safety, it shall be lawful to the Governor in Council to issue an order to the said Municipality to execute such work or perform such duty, and if that order be not obeyed, or in process of being obeyed within one week from the date of its receipt by the Municipality, the Governor in Council may direct the District Magistrate to execute the said work, or to perform the said duty, and to recover the expense thereof from the Municipal fund; and in failure of immediate payment of the said expense by the Municipality out of the said Fund, the Governor in Council may recover the amount by suit in the Civil Court or Courts having jurisdiction in the said place, and the costs of the suit shall be recoverable from the Commissioners composing the Municipality, or any one of them. The said Commissioners may, out of the Municipal Fund, or by further taxation lawfully imposed, defray any sum or sums which they may be compelled to pay to the Governor in Council for the expenses of the execution of such work or performance of such duty, but not the costs of any such suit as aforesaid. The said suit shall be instituted in the name of the Secretary of State for India in Council. No Commissioner shall be exempt from responsibility in such suit by reason of his having resigned his appointment after the receipt of the said order of the Governor in Council.

Clause 2. The Governor in Council shall possess powers similar to the above in the event of the Municipality of any place neglecting or refusing to make payments for the purposes of Police or primary instruction to the extent provided in Section XXV. of this Act.

VIII.—PUBLICITY OF MUNICIPAL PROCEEDINGS: APPEALS.

XCI. All general meetings, and all meetings of any Managing Committee, Sub-Committee, or other body of Commissioners holding Municipal Executive authority, and the office of any officer having the

sole Executive authority, shall be open to the public; provided that the person presiding, or the sole Executive Officer, as the case may be, may cause to be ejected any person interrupting the proceedings, and may direct the public to withdraw pending any inquiry or deliberation of a private nature.

XCII. Minutes of the proceedings of all general meetings shall be drawn up in the vernacular language, and in English also, where practicable, and fairly entered in a book to be kept for the purpose, and shall be signed by the officer who presided at such meeting. Decisions under Section XII. of this Act, shall be similarly recorded.

Clause 2. Similar minutes in the vernacular language shall be kept of the proceedings of all Committees or other bodies of Commissioners holding Municipal Executive authority.

Clause 3. The above minutes shall at all reasonable times be open to the inspection of all inhabitants of the place.

XCIII. The quarterly and annual accounts of receipts and expenditure, and the budget when sanctioned, shall similarly be open to inspection, and shall be published in the vernacular language in any newspaper which may exist in or near the place or in any other manner which the Municipality may prefer.

XCIV. The rules in force under Section XIV. of this Act shall be kept at the Municipal Office for public inspection, and shall be printed in the vernacular language, and sold at a reasonable price.

XCV. Complaints against the stipendiary establishment shall in the first instance be laid before the person or persons constituted, by the Rules in force under Section XIV. of this

Act, primarily responsible for the current executive administration.

Clause 2. Persons dissatisfied with the decision of the abovementioned authority in such cases, or wishing to appeal against any other decisions or orders made by them, which are appealable under the said Rules, may prefer an appeal to the President, or in Town Municipalities, to the Vice-President, within thirty days of the date of such decisions.

Clause 3. In City Municipalities, the President, in the event of his differing from the decision or order, shall in communication with the abovementioned authority, endeavour to cause redress to be afforded to the complainant, and failing to do so, shall lay the case before the Municipality at the next general meeting, or under Section XII. of this Act. In Town Municipalities the President, or the Vice-President if the appeal shall have been made to him or referred to him by the President, shall pass such order as he may think fit which order shall be final.

XCVI. It shall be lawful for any person to represent in writing to the Governor in Council that the Municipality of any place have neglected any work or duty, falling within the scope of this Act, which is emergently necessary for the public health or safety, or that provision for Police or primary instruction has not been made to the extent provided in Section XXV. of this Act. The Governor in Council shall thereupon cause such inquiry to be made, and pass such orders upon the said representation, as he may think proper.

Clause 2. Nothing in this Act shall be held to debar any person from suing any Municipality in a Court of competent jurisdiction for any wrongful loss or wrong occasioned to him by the said Municipality, its officers, or servants.

STATEMENT OF OBJECTS AND REASONS.

Act XXVI. of 1850 (an Act to enable improvements to be made in towns) having been found deficient in certain important provisions, was amended by Bombay Acts II. and IX. of 1862. The remedy, however, proved to be only partial, and a general concurrence of opinion that the working of Municipal Committees was so frequently unsuccessful as to render fresh legislation absolutely necessary, induced the Government in 1870 to appoint

Messrs. Rogers, Havelock, Ashburner, Oliphant, Grey, Hope, Erskine, and Shumboooprasad Luxmilal.

a Committee consisting of the two Revenue Commissioners and other selected officers, as per margin, to consider the whole subject. The Committee submitted a Draft Act, with a report, from which the following extract is taken :—

As Act XXVI. of 1850 has been in force for twenty years, and has in this Presidency extended to 96 towns of above 4,000 inhabitants (besides smaller places), the reports on

its working made by the Collectors, many of whom have been personally concerned with it from the first, appear deserving of considerable weight when a measure of amendment is being framed.

From these reports, and the fact that only about one-half of the towns possessing a population of 4,000 inhabitants and upwards have applied for the introduction of the Act, it is evident that the permissive system of Act XXVI. pre-supposed an advancement and readiness for self-government which had no real existence. Whether it may or may not have been wise in 1850 to leave the introduction of Municipal Government to the will of the people it is not necessary to discuss, but it must be evident that at the present day, when it is indispensable that local needs of various kinds should be met from local resources, a system which enables one-half of the towns in the Presidency to escape reasonable burdens which are borne by the other half, with the result that the towns so escaping are either a burden on the Imperial resources in such matters, or wanting in the most obvious improvements of modern civilization, is both an individual wrong and a political mistake. We have therefore provided that the Governor in Council shall have power to constitute a Municipality in any place he may think proper. This course, we may remark, is the same as that already adopted in the Municipal Acts of the Bengal Presidency, and proposed in that now before the Madras Legislative Council.

Another defect, as it seems to us, in Act XXVI., which appears clearly from the papers submitted to us, is that it presumed a general equality of advancement in all the communities to which it might be applied, though no such equality existed or was likely to exist. The result evidently is, that while there are some towns in which the Act works on the whole fairly enough as long as the *personnel* of the Commission is good, and a few cities in which even considerable progress towards efficient self-government has been attained, there are others, and these a large majority, where self-government is, and for long must be, little more than a name, necessary improvements being either carried out by one or two individuals, usually Government servants, or neglected altogether, while occasionally corruption and jobbery run an unlimited course.

We feel no doubt that the policy of enlisting the higher classes as much as possible in local administration is sound, and that any step of a more retrograde tendency than is absolutely necessary would be greatly to be deprecated. At the same time, a solemn farce covering neglect or misrule cannot be too soon put an end to. In accordance with these views we propose, therefore, to divide Municipalities into two classes. The first class, or "City Municipalities," would comprise places which have shown themselves entitled to considerable powers of self-government. In these, the chief power would rest with the Commissioners as a body, and option would be allowed to adopt any form of executive government which circumstances and past experience might dictate, from a single officer holding relations to the Commissioners analogous to those existing between the Commissioner and Justices in Bombay, down to a Managing Committee with Chairman or Secretary. The second class, Town Municipalities, would virtually be worked by one local Government officer, under the direction of the Assistant or Deputy Collector and the Collector, the other Commissioners enjoying as much share in the current management as they were able and willing to take, and on great questions holding the position of assessors. Power would be reserved to the Governor in Council to raise a "Town" into a "City" Municipality whenever marked efficiency confirmed by public opinion rendered the measure desirable.

Act XXVI. of 1850 differs from almost all the enactments by which it is being replaced in other parts of India in that it leaves all details regarding establishments, executive power, nature and mode of levying taxes, and conservancy, to be provided for in Rules, while they all enter with more or less minuteness into the whole of these matters. The principle which we have adopted is to put in the Act everything which is necessarily of general application, such as general meetings of the whole body of Commissioners, conservancy powers and penalties, Government control, and publicity of proceedings, but to reserve for the Rules everything which may be expected to vary in each individual Municipality, such as the nature and powers of the Executive body, the particular taxes to be imposed, and the method of collecting them. A reference to Section XIV. of the Draft will make our meaning more clear.

Under Chapter III. of the Draft, relating to the Municipal property and fund, care has been taken to vest in the Municipality all public property, including that of existing Municipalities which may be reconstituted under the new Act. Provision has also been made for raising, under sufficient restrictions, the funds for the construction of works of a permanent character, because we believe that it is only by permitting terminable loans, re-

payable in comparatively short periods, that the necessities of our great cities and towns with respect to drainage, water-supply, or communications, as the case may be, can be adequately provided for.

The taxes which are by Section XXIII. allowed to be imposed comprise those which have already been legalised in one or other of the Acts which have recently been passed for other parts of India, together with a general clause inserted with the view of permitting the continuance of various taxes of long standing under local usage which already form part of the revenues of existing Municipalities, and also of legalising the special shop, poll, or other tax which in some cases long has been, and in all advantageously might be, levied for sanitary purposes from the frequenters of pilgrimages, fairs, and similar large gatherings of people. The definition of "bazaar" and the concluding portion of Section IV. of the Draft have been framed with the special view of embracing such localities.

In Chapter IV. the objects to which Municipal Funds are applicable have been carefully defined and summarised. Under the head of "public safety" provision has been made for the payment of one-half of the charges of the Police *bonâ fide* employed in the Municipal limits. The Committee consider it much to be regretted that a charge of this kind, which has hitherto been borne by the Imperial Treasury, should be thrown upon purely Municipal resources, and there are perhaps no weightier reasons for selecting police than many other heads, but they have entered it in the Draft in accordance with para. 3 of the instructions they received.

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"The Conservancy clauses composing Chapter V. have been drawn up after a very careful collation of Bombay Act II., 1865, which is the most complete enactment on the subject, with the Bengal and Madras Acts and the Rules of the large cities of Poona, Surat, and Ahmedabad. It is believed that they will be found to confer all powers which it is reasonable and necessary that Mofussil Municipalities, some of which are carrying out sanitary improvements on a large scale, should possess, but at the same time to contain suitable checks against mismanagement and harshness, and an absence of many technicalities which are probably indispensable in a Presidency town.

"Chapter VI. follows the existing law or Rules in all respects, and makes clear the point which was at one time considered doubtful, whether Municipal offences could be tried, and fines, penalties, and taxes levied by any Magistrate or not. That any Magistrate should have such power appears to the Committee clear, whether in consideration of the usual pettiness of the cases or the fact that there are no Magistrates F. P. resident in the majority of Municipal towns. This conclusion does not, moreover, contravene the present practice of the High Court.

"Chapters VII. and VIII. are based upon the existing law and Rules, and do not appear to call for any special remark."

The Committee also considered very fully a proposal of Mr. Peile, the Director of Public Instruction, that provision should be made for primary instruction by imposing a house-tax or other impost on the non-agricultural classes, whom he stated to number about 50 per cent. of the population. Mr. Peile pointed out that only twenty-seven towns in the Presidency had availed themselves of Bombay Act II. of 1862 to assign Municipal revenues to education, and that the aggregate of their contributions was only Rs. 13,678, whereas there are 199 towns of above 4,000 inhabitants, who might fairly be required to bear a burden for primary education similar to that imposed on the agricultural population through the One Anna cess. The majority of the Committee were in favour of making it obligatory on Municipalities to contribute two-thirds of the cost of primary education, the proportion being nearly similar to that paid by the Local Funds for schools in rural districts.

Circumstances rendered it at the time inexpedient to bring forward the Committee's Draft for enactment by the Legislative Council, but it was freely used in 1872 by the Committee over which General Marriott presided, in their Draft Act for the Bombay Municipality, and large portions of it, with amendments and additions, have become law for the Presidency Town as Bombay Act III. of 1872.

Bombay Act III. of 1872 has now in its turn been made use of in the revision of the Committee's Draft of 1870, and the recent legislation for the Punjab, the North-West Provinces, and Oudh, and the Central Provinces, as also the debates in the Legislative Council of the Governor General on those measures, and the Bengal and Burmah Municipal Bills

have been taken into consideration. The measure now introduced for Municipalities in the Mofussil has thus been framed in the light of recent thorough ventilation of the subject with respect to all parts of India.

The principal features are those of the Draft of 1870, an explanation of which, taken from the Committee's Report, has been given above; but two important modifications have been introduced in consideration of popular opinion, and the rapid rise in intelligence of the public in many Mofussil towns. The first of these is the provision in Sections IV. and XXII., that the Government, before constituting a Municipal District in the first instance, and subsequently, before at any time imposing any tax, toll, or other impost, shall wait for and duly consider any objections which may be made by the inhabitants. The second is the admission, in the case of City Municipalities, of the principle of election of the non-official members and the limitation of the removal of Commissioners by Government to certain specified occasions, instead of allowing it at will, as at present.

As the present Bill provides for the payment of Police charges by Municipalities, and a consolidation of the law is in all cases most desirable, it is proposed to repeal Bombay Act I. of 1871. The liability of the Municipalities has, however, been limited to one-half of the total Police charges, in consideration of the obligation to provide for primary instruction which has been imposed. The clause in Bombay Act I. of 1872 which guarded against the Police charge being more than one-fifth of the whole Municipal revenue has not been re-enacted, because it seemed unnecessary after the above reduction, and also because, as remarked by the Committee of 1870:—"It was, however, felt that the provision ought to be for a proportion of the sum really wanted for these objects rather than of the Municipal revenue, which is an uncertain quantity dependent on the pleasure of the Municipality, and that, were the other course adopted, Municipalities would be more able, on the plea of poverty, practically to avoid making salutary provisions of the nature in question."

The provision for primary education remains as in the Committee's Draft, but the limitation of expenditure on Hospitals, Dispensaries, &c., to two-thirds has been struck out since it was obviously unnecessary, while the assignments were left to the discretion of the Municipality, and would have interfered in many cases with grants of larger proportion actually existing.

(Signed) J. GIBBS.