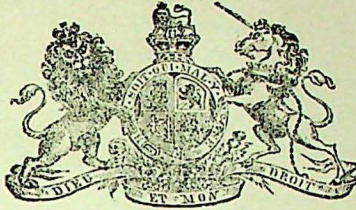


THE



Bombay Government Gazette.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of the Right Honourable the Governor of Bombay on the 22nd February 1869, and the assent of His Excellency the Governor General on the 23rd March 1869, and is published for general information :—

BOMBAY.

Act No. II. of 1869.

An Act for taxing Professions and Trades within the City of Bombay for Municipal purposes.

WHEREAS it is expedient for Municipal purposes to impose a tax on persons exercising professions and trades within the City of Bombay : It is hereby enacted as follows :—

I.—PRELIMINARY.

I. Nothing in this Act shall apply to—
 Act not to apply to certain persons.

(1) Officers, Commissioned or Non-Commissioned, of Her Majesty's Forces,
 IV.—41 a

or of Her Majesty's Indian Forces, who are doing regimental duty in Bombay with their Regiments ;

And no member of a Company or firm, which is for the time being certificated under this Act, shall be liable, as such, to take out a certificate under this Act.

II.—CERTIFICATES.

II. Every person who, on or after the first day of May 1869, exercises any profession or trade in the City of Bombay, and whose annual profits from such profession or trade are Rs. 1,000 or upwards, shall take out annually a certificate, and shall pay in advance for the same the sum specified in Schedule A, hereto annexed.

III. Such certificate shall continue in force from the day of the date thereof, until the thirtieth day of April next following.

IV. Every person who has taken out any such certificate, and who intends to continue any profession or trade for which such certificate was granted, shall take out a fresh certificate for the year following, to expire on the day last hereinbefore mentioned, and shall so renew the same from year to year so long as he continues such profession or trade, and shall pay in each such case the duty for the time being thereupon imposed.

V. Upon every such renewal the new certificate shall bear date from the day of the expiration of the certificate before granted.

In all other cases the certificate shall bear date from the day of the application made therefor, although such certificate may be delivered at any day subsequent to the application.

VI. If any person after the first day of May 1869, or in any subsequent year, commences any profession or trade, for the exercise of which a certificate is hereby required, such person not having before taken out any such certificate, the Municipal Commissioner for the City of Bombay may grant such certificate for the remainder of the current year in which it is taken out, ending on the thirtieth day of April next following the date of the commencement of the said profession or trade, upon payment of such proportional part of the duty thereupon imposed as hereinafter mentioned (that is to say)—

If the profession or trade be commenced at any time in the quarter expiring on the thirty-first day of July of the current year in which it is commenced, the person taking out the certificate shall pay the whole duty imposed thereon;

If the profession or trade be commenced at any time in the quarter expiring on the thirty-first day of October of such current year, he shall pay three-fourth parts of the said duty;

If the profession or trade be commenced at any time in the quarter expiring on the thirty-first day of January

of such current year, he shall pay one-half of the said duty; and

If the profession or trade be commenced at any time in the quarter expiring on the thirtieth day of April of such current year, he shall pay a fourth part only of such duty.

VII. Every certificate under this Act shall be granted by, and the sum payable therefor shall be paid to, the Municipal Commissioner for the City of Bombay for the time being.

Every such certificate shall be signed by the Municipal Commissioner granting it, or by such other officer as he shall from time to time empower in this behalf, and such signature shall be judicially noticed.

VIII. Every such certificate shall specify—

(1) The year or portion of the year for which it is granted;

(2) The name and profession or trade of the holder;

(3) The sum paid for the certificate; and

(4) The exact locality where the holder intends to exercise his profession or trade, until the thirtieth day of April next following, and shall be received in evidence as *prima facie* proof of all matters contained therein.

IX. The Municipal Commissioner shall, from time to time, determine what persons are liable to take out certificates under this Act, and under which of the classes mentioned in the said Schedule every person to whom a certificate may be granted under this Act shall be assessed, and also in the case of a person commencing a profession or trade, what shall be deemed to be, for the purposes of Section VI., the date of such commencement.

X. As soon as may be after the first day of May in every year, the Municipal Commissioner shall prepare a list of the persons liable to take out certificates under this Act, for the current year, and may from time to time alter and add to the said list.

Such list shall state—

(1) The profession or trade of each person therein named;

(2) The class under which he is assessed; and

(3) The sum payable for his certificate.

The list shall be filed in the Municipal Commissioner's office, and the list, or such part or parts thereof as he thinks fit, shall be filed in such other places as he directs, and shall be open to public inspection at all reasonable times, without the payment of any fee.

XI. Any person named in such list and objecting to the class under which he

is assessed, or denying his liability to be assessed under this Act, if he has paid the sum in which he was assessed under this Act, may, within thirty days from such payment, appeal in writing to the Municipal Commissioner in order to establish his right to have his name transferred to another class or removed from the list. Such appeal shall contain a statement of the grounds thereof.

The statements therein contained shall be verified by the appellant or some other competent person in the manner required by law for the verification of plaints.

Whoever makes a statement in any such appeal which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

XII. The Municipal Commissioner shall fix a day for the hearing of appeal.

and on the day so fixed shall hear such appeal, and pass such order thereupon as to him seems fit.

If the order be in favour of the appellant, the Municipal Commissioner shall at once refund the excess paid by the appellant, or (when the order is that the appellant's name be removed from the list) the whole sum so paid by him.

XIII. Any person dissatisfied with any order under Section XII. of this Act may, within fifteen days

from the date thereof, present an appeal in writing to the Court of Petty Sessions, whose decision upon such appeal shall be final.

Every appeal preferred under this Section shall be accompanied by a copy of the appeal to the Municipal Commissioner and of his order thereon and of all other documents connected with the case.

When the decision on any appeal made under this Section is in favour of the

appellant, the excess paid by him, or (when the decision is that his name be removed from the list) the whole sum so paid, shall at once be refunded by the Municipal Commissioner.

III.—PENALTIES.

XIV. If at any time, not less than fifteen days after the name of any person has been included in the list mentioned in Section X., the Municipal Commissioner has caused a notice to be served on such person, stating the class under which he has been assessed, and requiring him within seven days from the date of the service to take out a certificate, and to pay for the same the sum (mentioning it) payable therefor under the provisions of this Act;

And if the person so served does not within the period specified in the said notice take out a certificate and pay for the same as required by the said notice;

He shall, on conviction before a Magistrate of Police, be fined twice the sum mentioned in such notice.

On the recovery of the fine from the person so convicted the Municipal Commissioner shall grant him a certificate without any further payment.

Every such certificate shall bear date from the recovery of the fine, and, save as aforesaid, the provisions of this Act relating to certificates shall apply to certificates granted under this Section.

XV. Every person required by this Act to take out a certificate, who, without reasonable excuse, neglects or refuses to produce and show his certificate when required so to do by the Municipal Commissioner, or by an officer generally or specially empowered in writing by the Municipal Commissioner to make such requisition, shall, on conviction before a Magistrate of Police, be liable to a fine not exceeding fifty Rupees.

XVI. All fines imposed under this Act may be recovered in the manner prescribed by any Act in force for the time being for the recovery of fines imposed by a Magistrate of Police.

In the case of a firm the Magistrate of Police imposing the fine may issue a warrant for the levy of the amount by distress and sale of any moveable property

belonging to the firm which may be found within his jurisdiction, and (if the firm has not sufficient property within such jurisdiction whereon to levy the fine) of any moveable property belonging to the members of the firm, or any of them, which may be found within the same jurisdiction.

XVII. No person shall be proceeded against for any offence under Section XIV. or Section XV. except at the instance of the Municipal Commissioner.

XVIII. In Sections 193 and 228 of the Indian Penal Code the words "judicial proceeding" shall be taken to include any proceeding under this Act.

IV.—COMPANIES.

XIX. The Treasurer, Secretary, or principal Agent or Manager in India, of every Company carrying on business in the City of Bombay on or after the first day of May 1869, whether such Company be incorporated or not, and whether its principal place of business be situate within the City of Bombay or not, shall take out a certificate on behalf of such Company, and annually pay in advance for such certificate the sum specified in Schedule C hereunto annexed.

Every such Treasurer or Secretary or principal Agent or Manager is hereby indemnified for all payments made in pursuance of this Act.

Such Treasurer, Secretary, or principal Agent or Manager shall in every year in which he prefers to pay the aforesaid percentage, be legally bound to prepare, and on or before the thirtieth day of April in such year to deliver to the Municipal Commissioner for the City of Bombay, a return in writing signed by him and stating the dividend declared by the Company during the year ending on the thirty-first day of March in the year of assessment.

All other provisions of this Act relating to certificates, and to persons required to take out certificates shall apply, *mutatis mutandis*, to certificates taken out under this Section, and to every such Treasurer, Secretary, or principal Agent or Manager as if he were liable to take out a certificate on his own behalf, and to pay for the same the sum payable under this Section.

V.—GOVERNMENT OFFICIALS.

XX. Every person holding any paid office, employment, or commission under Her Majesty, or under the Government of India, or under Government, or under the Municipality, other than the persons exempted under Section I., shall be deemed to exercise a profession within the meaning of this Act: Provided that he shall not be required to take out a Certificate in respect of such office, employment, or commission.

Every person liable under this Section shall pay in the month of May in each year, or in the first month of his residence, in accordance with the Schedule B hereunto annexed.

Provided that any person who shall have resided less than four months in Bombay during the year shall be entitled, on application within the year, to a refund of half the amount paid.

VI.—SERVANTS OF COMPANIES, OR OF FIRMS, OR OF PRIVATE INDIVIDUALS.

XXI. No person holding a paid employment under any such Company as is mentioned in Section XIX. shall be liable as such to take out a certificate under this Act according to Schedule B annexed to this Act, but when his salary amounts to 300 Rupees per mensem or upwards, the Treasurer or other officer whose duty it is to pay such salary shall deduct from the salary due for the month of May in each year, or for the first month of residence, the sum which such person is liable to pay under the Schedule B annexed to this Act.

Every such Treasurer or other officer shall, as soon as may be after making such deduction, pay to the credit of the Municipal Fund in the Bank of Bombay the amount of such deduction.

Every Company, Treasurer, or other officer as aforesaid is hereby indemnified for all deductions and payments made in pursuance of this Section.

The Treasurer, Secretary, or principal Agent or Manager of every such Company shall be legally bound to prepare, and on the first day of May 1869, and on or before the first day of May in every subsequent year, to deliver to the Municipal Commissioner a return in writing showing the names of all persons holding at the date of the said return paid employment under the Company, whose salary as such amounts

X.—MISCELLANEOUS.

to Rs. 300 per mensem or upwards, together with the salaries payable by the Company to such persons respectively.

In determining under which of the classes in the said Schedules A and B any person holding any such employment and exercising nevertheless a profession or trade, shall be assessed, the Municipal Commissioner shall neglect the amount of the pay which such person receives in respect of his said employment.

XXII. Every person in the paid employment of any firm or private individual and in receipt of a salary not less than Rs. 300 per mensem shall be liable in the same manner as provided for Government officials in Section XX.

VII.—PAYMENT OF THE TAX.

XXIII. All taxes under this Act, except when deducted from salary under Sections XX., XXI., or XXII., shall be payable on the first day of May in each year.

VIII.—RECOVERY.

XXIV. In any case wherein there has been default of payment the Municipal Commissioner may, if he think fit, recover the amount of the tax as if it were any other Municipal rate leviable under any law for the time being in force.

Provided that, at some time not less than fifteen days after the name of the defaulting person has been included in the list mentioned in Section X., the Municipal Commissioner has caused a notice to be served on him, stating to the effect mentioned in Section XIV. Provided also, that the defaulting person has not within the period specified in such notice complied with the requirement made therein.

On the recovery of the tax from the defaulter the Municipal Commissioner shall grant him a certificate without any further payment.

Every such certificate shall bear date from the recovery of the Tax, and, save as aforesaid, the provisions of this Act relating to certificates shall apply to certificates granted under this Section.

IX.—PAYMENT OF TAXES AND FINES.

XXV. All taxes levied and all fines recovered under this Act shall be paid to the credit of "The Municipal Fund of the City of Bombay."

iv.—41 b

XXVI. It shall be lawful for the Government from time to time, by Notification, to make modifications in Schedule A to this Act annexed, in order to assimilate the scale of assessment and the classes of persons brought under such Schedule, to the Schedule of any future Act of the Government of India imposing a similar Tax for Imperial purposes.

Provided, that the Municipal Certificate Tax shall not exceed one-fourth of such Imperial Tax, and that the Municipal Certificate Tax shall not be levied on Incomes below Rs. 1,000 per annum.

XXVII. All or any of the powers and duties conferred and imposed by this Act on the Municipal Commissioner may be exercised by such other officers or persons as the said Municipal Commissioner shall from time to time appoint in this behalf.

XXVIII. Service of any notice under this Act shall be made by delivering or tendering a copy thereof under the signature of the Municipal Commissioner.

Whenever it may be practicable, the service of the notice shall be on the person therein named, or in the case of a firm or company on some Member or Agent or Manager thereof.

When such person or member cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer door of his house in which the person therein named is dwelling, or, in the case of a firm, in which the business thereof is ordinarily carried on.

XXIX. The Municipal Commissioner with the previous sanction of the Bench of Justices, may employ such agency at such cost, or such persons on such salaries, as may appear expedient, to carry out this Act.

XXX. This Act shall come into operation on the first day of May 1869.

SCHEDULE **A**.*Tax on Professions and Trades.*

CLASS I.

Persons whose annual profits shall be assessed at Rupees 4,00,000 and upwards Rs. 1,600

CLASS II.

Persons whose annual profits shall be assessed at Rupees 2,00,000, or at more than Rupees 2,00,000 and less than Rupees 4,00,000 Rs. 800

CLASS III.

Persons whose annual profits shall be assessed at Rupees 1,00,000, or at more than Rupees 1,00,000 and less than Rupees 2,00,000 Rs. 400

CLASS IV.

Persons whose annual profits shall be assessed at Rupees 50,000, or at more than Rupees 50,000 and less than Rupees 1,00,000 Rs. 200

CLASS V.

Persons whose annual profits shall be assessed at Rupees 25,000, or at more than Rupees 25,000 and less than Rupees 50,000 Rs. 100

CLASS VI.

Persons whose annual profits shall be assessed at Rupees 10,000, or at more than Rupees 10,000 and less than Rupees 25,000 Rs. 40

CLASS VII.

Persons whose annual profits shall be assessed at Rupees 5,000, or at more than Rupees 5,000 and less than Rupees 10,000 Rs. 20

CLASS VIII.

Persons whose annual profits shall be assessed at Rupees 2,500 or at more than Rupees 2,500 and less than Rupees 5,000 Rs. 10

CLASS IX.

Persons whose annual profits shall be assessed at Rupees 1,000 or at more than Rupees 1,000 and less than Rupees 2,500 Rs. 4

SCHEDULE **B**.

Every person in Bombay in the service of Her Majesty or of the Government of India, or of Government, or of the Municipality, or of any Joint Stock or other Public Company or Trading Firm, or of any individual, if the salary of such person amounts to Rupees 1,200 per mensem or upwards Rs. 50

If his salary amounts to Rupees 800 and is less than Rupees 1,200 per mensem Rs. 25

If his salary amounts to Rupees 500 and is less than Rupees 800 per mensem Rs. 15

If his salary amounts to Rupees 300 and is less than Rupees 500 per mensem Rs. 10

SCHEDULE C.

Companies.

- (A) Every Joint Stock Company, whether registered or not under any English or Indian Act or Acts, and every other Company, whether incorporated or not by Royal Charter, Act of Parliament, or Act of the Council of the Governor General, or of the Governor of any of the Presidencies, and carrying on any trade or business having gain for its object, the paid up capital of which is 50 lakhs of Rupees and upwards. . Rs. 1,000
- (B) Every such Company the paid up capital of which is 20 lakhs and below 50 lakhs of Rupees Rs. 750
- (C) Every such Company the paid up capital of which is 10 lakhs and below 20 lakhs of Rupees Rs. 500
- (D) Every such Company the paid up capital of which is below 10 lakhs of Rupees Rs. 250
- (E) Every such Company the Head Office of which is elsewhere than in the City of Bombay, and which carries on business in the City of Bombay by Agency, in respect of such Agency Rs. 250

By order of the Right Honourable the Governor in Council,

N. DANIELL,

Acting Under-Secretary to Government.

Bombay Castle, 27th March 1869.

The following Act of the Governor of Bombay in Council received the assent of the Right Honourable the Governor of Bombay on the 22nd February 1869, and the assent of His Excellency the Governor General on the 24th March 1869, and is published for general information :—

BOMBAY.

Act No. III. of 1869.

An Act to provide in the Presidency of Bombay funds for expenditure on objects of local public utility and improvement, and to constitute Local Committees for the due administration of such funds.

WHEREAS it is expedient to provide funds for local works of public utility and convenience, and to make better provision for Education and Sanitary improvements in the Presidency of Bombay; and whereas it is expedient to constitute Local Committees to provide for the due appropriation of such funds to the purposes aforesaid : It is enacted as follows :—

I. Government may from time to time, by Notification, define the limits of any District, for the purposes of this Act.

II. In every District in the Presidency of Bombay it shall be lawful for Government to create, for the purposes hereinafter described, a Local Fund Committee of the District. The Members shall be not fewer in number than 8, inclusive of the President, one-half at least shall be non-official persons, and they shall be selected and appointed by Government, or by the Revenue Commissioner, or other Officer from time to time duly empowered on that behalf by Government. The Collector, or Sub-Collector shall, *ex-officio*, be the President, and the Committee shall act under the control and general supervision of the Revenue Commissioner. The Members shall be removable by Government, and all proceedings of the Committee, or orders of the Revenue Commissioner relating thereto, shall be subject to the review and control and final decision of Government, which final decision a Local Fund Committee shall be bound to carry out.

III. The Local Fund Committee of each District shall sue and be sued in the name of the President by the description of

The Committee to sue and be sued in the name of the President.

“The President of the Local Fund Committee of the District of ———.” In such name, so described, the Committee shall be competent to hold property movable and immovable, to convey the same, and to enter into all necessary contracts for the purposes of this Act. Any deed, contract, or instrument so made on behalf of the said Local Fund Committee may be executed by the President of the Committee.

IV. It shall be the duty of the Local Fund Committee of each District to ascertain, and, in so far as the means at its disposal also will allow, to provide for the requirements of the District with respect to works and undertakings calculated to promote the local public health, education, and convenience, including Roads, Schools, Hospitals, Dispensaries, Dhurumsalas, Markets, and Wells, and other works for improving the water supply.

V. In the performance of the duties imposed by this Act it shall be lawful for the Local Fund Committee of each District, in accordance with such Rules as may from time to time be prescribed on that behalf by Government, to employ such Officers and Establishments as may be necessary, so long as they shall be necessary; and in accordance with the said Rules to make, out of the funds at its disposal, suitable payments by way of remuneration to such Officers and Establishments, or otherwise in furtherance of any of the purposes of this Act.

VI. It shall be lawful for Government to levy for the purposes of this Act, on the conditions and in the manner hereinafter described, from all lands in the Presidency of Bombay, except Jagheer lands not under the General Regulations, and also from every farmer of Land or Sayer Revenue in respect of any such farm taken from the Collector or other Officer on behalf of Government after the date on which this Act comes into operation, a Cess not exceeding one Anna on every Rupee that is

Levy of one Anna Cess on every Rupee of Land Revenue for the purposes of the Act.

assessable to the ordinary land revenue, or that would have been so assessable had there been no alienation of such revenue, and on every Rupee that is payable by such farmer of Land or Sayer Revenue in respect of such farm: Provided that in

Proviso.

respect of lands of which a settlement for a term of years is for the first time made after this Act comes into operation such Cess be imposed at the time when such settlement is made, and at no other period during the currency of the term.

VII. In assessing this cess on alienated villages as defined in

Rules for assessment. (Bombay) Act I. of 1865, the following

Rules shall be adopted:—

I. If the village has been surveyed and assessed on the principles laid down in (Bombay) Act I. of 1865 the cess shall be fixed on the total annual assessment of the village as made by the Survey Officers.

II. If the village has come under Summary Settlement under (Bombay) Act II. or (Bombay) Act VII. of 1863, the cess shall be fixed, until the village is brought under the preceding Rule, on the total annual assessment, as settled for the purposes of Summary Settlement.

III. On villages not included in the preceding Rules the cess shall be fixed on the old or kummal rate recorded in the Collector's Books, but if this rate be objected to by the holder or proprietor of the alienated village, then the cess may be fixed as agreed on by the Collector and such holder or proprietor, or failing agreement, then by a rough survey and assessment to be made by Survey Officers, the expense of such rough survey being borne half by Government and half by the holder or proprietor of such village.

VIII. The Cess described in Sections VI. and VII. of this

Cess to be levied as Land Revenue.

Act shall be levied in the same manner, and under the same provisions of law, as the ordinary Land Revenue, and through the agency of such Officers as shall from time to time be appointed for the purpose by the Collector, acting under the general control of Government, or of the Revenue Commissioner, or other Officer from time to time duly empowered on that behalf by Government. The provisions of the law relative

to the assistance to be given to superior holders for the recovery of their dues from their tenants and occupants under them shall be applicable to all superior holders, whether of alienated or unalienated land in respect of the recovery of this Cess from their tenants and occupants, and shall be applicable also to occupants of land under (Bombay) Act I. of 1865 for the recovery of this Cess from their tenants or joint occupants.

IX. The Collector of each District shall

Collector to render accounts to the Local Fund Committee.

annually render to the Local Fund Committee of that District an account showing

the gross receipts and charges of collection of the Cess levied under this Act in the same District, and shall place the net proceeds of such Cess to the credit of the District Local Fund, and such proceeds shall be expended on the objects mentioned in Sections IV. and V., and on no others. Nothing in this Section shall

be held to prevent the Local Fund Committee, in towns in which a Municipal Commission exists under Act XXVI. of 1850, or any other law for the time being in force, from assigning, with the sanction of the Revenue Commissioner, a portion of such net proceeds for expenditure by the Municipal Commissioners: Provided

Proviso.

that such assignment do not exceed the net amount of Cess levied from the inhabitants of such Municipal Town. And the portion of such net proceeds so assigned shall be applied to any of the purposes mentioned in Sections IV. and V., and to no other purposes.

X. The Local Fund Committee of

Administration of other funds.

each District shall also, subject to the provisions and conditions hereinbefore enacted, administer such other funds as may from time to time be placed at their disposal either under the orders of Government or by contributions from private individuals.

XI. An account of all receipts and

Local Fund Committee to keep Accounts. Abstract Account to be published.

disbursements of the Funds at the disposal of each Local Fund Committee shall be kept by such Committee, and copies in the Vernacular language of the District shall be circulated for the information of the local public, and

shall further be published in the vernacular paper of the District, if any; and further, an Abstract Account of each Local Fund shall be published annually in the *Government Gazette* by the Revenue Commissioner, in both English and the Vernacular language of the District, which account shall show the amount of Cess levied under this Act, and of other funds placed at the disposal of each of the Local Committees, and the mode in which the same has been applied, and the balance, if any, remaining undisposed of at the close of the year.

XII. It shall be lawful for Government from time to time to make, and from time to time to vary or repeal, Rules for the guidance of Officers in matters connected with the enforcement of this Act, provided such Rules are not inconsistent with the provisions contained in the Act. Such of the said Rules as shall be published shall, until they are varied or repealed, be of the like effect as if they were inserted in the Act.

XIII. In this Act the words Collector and Sub-Collector shall be held to include any one acting for a Collector or Sub-Collector respectively, or any one in charge of the office of a Collector or Sub-Collector respectively. And any of the powers given by this Act to a Collector or Sub-Collector may be specially delegated by him to any Assistant or Deputy Collector.

XIV. All collections of a cess of one anna on the rupee of assessment on the ordinary Land Revenue made previously to the coming into operation of this Act for the objects contemplated in this Act shall be deemed to have been legally made.

XV. This Act is not applicable to the Province of Sind, or to the City of Bombay.

XVI. This Act may be cited as the "Bombay Local Funds' Act, 1869."

Interpretation: "Collector" and "Sub-Collector."

Cess collected previous to the coming into operation of this Act.

Act not to apply to Sind or City of Bombay.

Short title.

By order of the Right Honourable the Governor in Council,

N. DANIELL,

Acting Under-Secretary to Government.

Bombay Castle, 3rd April 1869.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 18th March 1869, and is hereby promulgated for general information:—

Act No. X. of 1869.

An Act to abolish the Police Superannuation Funds.

WHEREAS a Fund called "The Police Superannuation Fund" has been formed under Act No. XXIV. of 1859 (*for the better regulation of the Police within the territories subject to the Presidency of Fort Saint George*), section twelve; and whereas similar Funds have been formed under Act No. V. of 1861 (*for the regulation of Police*), section eleven, and under the Act of the Governor of Bombay in Council, No. VII. of 1867 (*for the regulation of the District Police in the Presidency of Bombay*), section twelve; and

whereas it is expedient to abolish the said Funds and to transfer to the Government of India the securities and monies at the credit of such Funds respectively; It is hereby enacted as follows:—

1. The said sections shall be repealed from such day as the Governor General of India in Council shall, by notification in the *Gazette of India*, direct in this behalf.

2. All securities and sums of money which, on the said day, shall be standing at the credit of the said Funds respectively shall be transferred and paid to the Government of India for the general purposes of government.

WHITLEY STOKES,

*Secretary to the Council of the Governor General
for making Laws and Regulations.*

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 18th March 1869, and is hereby promulgated for general information :—

Act No. XI. of 1869.

An Act to make better provision for the collection of Land Customs on certain foreign frontiers of the Presidencies of Fort St. George and Bombay.

1. This Act may be called the "Land Customs (Madras and Bombay) Act, 1869," and

Short title.

extends only to the territories for the time being respectively subject to the

Extent of Act.

Governor of Fort St. George in Council and the Governor of Bombay in Council.

2. Act No. VI. of 1844 (*for abolishing the levy of Transit or Inland Customs Duties, for revising the Duties on Imports and Exports by sea, and for determining the price at which Salt shall be sold for home consumption within the territories subject to the Government of Fort Saint George*), sections 7 and 16, and Act No. XXIX. of 1857 (*to make better provision for the collection of Land Customs on certain foreign frontiers of the Presidency of Bombay*), section 3, are hereby repealed.

3. Duties of customs shall be levied on goods passing by land into or

Duties on frontiers of foreign European settlements.

out of foreign European settlements situate on the lines of coast within the limits of the said territories at the rates prescribed

in the schedules to Act No. XVII. of 1867 (*to amend the law relating to Customs Duties*), or any other law for the time being in force relating to the duties of customs on goods imported and exported by sea.

4. The Local Government may declare, by notification in the official *Gazette*, that the territory of any Native Chief not

subject to the jurisdiction of the courts and civil authorities of the territories under such Government, shall be deemed, for the purposes of this Act, to be foreign territory; and may declare goods passing into or out of such territory liable to the duties specified in the schedules to the said Act No. XVII. of 1867, or any other law for the time being in force relating to the duties of Customs on goods imported and exported by sea; and goods so passing shall thereupon be liable to the duties aforesaid.

5. So far as regards the territories subject to the Governor of Fort St. George in Council, the Application of provisions as to duties and goods. unrepealed provisions of the said Act No. VI. of 1844, and so far as regards the territories subject to the Governor of Bombay in Council, the unrepealed provisions of the said Act No. XXIX. of 1857, relating to the levy of duties and to dutiable goods, shall, *mutatis mutandis*, apply to duties levied and goods liable to duty under or by virtue of this Act.

WHITLEY STOKES,

Secretary to the Council of the Governor General for making Laws and Regulations.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th March 1869, and is hereby promulgated for general information:—

Act No. XIII. of 1869.

An Act further to amend the Procedure of the High Court of Judicature for the North-Western Provinces.

WHEREAS it is expedient to amend the Procedure of the High Court of judicature for the North-Western Provinces of the Presidency of Fort William; It is hereby enacted as follows:—

1. In any case before the said High Court in which an European British subject is charged jointly with a person not being an European British subject, a jury may be empanelled for the trial of both persons so charged, and they may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately.

In any case before the said High Court in which an European British subject is charged jointly with a person not being an European British subject, and the former, before the jury is empanelled, requires the majority of the jurors to consist of Europeans and Americans, or both Europeans and Americans, the latter persons shall be tried together with the former, and the procedure on the trial shall be the same as it would have been had the former been tried separately.

Provided that in any such case where the person not an European British subject so requires before

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the said jury is empanelled, he shall be tried separately by a jury of which at least one-half shall consist of persons not being Europeans or Americans.

2. The operation of Sections 198 and 364 of the Code of Criminal Procedure is hereby suspended in the said High Court, and in any case coming before the Court, in the exercise of its ordinary or its extraordinary original criminal jurisdiction, the Judges of such Court shall take down the evidence or the substance thereof in such manner as the Court shall by any general rule from time to time direct.

3. Whenever any petition, application, or motion is made in any matter coming before the said Court in the exercise of its civil, criminal, or other jurisdiction, the Court shall have power to award and apportion costs in any manner it may think fit.

4. Whenever the Court shall require the statements in support of any such petition, application or motion to be verified by a declaration in writing, the person making such verification shall, if any such statement is false, and if he either knows or believes it to be false, or does not believe it to be true, be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

WHITLEY STOKES,

Secretary to the Council of the Governor General for making Laws and Regulations.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th March 1869, and is hereby promulgated for general information :—

Act No. XIV. of 1869.

THE BOMBAY COURTS' ACT.

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An Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in the Presidency of Bombay.

Whereas it is expedient to consolidate and amend the law relating to the District and other subordinate Civil Courts in the Presidency of Bombay; It is hereby enacted as follows :—

I.—Preliminary.

1. This Act may be called "The Bombay Civil Courts' Act, 1869," and extends only to the territories (other than Sind) under the Government of the Governor of Bombay in Council in which the Code of Civil Procedure is now in force. But the Governor of Bombay in Council may, by notification in the *Government Gazette*, extend this Act to any other of the territories under such Government in which the said Code is not in force, or to Sind.

2. The Regulations and Acts mentioned in the schedule to this Act are hereby repealed to the extent specified in the third column of the same schedule: provided that the constitution of the present Zilas and the position of the present Sadr stations shall not be affected by such repeal.

II.—District and Sadr Stations.

3. The Governor of Bombay in Council may from time to time by notification in the *Government Gazette* alter the limits of existing Zilas (which shall hereafter be called Districts) and create new Districts for the purposes of this Act.

4. The Governor of Bombay in Council may also from time to time by notification in the *Government Gazette* alter the position of the Sadr station in any District, and fix the position of the Sadr station in any new District.

III.—District Courts.

5. There shall be in each District a District Court presided over by a District Judge. Judge to be called the District Judge. He shall be appointed by the

Governor of Bombay in Council, by whose authority only he shall be liable to be suspended or removed from his appointment.

The present Zila Judges shall be the first District Judges under this Act.

6. The District Judge shall ordinarily hold the District Court at the Sadr station in his District, but may, with the previous sanction of the High Court, hold it elsewhere within the District.

7. The District Court shall be the principal Court of original civil jurisdiction in the District, within the meaning of the Code of Civil Procedure.

8. Except provided in Sections sixteen, seventeen, and twenty-six, the District Court shall be the Court of Appeal from all decrees and orders passed by the Subordinate Courts from which an appeal lies under any law for the time being in force.

9. The District Judge shall have general control over all the Civil Courts and their establishments within the District, and it shall be his duty to inspect, or to cause one of his Assistants to inspect, the proceedings of all the Courts subordinate to him, and to give such directions with respect to matters not provided for by law as he may think necessary. The District Judge shall also refer to the High Court all such matters as appear to him to require that a rule of that Court should be made thereon.

10. The District Judge shall obey all writs, orders, or processes issued to him by the High Court, and shall make such returns or reports thereto under his signature and the seal of the Court as the exigencies of the case require. He shall further furnish such reports and returns and copies of proceedings as may be called for by the High Court or the Governor of Bombay in Council.

11. The District Judge shall use a circular seal two inches in diameter, which shall bear thereon the Royal Arms with the following inscription in English and the principal language of the District—"District Court of _____."

IV.—Joint Judges.

12. The Governor of Bombay in Council may, with the previous sanction of the Governor General of India in Council, appoint in any District a Joint Judge, who shall be invested with co-extensive powers and a concurrent jurisdiction with the District Judge, except that he shall not keep a file of civil suits, and shall transact such civil business only as he may receive from the District Judge, or as may have been referred to the Joint Judge by order of the High Court.

When the appointment of a Joint Judge shall have been sanctioned by the Governor General of India in Council, the Governor of Bombay in Council may, so long as such sanction continues in force,

appoint a successor to such Joint Judge in case his office becomes vacant, or transfer such Joint Judge from one District to another; and in such other District the Joint Judge so transferred shall have the same powers as he had in the former District.

13. All Regulations and Acts now or hereafter in force and applying to a District Judge shall be deemed to apply also to the Joint Judge; and the seal of the Joint Judge shall be the same as is used by the District Judge.

V.—Assistant Judges.

14. The Governor of Bombay in Council, under the general control of the Governor General of India in Council, may appoint one or more Assistants to the District Judge, and may suspend or remove from his appointment any Assistant so appointed.

The present Assistant Judges shall be the first Assistant Judges under this Act.

15. An Assistant Judge shall ordinarily hold his Court at the same place as the District Judge, but he may hold his Court elsewhere within the District, whenever the District Judge shall, with the previous sanction of the High Court, direct him so to do.

16. The District Judge may refer to any Assistant Judge subordinate to him original suits of which the subject-matter does not amount to ten thousand rupees in amount or value, and miscellaneous applications not being of the nature of appeals. The Assistant Judge shall have jurisdiction to try such suits and to dispose of such applications. Where the Assistant Judge's decrees and orders in such cases are appealable, the appeal shall lie to the District Judge or to the High Court according as the amount or value of the subject-matter does not exceed or exceeds five thousand rupees.

The Assistant Judge shall, when directed by the District Judge so to do, also take evidence on applications for certificates under Bombay Regulation VIII. of 1827 (to provide for the formal recognition of heirs, executors, and administrators, and for the appointment of administrators and managers of property by the Courts), Act No. XXVII. of 1860 (for facilitating the collection of debts on successions and for the security of parties paying debts to the representatives of deceased persons), and Act XX. of 1864 (for making better provision for the care of the persons and property of minors in the Presidency of Bombay), and shall forward it with his opinion thereon for the final orders of the District Judge.

17. The Governor of Bombay in Council may, by notification in the *Government Gazette*, empower any Assistant Judge to try such appeals from the decrees and orders of the Subordinate Courts as would lie to the District Judge and as may be referred by him to the Assistant Judge.

Decrees and orders passed under this Section by an Assistant Judge shall have the same force and

shall be subject to the same rules as regards procedure and appeals as decrees and orders passed by the District Judge.

18. A person filling the office of Assistant Judge, on whom the power of hearing appeals has once been conferred under section seventeen, shall continue to have this power so long and so often as he may fill the office of Assistant Judge, without reference to the District in which he may be employed: provided that the Governor of Bombay in Council may by notification in the *Government Gazette* at any time withdraw such power.

19. The Governor of Bombay in Council may, by notification in the *Government Gazette*, invest an Assistant Judge with all or any of the powers of a District Judge within a particular part of a District, and may, by like notification from time to time, determine and alter the limits of such part.

The jurisdiction of an Assistant Judge so invested shall *pro tanto* exclude the jurisdiction of the District Judge from within the said limits.

Every Assistant Judge so invested shall ordinarily hold his Court at such place within the local limits of his jurisdiction as may be determined by the Governor of Bombay in Council, and may, with the previous sanction of the High Court, hold it at any other place within such limits.

20. Every Assistant Judge shall use the seal of the District Judge to whom he is assistant.

VI.—Subordinate Judges.

21. There shall be in each District so many Civil Courts subordinate to the District Court as the Governor of Bombay in Council, acting under the general control of the Governor General of India in Council, shall from time to time direct.

22. The Judges of such subordinate Courts shall be appointed by the Governor of Bombay in Council, and shall be called Subordinate Judges.

No person shall be appointed a Subordinate Judge unless he be a subject of the Queen who has practised five years as an Advocate of a High Court in India or as a Vakil in the High Court of Judicature in Bombay, or who has qualified for the duties of a Subordinate Judge according to such tests as may for the time being be prescribed by such High Court, or who has taken the degree of Bachelor of Laws in the University of Bombay.

The tests so prescribed by the High Court shall be notified in the *Government Gazette*.

23. The Subordinate Judges shall hold their Courts at such place or places as the Governor of Bombay in Council may from time to time appoint within the local limits of their respective jurisdictions. Wherever more than one such place is appointed, the District Judge shall, subject to the control of the High Court, fix the days on which the Subordinate

Judge shall hold his Court at each of such places, and the Subordinate Judge shall cause such days to be duly notified throughout the local limits of his jurisdiction.

The same person may be the Judge of more than one Subordinate Court; and in such cases the District Judge shall, subject to the control of the High Court, prescribe rules for regulating the time during which the Subordinate Judge shall sit in each Court.

The Judge of any Subordinate Court may, with the previous sanction of the High Court, be deputed by the District Judge to the Court of another Subordinate Judge for the purpose of assisting him in the disposal of the suits on his file.

24. The Subordinate Judges shall be of two classes.

The jurisdiction of a Subordinate Judge of the first class extends to all original suits and proceedings of a civil nature.

The jurisdiction of a Subordinate Judge of the second class extends to all original suits and proceedings of a civil nature wherein the subject-matter does not exceed in amount or value five thousand rupees.

25. A Subordinate Judge of the first class, in addition to his ordinary jurisdiction, shall exercise a special jurisdiction in respect of such suits and proceedings of a civil nature wherein the subject-matter exceeds five thousand rupees in amount or value as may arise within the local jurisdictions of the Courts in the District presided over by Subordinate Judges of the second class.

In Districts to which more than one Subordinate Judge of the first class have been appointed, the District Judge, subject to the orders of the High Court, shall assign to each the local limits within which his said special jurisdiction is to be exercised.

26. In all suits decided by a Subordinate Judge of the first class in the exercise of his ordinary and special original jurisdiction of which the amount or value of the subject-matter exceeds five thousand rupees, the appeal from his decision shall be direct to the High Court.

27. The Governor of Bombay in Council may invest any Subordinate Judge of the first class with power to hear appeals from such decrees and orders of Subordinate Courts as may be referred to him by the Judge of the District.

Decrees and orders so passed in appeal by a Subordinate Judge of the first class shall have the same force as if passed by a District Judge.

The Governor of Bombay in Council may, whenever he thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested.

28. The Governor of Bombay in Council may invest, within such local limits as he shall from time to time appoint, any Subordinate Judge of the first class with the jurisdiction of a Judge of a Court of Small Causes, for the trial of suits cognizable by such Courts up to the amount of five hundred rupees, and any Subordinate Judge of the second class with the same jurisdiction up to the amount of fifty rupees.

The Governor of Bombay in Council may, whenever he thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested.

29. Each Subordinate Judge shall use a seal one inch and a half in diameter, bearing the Royal Crown with the following inscription in English and the principal language of the District—"Subordinate Judge of

30. The present Principal Sadr Amíns shall be the first Subordinate Judges of the first class and (subject to any alteration of the limits of their ordinary local jurisdiction which may from time to time be made by the Governor of Bombay in Council) shall severally exercise the jurisdiction of Subordinate Judges of the first class under this Act, within the local limits within which, immediately before the passing of this Act, they respectively exercised the jurisdiction of Principal Sadr Amíns.

The present Sadr Amíns and Munsifs shall be the first Subordinate Judges of the second class and (subject to any alteration of the limits of their local jurisdiction which may from time to time be made by the Governor of Bombay in Council) shall severally exercise the jurisdiction of Subordinate Judges of the second class under this Act, within the local limits within which, immediately before the passing of this Act, they respectively exercised the jurisdiction of Munsifs.

31. Every Court of a Subordinate Judge under this Act shall have the same jurisdiction over all proceedings pending in the Court for which it shall have been substituted as the Principal Sadr Amín, Sadr Amín, or Munsif (as the case may be) of such Court would have had if this Act had not been passed.

32. No Subordinate Judge shall receive or register a suit in which Government or any officer of Government in his official capacity shall be a defendant, but he shall refer the party presenting the plaint in such suit to the District Judge, in whose Court alone such suit can be instituted.

Removal or Suspension.

33. Whenever the High Court is of opinion that there are good grounds for making a formal and public enquiry into the truth of any imputation of misconduct by any Sub-

ordinate Judge, the High Court may appoint a Commissioner or Commissioners for the purpose of holding such an enquiry, and on the receipt of his or their report may order that the Subordinate Judge be removed or suspended from office, or reduced to a lower class.

The provisions of Act No. XXXVII. of 1850 (*for regulating enquiries into the behaviour of public servants*) shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

34. The High Court may suspend any Subordinate Judge from office pending the result of an enquiry into his behaviour under this section.

Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Subordinate Judge under his control. But whenever the District Judge suspends any such Subordinate Judge, he shall forthwith report the case for the orders of the High Court.

Nothing in this section or in section thirty-three shall be held to interfere with the right of Government to suspend, or remove from office, any Subordinate Judge at their discretion.

VII.—Temporary vacancies.

35. In the event of the death of the District Judge or of his being prevented from performing his duties by illness or other casualty, or of his absence from his District on leave, the first in rank of the Assistant Judges in the District, or in the absence from the District of an Assistant Judge the first in rank of the Subordinate Judges, shall assume charge of the District Court without interruption to his ordinary jurisdiction, and while so in charge shall perform the duties of a District Judge with respect to the filing of suits and appeals, receiving pleadings, execution of processes, return of writs and the like, and shall be designated Assistant Judge or Subordinate Judge, as the case may be, in charge of the District, and shall continue in such charge until the office of District Judge may be resumed or assumed by an officer duly appointed thereto.

36. Any District Judge leaving the Sadr station and proceeding on duty to any place within his District, may delegate to an Assistant Judge, or in the absence of an Assistant Judge, to a Subordinate Judge at the Sadr station, the power of performing such of the duties enumerated in section thirty-five as may be emergent; and such officer shall be designated Assistant or Subordinate Judge, as the case may be, in charge of the Sadr station.

37. In the event of the death, suspension, or temporary absence of any Subordinate Judge, the District Judge may empower the Judge of any Subordinate Court of the same District to perform the duties of the Judge of the vacated Subordinate Court, either at the place of such Court or of his own Court; but in every such case the Registers and Records of the two Courts shall be kept distinct.

VIII.—*Ministerial Officers.*

38. All ministerial officers of the Civil Courts in each District shall be appointed, and may be fined, suspended, or dismissed, by the District Judge, subject to such rules as the High Court may from time to time prescribe.

Provided that the Judge of every Subordinate Court may, subject to the like rules, appoint the ministerial officers of such Court, whose salaries do not exceed rupees ten per mensem, and may by order fine, suspend, or dismiss any ministerial officer of such Court who is guilty of any misconduct or neglect in the performance of the duties of his office. Every such order shall be subject to appeal to the District Judge; and the rules for the time being applicable to appeals to the Court of Session from orders of the Criminal Courts subordinate thereto, shall apply to all appeals under this section.

Nothing in this section shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

39. The duties of the said ministerial officers shall be regulated by such rules as the High Court may from time to time prescribe.

40. The Governor of Bombay in Council may, under the general control of the Governor General of India in Council, appoint to any Civil Court under this Act a Clerk of the Court, who, in addition to such duties as may from time to time be prescribed by the High

Court, may receive and register plaints, and shall refer such as he may consider should be refused for the orders of the Judge of the Court, and may sign all processes, and authenticate copies of papers.

IX.—*Miscellaneous.*

41. The proceedings of each Civil Court shall be kept and recorded according to such rules as the High Court may from time to time prescribe. The High Court shall also lay down rules under which copies of papers may be granted.

42. The High Court shall from time to time, with the sanction of the Governor of Bombay in Council, prescribe and regulate the fees to be taken for any process issued by any Court the constitution of which is declared by this Act, or by any officer of such Court.

Tables of the fees so prescribed shall be published in the *Government Gazette*.

43. The District and Subordinate Courts shall sit from day to day, except on Sundays, New Year's Day, Good Friday, Christmas Day, and Her Majesty's Birthday, and such other days as may be sanctioned for each or every District by the High Court.

The High Court may also permit the Civil Courts under its control to adjourn for a period or periods not exceeding in the whole six weeks in each year.

SCHEDULE.

Enactments repealed.

I.—BOMBAY REGULATIONS.

<i>No. of Regulation.</i>	<i>Title of Regulation.</i>	<i>Extent of Repeal.</i>
I. of 1827.	A Regulation for forming into a regular Code all Rules that may be enacted for the internal Government of the Territories subordinate to the Presidency of Bombay.	Sections 1 to 7, both inclusive.
II. of 1827.	A Regulation for defining the constitution of Courts of Civil Justice, and the powers and duties of the Judges and Officers thereof.	The preamble and so much of chapters III. and IV. as has not been repealed, and chapter II. except so much of section XXI. as refers to the interference of the Civil Courts in caste questions.
III. of 1827.	A Regulation containing provisions as to the official proceedings in general of Courts of Civil Justice, their sittings, the mode of communicating with them, the mode of keeping the minutes of their proceedings, the sealing, signing, and language of process, and the grant of copies of papers on their records.	The whole.
IV. of 1827.	A Regulation prescribing the forms of proceeding of the Courts of Law in Civil Suits and Appeals, and Rules for the trial of the same.	The preamble and sections 24, 27, and 72, clause 4.

No. of Regulation.	Title of Regulation.	Extent of Repeal.
XXIX. of 1827.	A Regulation for bringing under the operation of the Regulations the Bombay territories in the Deccan and Khandesh.	Section 7.
XXXI. of 1827.	A Regulation to explain the principles on which the introduction of the revised Code of Regulations is to be effected.	The whole.
I. of 1830.	A Regulation rescinding Regulation VII. of 1828, and extending the jurisdiction of Native Commissioners to the cognizance of all original suits of whatever amount.	The whole.
VII. of 1831.	A Regulation for modifying the Rules under which appeals in Civil Suits are to be admitted.	The whole.
XVIII. of 1831.	A Regulation for instituting gradations of rank in the judicial appointments conferred on Natives, and defining the authority to be exercised by each rank.	The whole.
II. of 1833.	A Regulation for vesting Judicial Native Commissioners with authority to try civil actions in any part of a zillah to which they stand appointed.	The whole.
VI. of 1834.	A Regulation providing for the occasional adjournment of the Courts of Civil Judicature under the Presidency of Bombay.	The whole.

II.—Acts.

No. of Act.	Title of Act.	Extent of Repeal.
IX. of 1844.	An Act for authorizing the institution of suits in the Courts of Principal Sudder Ameen and Sudder Ameen.	The whole Act as far as it relates to the Bombay Presidency.
XXIX. of 1845.	An Act to empower the Government of Bombay to appoint Joint Zillah Judges or Joint Session Judges.	So much as refers to Joint Zillah Judges.

WHITLEY STOKES,

Secretary to the Council of the Governor General for making Laws and Regulations.