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

## PART VI.

## BILLS OF THE GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th November 1879:—

**Bill No. 18 of 1879.**

### THE TRADES AND PROFESSIONS TAX BILL, 1879.

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## CHAPTER IV.

### Supplementary.



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*A Bill to impose a Tax on Trades and Professions.*

Preamble.

Whereas it is expedient to consolidate and amend the Acts at present in force for the licensing of trades, dealings and industries in certain parts of British India, and to extend the operation of the said Acts in manner hereinafter appearing: It is hereby enacted as follows:—

## CHAPTER I.

### Preliminary.

Short title.

1. This Act may be called "The Trades and Professions Tax Act, 1880."

Local extent.

It extends to the whole of British India and to all servants of the Government of India within the dominions of Princes and States in alliance with Her Majesty;

Commencement.

and shall come into force on the first day of January 1880.

Saving of certain laws.

But nothing herein contained shall affect any law imposing a tax on any arts, trades, professions, callings or employments, and not hereby expressly repealed.

Repeal.

2. On and from the said date the Acts mentioned in the first schedule hereto annexed shall be repealed.

Interpretation-clause.

3. In this Act—

"Collector."

"Collector" means the Chief Officer in charge of the revenue administration of a district and in the Presidency-towns such officer as the Local Government may from time to time appoint in this behalf:

"Business."

"Business" used with reference to any person, means any trade, dealing, art, industry of profession, or any number of trades, dealings, arts, industries or professions, carried on by him in British India, except agriculture or the sale by a cultivator of land of the produce of such land or by a receiver of rent in kind of produce received by him as rent:

*Explanation* (1). When any business is carried on by any member of a firm on behalf of such firm, such business is the business of the firm and not of such person.

*Explanation* (2). "Agriculture" includes any process ordinarily employed by a cultivator or a receiver of rent in kind, in order to render the produce raised or received by him fit to be taken to market.

For the purposes of this Act, each of the Presidency-towns shall be deemed to be a district.

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## CHAPTER II.

### Tax on Business.

Persons carrying on business to pay according to class.

4. Every person carrying on, whether on behalf of himself or any other person, any business during any portion of a year commencing on the first day of April 1880, or any subsequent month of April, shall, if he falls under any class mentioned in the second schedule hereto annexed, pay in respect of that year to the Collector of the district in which the principal place of such business is situate the amount shown in that schedule as proper to be paid by persons of such class:

Provided that when any person not previously carrying on any business begins to carry on a business on or after the first day of July in any such year, no more than the following shall be payable by him in respect of that year, that is to say—

when he begins to carry on such business before the first day of October in such year, three-fourths of the said amount;

when he begins to carry on such business on or after the first day of October but before the first day of January in such year, one-half of the said amount; and

when he begins to carry on such business on or after the first day of January in such year, one-fourth of the said amount.

Provided also that in any other case in which a person carries on his business for a portion only of such year, the Collector may, by an order in writing, remit a proportionate part of the said amount.

When any question arises as to what shall, for the purposes of this Act, be deemed to be the principal place of any business, the Governor General in Council, or such authority as the Governor General in Council may, from time to time, appoint in this behalf, shall decide such question, and his or its decision thereof shall be final.

Collector to determine class and prepare list.

5. The Collector shall, from time to time, determine the class to which every person liable to make any payment to him under this chapter belongs, and shall, not later than the first day of April in each year, prepare, in the language of the district, and file in

his office, a list of such persons showing the business carried on by each of them, the places at which such business is carried on, the class to which such person belongs, and the amount payable by him in respect of the year beginning on such day.

Publication of list.

The list so filed shall be open to public inspection, at all reasonable times, without any payment; and such part or parts thereof as the Collector thinks fit shall, not later than the first day of April, be published in such public place or places of all towns and villages concerned, and shall be made known to the persons affected in such other manner (if any) as the Local Government may from time to time direct.

When any question arises as to what, for the purposes of this section, shall be deemed to be the language of a district, the Local Government shall decide the same, and its decision thereof shall be final.

Persons omitted from list.

6. Any person who is, on the first day of April in any year, carrying on a business in respect of which he is liable to make any payment to the Collector under this chapter, but whose name is omitted from the list prepared under section five, shall, before the first day of May in such year,

Persons beginning business after it is prepared.

and any person not previously carrying on any business who, after the first day of April in any year, begins to carry on any business in respect of which he is liable to make any such payment, shall, within one month from his so beginning,

apply to the Collector to determine the class under which he is chargeable and the amount payable by him, and the Collector shall thereupon by an order in writing determine the same.

Tax when payable.

7. Every person whose name is included in any list prepared under section five shall, before the first day of May next following the preparation of such list, and any person whose class has been determined under section six shall, within one month from such determination, pay to the Collector the amount shown in such list or determined by the Collector (as the case may be) to be payable by him, or when such amount exceeds forty rupees, half of such amount.

When only one-half of such amount is payable under the first clause of this section, the remaining half thereof shall be payable on the expiration of six months from the date on which the first half is payable, or when the first day of March next following falls within such period of six months on that day.

Receipts to be granted.

8. The Collector shall grant to every person paying any sum under section seven a receipt specifying—

(a) the date of the grant thereof:—

(b) the name and business of the person to whom it is granted:

(c) the class to which he belongs:

(d) the nature of the business carried on by him:

(e) the place or places where he carries on such business:

(f) the amount so paid by him:

(g) the year or part of a year in respect of which it has been paid: and

(h) such other particulars as the Local Government may, from time to time, prescribe.

Every fact stated in such receipt shall, for the purposes of this Act, be regarded as proved, unless and until it is disproved.

Penalty for non-compliance with sections 6 and 7.

9. When any person neglects to apply to the Collector as required by section six, the Collector may, of his own motion, determine, by an order in writing, the class to which, for the purposes of this chapter, such person shall belong; and such person shall be liable, by order of the Collector, to pay a penalty not exceeding thrice the amount payable by persons of such class in addition to such amount.

Any person omitting to make any payment as required by section seven shall be liable, by order of the Collector, to pay a penalty not exceeding thrice the amount of such payment in addition to the same.

Petition of objector.

10. Any person objecting to the class in which he is placed in a list prepared under section five or by an order of the Collector subsequent to the preparation of that list, and who has paid the amount shown in such list or order to be payable by him, or when such amount exceeds forty rupees half the same, may, within thirty days after the publication of the list or the date of such order (as the case may be), or within such further time as the Collector may, in each case, think fit, apply by petition to the Collector, in order to establish his right to have his name transferred to another class, or to be exempt from taxation under this chapter.

Hearing of petition.

The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, or on such subsequent day as he may, from time to time, direct, shall hear the same and pass such order thereon as he thinks fit.

Assessment and collection by Municipal authorities.

11. The Local Government may, by an order in writing, direct—

(a) that any local area under the control of a Municipal authority shall be deemed to be a district for the purposes of this chapter;

(b) that such Municipal authority or an officer of such authority shall, subject to the control of the Collector, and subject to such restrictions and conditions as may be specified in such order, exercise any of the powers of a Collector under this Act for the purpose of assessing or collecting, or both assessing and collecting, the whole or any portion of the tax leviable under this chapter in such local area;

(c) that for the purpose of realizing any sums due on account of such tax, such authority or officer may, in lieu of, or in addition to, any powers conferred by this Act, exercise any powers conferred by law for the realization of any Municipal tax in such local area;

(d) that all money collected by such authority on account of such tax shall be credited to the funds under the control of such authority; and

(e) that from such funds such authority shall pay in each year to the credit of the Secretary of State in Council such amount as the Local Government may estimate to be a fair composition for such sums as such authority could with due diligence realize on account of the tax during such year.

## CHAPTER III.

### Tax on Officers and Servants.

Interpretation-clause.

12. In this chapter, unless there be something repugnant in the subject or context,—

"Private employer."

"Private employer" includes a company and a municipal or other public body or association:

"Pay."

"Pay" includes allowances, fees, commissions, perquisites or profits received from an employer in lieu of, or in addition to, a fixed salary; but does not include travelling, tentage, horse or sumptuary allowance, or any other allowances granted to meet specific expenditure.

Deduction in case of Government officials.

13. In the case of every person holding any paid office, employment or commission under Her Majesty, the sum of one-and-a-half per cent. of the amount of any pay due in respect of a period subsequent to the thirty-first day of March 1880, shall, when such pay amounts to one hundred rupees per month, be deducted from such pay at the time of payment by the examiner of claims or other officer whose duty it is to make such payments, and shall be deemed to be a tax paid under this Act.

Exemption.

Nothing in this chapter applies to the pay of officers, warrant-officers, non-commissioned officers and privates of Her Majesty's army who are not in any employment which, according to the ordinary practice, is held indifferently by military persons and civilians, and whose pay does not exceed five hundred rupees per mensem.

Deduction in case of other persons holding paid employments.

14. In the case of every person holding a paid employment under any private employer, the sum of one-and-a-half per cent. of the amount of any pay due in respect of a period subsequent to the thirty-first day of March 1880, shall, when such pay amounts to one hundred rupees per month, be deducted therefrom at the time of payment by such employer, and shall be deemed to be a tax payable under this Act.

Receipt to be given for deduction.

15. Every private employer shall, at the time of deduction, give a receipt for the same to the person from whose pay the said sum of one-and-a-half per cent. is deducted;

and any employer refusing so to give such receipt shall be liable, by order of the Collector, to a penalty of ten rupees.

Private employer primarily liable to Government for tax.

16. Every private employer shall be primarily liable to Government for the said sum in respect of every person employed by him, whether the said sum has been deducted from the pay of such person or not;

Payment to be by instalments.

and shall, on the first day of January, the first day of April, the first day of July, and the first day of October, in each year, pay to the Collector of the district in which the pay of such person is disbursed or to such other Collector as the Local Government may, from time to time, appoint in this behalf all sums then due by such employer under this section.

Liability of employee for tax due where employer becomes insolvent, &c.

17. When any private employer is declared an insolvent, or being a company or firm is wound up or dissolved, without having paid the amount required by section sixteen, the person employed shall be bound, on the demand of the Collector, to pay the same.

Subsequent deduction of tax omitted to be levied.

18. Whenever a sum to be deducted under this chapter is not deducted at the time of payment from the pay chargeable therewith, it shall be deducted from some pay subsequently payable by the same employer to the same person.

Collector to grant receipt.

19. The Collector shall grant to every person paying any sum under this chapter a receipt specifying—

(a) the date of the grant thereof;
(b) the names of the employer and the person employed;
(c) the amount paid;
(d) the period in respect of which it has been paid; and
(e) the person by whom it has been paid.

Persons objecting to amount deducted may apply by petition to the Collector.

20. Any person objecting to the amount deducted from his pay under the provisions of section fourteen, or denying his liability to have any amount deducted therefrom, may, within fifteen days from the date of such deduction, or within such further time as the Collector may, in each case, think fit, apply by petition to the Collector in order to establish his right to receive the amount deducted, or any portion thereof.

Notice to employer of petitioner.

21. The Collector shall fix a day for the hearing of the petition, which shall not be less than ten days from the date of such petition: notice shall be given to the employer of such person;

Hearing of petition.

and the Collector shall on the day so fixed, or on such subsequent day as he may, from time to

time, direct, hear the petitioner and the employer if he appears, and pass such order thereon as he thinks fit.

Penalty for failing to make payment under section 16.

22. Every private employer failing to make any payment as required by section sixteen shall be liable, by order of the Collector, to pay a penalty not exceeding thrice the amount of such payment in addition to the amount thereof.

## CHAPTER IV.

### SUPPLEMENTARY.

Revision of order passed under section 10, 21 or 22.

23. The Commissioner of Revenue of the Division, or such other officer as the Local Government may, from time to time, empower in this behalf, may, in his discretion, on the application of any person deeming himself aggrieved by an order passed by the Collector under section ten, twenty-one or twenty-two, or by the refusal of the Collector to grant a remission under the second proviso to section four, call for the record of the case, and pass such order thereon as he thinks fit, and such order shall be final.

Recovery of sum due under Act.

24. All sums due and all penalties payable under this Act shall be recoverable as if they were arrears of land-revenue :

But no proceedings for the recovery of any such sum or penalty shall be commenced after the expiration of three months from the last day of the year ending on the thirty-first day of March in which such sum or penalty became due or payable.

Powers of Collector under Act may be exercised by other officers.

25. All or any of the powers and duties conferred and imposed by this Act on a Collector may, subject to the control and orders of the Collector of the District, be exercised and performed by an Assistant Collector or such other officer as the Local Government, from time to time, appoints in this behalf.

The Collector may, in respect of any order passed under section ten, twenty-one or twenty-two by an officer appointed under this section, exercise the power of revision conferred on the Commissioner of a Division by section twenty-three, and the order passed in the exercise of such power shall be final.

Receipt to be produced on demand.

26. Every person holding a receipt given under this Act shall produce and show the same when required so to do by an officer generally or specially empowered in writing by the Collector to make such requisition.

Prosecution to be at instance of Collector.

But no person shall be proceeded against for neglect or refusal to produce a receipt except at the instance of the Collector.

Receivers and managers chargeable.

27. Courts of Wards and Receivers and Managers appointed by any Court in British India shall be chargeable under this Act in respect of any business of which the income is officially in their possession or under their control, and in respect of any persons employed by them.



Power to retain assessment paid by trustee, &c.

28. When any trustee, guardian, curator, committee or agent is charged, under this Act, in such capacity, or when any Court of Wards, or Receiver or Manager appointed by any Court, is charged under this Act, every person and court so charged may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee or agent, or as such Court of Wards, Receiver or Manager, retain so much as is sufficient to pay the amount charged.

Every such person or court is hereby indemnified for every retention and payment made in pursuance of this Act.

Collector to exercise powers of a Civil Court.

29. The Collector may, for the purposes of any proceeding under section ten or section twenty-one, exercise any of the powers conferred by the Code of Civil Procedure on a Civil Court for the trial of suits :

Provided that the Collector shall not, in the course of any such proceeding, call for any evidence, except at the instance of the petitioner, or in order to ascertain the correctness of facts alleged by him.

Obligation to furnish information to the Collector.

30. Every person shall be legally bound to furnish to any officer exercising any of the powers of a Collector under this Act such information in writing or otherwise as such officer may require.

Power to exempt and make rules.

31. The Local Government may, from time to time, with the previous sanction of the Governor General in Council,—

(*a*) exempt any portion of the territories administered by such Government, or any persons or class of persons in such territories, from the operation of this Act or any provision thereof, and cancel such exemption :

(*b*) reduce the amount payable by any person or class of persons under this Act : and

(*c*) make rules consistent with this Act, (1) for regulating the manner of collecting the sums payable under this Act ; (2) for providing in any case or class of cases for serving notices on persons under this Act ; and (3) generally for the guidance of officers in matters connected with this Act.

Exemption from house-cess under Road-cess and Public Works Acts.

32. No person who pays any tax under this Act shall, so long as he continues to pay the same, be liable to pay any instalment of road-cess or public works cess on his house under Part IV. of Bengal Act X. of 1871 or section seven of Bengal Act II. of 1877 when such instalment falls due after the first day of April 1880.

# THE FIRST SCHEDULE.

## Acts repealed.

*(See Section 2).*

### Act of the Governor General in Council.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| Act No. II. of 1878... ... | An Act for the licensing of trades and dealings in the Panjáb, the North-Western Provinces and Oudh. | The whole. |

### Act of the Governor of Fort St. George in Council.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| Act No. III. of 1878 ... | An Act for licensing trades, dealings and industries in the Presidency of Madras. | The whole. |

### Act of the Governor of Bombay in Council.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| Act No. III. of 1878 ... | An Act for the licensing of trades, dealings and industries in the Presidency of Bombay. | The whole. |

### Act of the Lieutenant-Governor of Bengal in Council.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| Act No. I. of 1878... ... | An Act for the licensing of trades, dealings and industries within the territories subject to the Lieutenant-Governor of Bengal. | The whole. |

# THE SECOND SCHEDULE.

## Tax on Business.

*(See Section 4.)*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Number of class. | Persons whose annual income from business exceeds | But does not exceed | Tax payable. |
| | Rs. | Rs. | Rs. |
| 1 ... ... | 250 | 350 | 4 |
| 2 ... ... | 350 | 500 | 7 |
| 3 ... ... | 500 | 600 | 10 |
| 4 ... ... | 600 | 800 | 12 |
| 5 ... ... | 800 | 1,000 | 16 |
| 6 ... ... | 1,000 | 1,200 | 20 |
| 7 ... ... | 1,200 | 1,600 | 24 |
| 8 ... ... | 1,600 | 2,000 | 32 |
| 9 ... ... | 2,000 | 2,500 | 40 |
| 10 ... ... | 2,500 | 3,000 | 50 |
| 11 ... ... | 3,000 | 4,000 | 60 |
| 12 ... ... | 4,000 | 5,000 | 80 |
| 13 ... ... | 5,000 | 6,000 | 100 |
| 14 ... ... | 6,000 | 8,000 | 120 |
| 15 ... ... | 8,000 | 10,000 | 160 |
| 16 ... ... | 10,000 | 12,000 | 200 |
| 17 ... ... | 12,000 | 16,000 | 240 |
| 18 ... ... | 16,000 | 20,000 | 320 |
| 19 ... ... | 20,000 | 24,000 | 400 |
| 20 ... ... | 24,000 | 32,000 | 480 |
| 21 ... ... | 32,000 | 40,000 | 640 |
| 22 ... ... | 40,000 | 48,000 | 800 |
| 23 ... ... | 48,000 | 60,000 | 960 |
| 24 ... ... | 60,000 | 80,000 | 1,200 |
| 25 ... ... | 80,000 | 1,00,000 | 1,600 |
| 26 ... ... | 1,00,000 | 1,25,000 | 2,000 |
| 27 ... ... | 1,25,000 | 1,50,000 | 2,500 |
| 28 ... ... | 1,50,000 | 2,00,000 | 3,000 |
| 29 ... ... | 2,00,000 | 2,50,000 | 4,000 |
| 30 ... ... | 2,50,000 | 3,00,000 | 5,000 |
| 31 ... ... | 3,00,000 | 4,00,000 | 6,000 |
| 32 ... ... | 4,00,000 | 5,00,000 | 8,000 |

and so on, the figures in columns 2 and 3 being increased by 1,00,000 and those in column 4 by 2,000 for each new class.

## Statement of Objects and Reasons.

1. The existing License Tax Acts are four in number. Act II. of 1878, passed by the Council of the Governor General, applies to the Panjab, the North-Western Provinces and Oudh; and Acts, more or less similar, passed by the Local Legislatures, apply to the Presidencies of Madras and Bombay, and to Bengal. These Acts it is now thought desirable to consolidate and amend, and the present Bill has been prepared for this purpose.

2. It is considered necessary to exempt from liability to this form of taxation all persons whose presumed incomes are less than Rs. 250 per annum. The effect of this change of system will be to exempt more than a million persons from taxation, and it will involve a sacrifice of an annual revenue of about £240,000.

3. With a view to making good the loss of revenue caused by this exemption of the smaller incomes now liable to the License tax, and to obtaining at the same time greater equality in the incidence of taxation, it is proposed to extend to the professional classes, and also to the wealthier officials and other persons receiving salaries, taxation at a similar rate to that imposed on the trading classes.

It is proposed to treat the trading and professional classes alike. In regard to traders, the Bill makes no important change in the system followed under the existing License Tax Acts, except that it is obviously necessary to increase the fees payable by persons with the larger incomes, as the richer traders would otherwise be taxed at a lower rate than that applied to the salaried classes. The system of classification now in force is generally retained. Some small variation in the rate at which the tax falls on different incomes is under any such system unavoidable; but the new schedule has been so framed that the difference between the highest and the lowest rates does not exceed one-half per cent, the average incidence of the tax being a little over 1½ per cent. on estimated annual earnings.

4. Separate provisions are made for the taxation of the salaried classes, whether official or non-official; as, in their case, the exact incomes being known, the rough process of classification which is desirable for traders and professional persons would obviously be neither necessary nor expedient. It is proposed, following pretty closely the precedents of Act XXI. of 1867 and Act IX. of 1868, to assess the salaried classes on their actual salaries; the lower limit of taxable salary being Rs. 100 per mensem or Rs. 1,200 per annum.

The rate of the tax on these classes will be 1½ per cent., and in practice, the tax will on the average fall on all classes at the same rate.

5. Following the precedents above quoted, it is proposed to exempt from liability to the tax the military servants of the Government whose pay and allowances do not exceed Rs. 500 per mensem, or Rs. 6,000 per annum.

6. It is estimated that the extension of taxation to the professional and salaried classes in the manner proposed by the Bill will yield very nearly the same amount as that sacrificed by giving up the tax on the lower classes of traders, or about £240,000. The measure will, therefore, have no appreciable effect on the public revenues.

7. The present opportunity has been taken to amend the law in other particulars, but they are not of sufficient importance to call for notice here.

8. As the existing Acts require the assessment lists to be made out in the beginning of January, it is desirable that the present Bill, if it is to become law, should be passed before the 31st December; but no payments will be due until after the 1st April, when the next financial year begins.

JOHN STRACHEY.

*The 13th November 1879.*

D. FITZPATRICK,
*Secy. to the Govt. of India,*
*Legislative Department.*

[*Published with the "Bombay Government Gazette" on the 27th November* 1879.]

# PART VI.

## BILLS OF THE GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill for the relief of Indebted Agriculturists in certain parts of the Dekkhan, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th October 1879 :—

REPORT.

We, the undersigned Members of the Select Committee, to which the Bill for the relief of indebted agriculturists in certain parts of the Dekkhan was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Pandit Eshwant Sridhar, Poona, dated 17th August 1879 [Printed paper No. 1].
Notes by Mr. Ganesh Wassudeo Joshi, Joint Secretary, Poona Arbitration Court, dated 9th August 1879 [Printed paper No. 2].
From Acting Chief Secretary to Government, Bombay, No. 4495, dated 27th August 1879 [Printed paper No. 3].
Note by Mr. Ganesh Wassudeo Joshi, Joint Secretary, Poona Arbitration Court, dated 25th August 1879 [Printed paper No. 4].
Observations by Hon'ble Justice R. West, dated 10th September 1879 [Printed paper No. 5].
Abstract of letter of Bombay Government, No 4495, dated 27th August 1879 [Printed paper No. 6].
From Acting Chief Secretary to Government, Bombay, No. 4787, dated 8th September 1879, and enclosures [Printed papers No. 7.]
" Ditto ditto No. 4774, dated 8th September 1879, and enclosures [Printed papers No. 8].
" Ditto ditto No. 4838, dated 11th September 1879, and enclosures [Printed papers No. 9].
" Mr. Shivram Hary Sathé, Secretary, Poona Sarvajanak Sabhá, No. 89, dated 6th September 1879, and enclosures [Printed papers No. 10].
" Acting Chief Secretary to Government, Bombay, No. 5088, dated 22nd September 1879, and enclosures [Printed papers No. 11.]

2. We have not been so fortunate as to agree among ourselves on all the points presented for our consideration; but we do not deem it necessary to refer in the body of this report to such differences of opinion as have arisen. The most convenient course, we think, will be to treat the conclusions of the majority as the conclusions of the Committee, leaving individual members to record separate dissents upon such points as they think fit.

We shall refer to such of the amendments made by us as seem to us to call for special notice in the order of the sections of the Bill as introduced.

3. Section 8, providing for the service of summons by patels, which was inserted on a suggestion made here at the time the Bill was prepared, has been struck out, as it has not met with the approval of the Government of Bombay.

4. Section 9, empowering the Courts, instead of hearing the case *ex parte*, to issue a warrant for the apprehension of a defendant who does not appear and requiring them to adopt this procedure as the general rule, has given rise to some difference of opinion. On the one hand, it has been urged that the habits which the raiyats of the Dekkhan have fallen into of allowing suits instituted against them to go undefended, has contributed in no small degree to produce the evils which this Bill is intended to remedy. On the other the obvious hardship of forcibly dragging a man away from his home and his cultivation, perhaps at a season when every day is of importance to him, merely with a view to compelling him to appear in a suit to which he has no defence, has been much dwelt on by Mr. Justice West, Mr. Naylor and others.

After weighing the arguments on both sides, we have come to the conclusion that those which may be urged against the introduction of this novel and very stringent rule preponderate; and we are confirmed in this conclusion when we remember that under section 12 of the Bill the Court is bound to make an investigation into the history of the case, even though it is not defended, and that, if it is necessary for the proper conduct of such investigation to have the defendant in Court, the Civil Procedure Code gives power to summon him as a witness.

5. In order to prevent the provisions of chapter III of the Bill being evaded, as it has been pointed out to us they might be, by entering into contracts with the agriculturists of the four districts to which the Bill extends at places beyond the limits of those districts, we have introduced a section in the beginning of chapter III requiring suits against such agriculturists to be brought where the defendants reside.

6. The next provisions of the Bill calling for notice are those contained in sections 12 to 15, commonly described as the sections requiring the Court " to go behind the bond," and they are by far the most important we have had to consider.

Section 12 is in the main merely introductory to those that follow. It provides that, when the amount of a claim is disputed, the Court shall inquire into the history and merits of the case, partly with a view to ascertaining whether there is any defence to the suit on the ground of fraud, &c., and partly with a view to taking the account between the parties according to the rules laid down in the following sections; but that, when the amount of the claim is admitted, the Court shall not be bound to institute such inquiry, unless it sees reason to doubt the truth of the admission.

7. The Government of Bombay object to the latter portion of the rule. We have felt some doubt as to the precise grounds of their objection as set forth in paragraph 10 of their letter of the 27th August; but we understand that their view is that it is necessary to institute the inquiry in *every* case, even though the defendant may admit the claim and there may be no reason to doubt the truth of his admission.

We are not prepared to go quite this length. There must, it appears to us, be some cases in which it will be clear enough for all practical purposes that the admission of a defendant is true and reasonable—cases, for example, in which, though the defendant is an agriculturist within the meaning of the Bill, he is a man of some little education and as well able to keep an account of his transactions and understand his position as the plaintiff. In such cases we think we should be inflicting an unnecessary hardship on both parties and wasting the time of the Court by insisting on an inquiry which, even where both parties were agreed, would, if the judge were to be put in possession of the whole history of the case, often be lengthy and troublesome. We have, however, introduced an amendment which we believe will, in practice, secure all that the Government of Bombay desire by providing in section 12 that, in cases where the defendant admits the claim, the Court shall nevertheless inquire into the history of the case, unless, for reasons to be recorded by it in writing, it believes that the admission is true and is made by the debtor with a full knowledge of his legal rights as against the creditor. The result of this amendment will be that it will no longer be possible for an indolent judge, as it would be under the Bill as introduced, to shirk the labour of the inquiry by saying that he sees no reason to doubt the truth of the admission. The inquiry must be made, unless the judge is prepared to give some specific reason for accepting the admission—some such reason, *e.g.*, as might be given in a case of the description just referred to.

8. Section 13, which lays down the mode in which, after the inquiry prescribed by section 12 has been made the account between the parties should be taken, has been recast in order to bring it as nearly as possible into accordance with the views of the Government of Bombay.

As it originally stood, it provided that, if the Court found that there was any agreement between the parties as to the mode of taking the account and considered such agreement fair and equitable, the account should be taken in accordance with such agreement; but that otherwise the account should be taken according to certain rules, the principal of which were—

*first*, that compound interest should not be allowed in any shape or under any circumstances;

*secondly*, that all profits and advantages received by the plaintiff in connection with the transaction should be brought to credit at a value to be determined by the Court; and

*thirdly*, that the Hindú rule of *dám-dupat*, by which the sum recovered on account of interest shall not exceed the sum recovered *on the same occasion* on account of principal, should be observed in all cases without reference to the religion of the parties.

9. The Government of Bombay desire to have the two first of these rules applied absolutely and in all cases without any regard to the agreement between the parties, even where such agreement may, under the circumstances, be a fair and equitable one.

The third rule they desire to have similarly applied, but with a modification in favour of the debtor of so extensive a nature as to make it in form and in substance a completely new rule.

In short, the Bill, as it at present stands, goes far in the direction of setting aside contracts which under the law hitherto in force have been held good. The Government of Bombay desire to make it go much further.

10. The question is accordingly one of those of degree, of more or less, on which opinions will necessarily differ.

On the one side it is urged that it is necessary, on political grounds, to adopt strong and unusual measures in favour of the raiyats in order to prevent irritation and discontent.

On the other it is urged that, in so far as the question can be considered to have assumed a political aspect, we must be careful lest by going too far in our efforts to allay the discontent of one class we excite the disaffection of the other.

11. Turning from the political to the economical aspect of the question, we have, on the one hand, the very obvious arguments as to the desirability of providing for the raiyats some means of escape from their present thraldom and of giving them a fresh start on something like a solvent footing; on the other, we have been much pressed with the argument that by going too far in subverting contracts, we may destroy the credit of the raiyats, and thus in the long run both aggravate their pecuniary difficulties and place the Government revenue in jeopardy.

12. Amid these conflicting considerations we have, we need hardly say, desired to be guided, as far as possible, by the views of the Government of Bombay. There is indeed much in the Bill as now settled by us which, if it were not for the deference we feel for the strongly expressed opinion of that Government, we should propose to alter. But we cannot altogether devolve upon others, whatever our respect for their views may be, the duty of forming an opinion on the important questions submitted to us.

Looking at the matter in this way and having given it our most anxious consideration, we find ourselves in a position to recommend that the views of the Government of Bombay be adopted fully in regard to one of the three rules above referred to, and partially in regard to the other two.

13. To begin with the rule as to crediting profits irrespective of any agreement which may have been made regarding them, we think that that rule may, without any great danger of injustice, be made, as the Government of Bombay wish it to be, applicable to all cases.

It is true that, in the case of a usufructuary mortgage, it sets aside agreements which have hitherto not only been enforced when expressly entered into by the parties, but which the law in Bombay (Bombay Regulation V. of 1827, section 15) presumes, in the absence of any express agreement, to be implied: we mean agreements to the effect that the profits of the mortgaged property shall be taken by the mortgagee without account in lieu of interest. But such agreements when made between the parties to a mortgage, whether expressly or by tacit reference to the Regulation just mentioned, usually proceed on the calculation that the profits of the property will be equivalent to reasonable interest on the loan; and there can accordingly be no great hardship in providing that the approximate estimate of the profits made by the parties shall be set aside and an actual account taken, reasonable interest being at the same time allowed to the motgagee.

14. In regard to the matter of compound interest, we are unable to adopt in their entirety the proposals of the Government of Bombay. We have no doubt that, in a very large proportion of the cases that will come before the Courts under this Bill, it will be found that the debt has been unduly swollen by frequent rests and consolidations of interest with principal; but it seems to us that there must be some cases in which a consolidation of interest with principal, or perhaps a novation, as a lawyer would term it, of the entire transaction, has taken place under such circumstances that the refusal to recognize it would work a gross injustice. This being so, we deem it impossible to lay down any absolutely hard-and-fast rule on the point; but in order to bring the Bill in this particular as nearly as we can venture to do into conformity with the views of the Government of Bombay, we have, following a course similar to that which we have adopted in regard to section 12, provided that compound interest shall be disallowed, unless the Court, *for reasons to be recorded by it in writing*, is of opinion that it is fair and equitable to allow it. We may add that we feel confident that the law as thus amended will fully secure the object which we understand the Government of Bombay to have in view.

15. As regards the Hindú rule of *dám-dupat*, it has, at the desire of the Government of Bombay, been extended to the whole agriculturist population of the four districts, without reference to creed or sect. We now propose, in further compliance with the views of that Government, to make it an absolute rule overriding all contracts between the parties; but it is in our opinion quite impossible to adopt the extensive modification of the rule, or, speaking more properly, the completely new rule which is now proposed. That new rule, which would provide that the total amount claimable *from first to last* on account of interest shall in no case exceed the principal, has not, like the rule of *dám-dupat*, the authority of Native law or ancient custom to support it. It rests on no principle that we have been able to discern; and from the tenth paragraph of a letter from the Government of Bombay, No. 4579, dated 5th September 1878, which has been laid before us by the Secretary, it would appear that it was introduced merely in order to provide an additional mode of reducing the claims of saukárs. We would further observe that no attempt has been made as far as appears to estimate its effect upon existing claims; but we gather from the papers before us and the report of the Dekkhan Riots Commission that in the case of a very large proportion of those claims interest in excess of principal has already been paid; and wherever this is so, the result of the rule would be that, when the claim had been cut down in the various modes required by the very stringent provisions of section 13, it would be necessary again to reduce it by one-half. It appears to us impossible to enact arbitrarily a new rule of this description.

16. We have next to refer to a section which appeared in the drafts submitted by the Government of Bombay in January 1878 and in April last, but which was omitted from the Bill as prepared here, and for the re-introduction of which the Bombay Government now strongly press.

The section in question, as it appeared in the Bill submitted in January 1878, provided that where the nature or extent of the transactions between the parties was doubtful, the Court should determine the " amount of money lent *upon an equitable estimate* with reference" to such considerations as the means and position of the parties, the state of the borrower's credit at the time, the occasion on which the money was advanced, the needs of the borrower, &c. Mr. Naylor, the Legal Remembrancer to the Government of Bombay, in the able paper submitted by him, seems still to press for the introduction of the section in this form. He considers it to be one of the two essential points of the proposed measure that the Courts should be empowered, when " the evidence is doubtful, to determine the amount payable *upon equitable considerations*."

Now, it is common enough to speak of adjusting *rights* on equitable grounds; but we are altogether at a loss to understand what is meant by deciding *a pure question of fact* " upon an equitable estimate" or " upon equitable considerations."

We apprehend, however, that if we adopted the section in this its original form, as Mr. Naylor would apparently have us do, it would probably be construed by the lower Courts as an instruction to them in default of satisfactory proof to make a guess at the amount of the loan, and in making such guess to have a special regard to circumstances which would, as a rule, tell in favour of the debtor.

17. In the Bill submitted in April last, this section appeared in a new shape, namely, as a provision simply to the effect that the circumstances above referred to, namely, the means of the parties, &c., should, upon any question arising as to the extent of a transaction, be relevant facts; and it is apparently in this shape that the Government of Bombay now advocate its re-introduction. In pressing us to re-introduce it, however, they are apparently influenced by what appears to us to be a misapprehension as to the existing state of the law. They speak of it as "a relaxation of the rigour of the existing practice as to the admission of evidence." This, as it appears to us, it would not be. We are clearly of opinion that the facts referred to, though their weight in evidence would as a rule be small, would be relevant facts within the meaning of the Evidence Act, and that accordingly the proposed section would be simply nugatory, that is to say, without any legal operation.

We are by no means sure, however, that if it became law it would not indirectly work mischief. We are inclined to think that an enactment expressly requiring the facts referred to to be treated as relevant facts would lead the Courts to attach an artificial weight to them over and above the weight which naturally belongs to them; and we are strengthened in this opinion when we see the extraordinary importance which the Government of Bombay and some of the local authorities appear to attach to the proposed section,—an importance which could scarcely be attributed to it if the facts to which it refers were to be estimated at their natural value.

The great anxiety shown by the Government of Bombay for the re-introduction of this section must be our excuse for stating at such length our reasons for rejecting it.

18. Sections 16 and 24, which go to relieve an heir from a portion of his ancestor's debt, though he may have inherited from that ancestor property sufficient to pay that debt, have been struck out.

The Government of Bombay do not appear to attach much importance to them, the Judges of the High Court have objected to them, and it is hard to see why, when the ancestor's debt has under the ample powers contained in sections 12 to 15 of the Bill been fully inquired into and reduced to its just limits, the heir should not be bound to pay it to the extent of the property he has inherited. The obligation binding him to do so is, as observed by the Hon'ble Sayyad Ahmad in his speech when the Bill was introduced, a matter of natural equity common to the English, Hindú and Muhammadan legal systems. Moreover, it is an obligation with the force of which the people of this country are perhaps more strongly impressed than those of any other country, and the sense of which, as observed in a letter from the Government of Bombay of the 6th April, 1877, is one of the best traits in their character.

19. Section 30 of the Bill, which empowers the Insolvency Court, instead of selling the moveable property of an insolvent, to insist on one of his creditors accepting it at a valuation in payment or part payment of his claim, has given rise to much discussion. On the one hand, the danger of property being sold at a great loss when put up to public auction has been much dwelt upon; on the other, the hardship of forcing upon a creditor an article for which he may have no use for himself, and which *ex hypothesi* it is not easy to sell, has been urged especially by Mr. Justice West. On the whole, it appears to us that the arguments against this section preponderate over those in its favour, and we have accordingly struck it out.

20. We have, in accordance with the views of the Government of Bombay, removed the restriction in section 36 of the Bill under which no one but a patel could be appointed to the office of Village-munsif. Under the section as now amended any person possessing local influence may be appointed.

21. Section 35, limiting the power of the Subordinate Judges to commit fraudulent insolvents to jail under section 359 of the Code of Civil Procedure, has been omitted, and a section providing for an appeal from the orders of Subordinate Judges in such cases substituted for it, at the instance of the Government of Bombay.

22. We have deemed it necessary to guard against the dangers adverted to by the Hon'ble Sayyad Ahmad in his speech, by the introduction of words in section 40 excluding revenue and police officers from the office of Conciliator.

We have further, in order to furnish a simple and inoffensive means of getting rid of a conciliator who proves unfit for the position, added a clause in the same section providing that conciliators shall vacate their office at the end of three years but shall be re-eligible.

23. In section 49 we have, adopting the view of the High Court and the Legal Remembrancer, struck out the words which made the conciliation system applicable to proceedings in execution of decrees passed before the new law comes into force as well as to suits.

We find it difficult to understand why this system should be applied to decrees passed before this Bill becomes law and not to those passed after, unless upon the assumption that the decrees already passed were unfair to the judgment-debtors and that some pressure should be brought to bear to induce the holders of such decrees to forego some portion of what they are entitled to claim under them. We can give no countenance to any such assumption. The Courts will no doubt, if this Bill becomes law, proceed in future on principles more favourable to the debtor than those on which they have been hitherto proceeding; but when a man has obtained a decree from our Courts in accordance with the law for the time being in force, we cannot think it right to enact that his decree should be placed on the same footing as an unproved claim. If the judgment-debtor requires time to pay, the Bill gives the fullest power to the Courts to allow time. If he is altogether unable to pay, the Insolvency Courts are open to him; but we cannot admit that under any circumstances the rights of the decree-holder under his decree should be brought in question.

24. The question whether appeals should be allowed in any cases tried under chapter II of the Bill or whether we should trust entirely to the powers of superintendence and revision conferred by chapter VII has given rise to much discussion. It is not so important as might at first sight appear, inasmuch as there can be little doubt that, if the right of appeal were withheld, petitions for revision would take the place of petitions of appeal, and then the chief difference would be that an application for revision not being, like the presentation of an appeal, a matter of right, might be more summarily dealt with by the superior Court. Having considered all that has been said on both sides, we have come to the conclusion that in mortgage cases, in which questions of difficulty and importance are likely to arise, an appeal should be allowed, and we have amended the Bill accordingly.

25. If an appeal is to be allowed in these cases, which form a very large class, and the most important class, of cases to be heard under the Bill, we think that the special judge who was to have been appointed to strengthen and superintend the staff of officers employed in the work of revision will no longer be required, and we have accordingly omitted all reference to him and transferred his duties to the District Judges.

26. We have omitted section 69, which empowered the Subordinate Judge to refuse in petty cases to allow any costs between parties on account of pleader's fees, as it has been argued, and we think with great force, that, owing to the smallness of the fees in such cases, it would rarely effect the object desired, namely, that of deterring parties from employing pleaders; and further that, in so far as it had any effect, it would tend to render the pleaders subservient to the judges.

27. We have been urged to introduce in the place of this section the provision of the draft Bill submitted by the Government of Bombay, which would have as a rule excluded pleaders in these cases altogether; but we deem it undesirable to do so.

We believe that well-qualified pleaders are a material aid to the Judge in dealing with a case of any complication or difficulty, and there is nothing in the letters from the Government of Bombay to lead us to suppose that the pleaders practising in the Dekkhan Courts are not well qualified. If the view of those who urge us to adopt this novel provision is that in suits under Rs. 100 in value the aid of pleaders cannot be required, we think it is a mistaken view, inasmuch as the difficulty of a case does not depend on the amount at issue, and as for any notion that the raiyats would be placed on something more like a footing of equal advantage with the saukárs by the exclusion of pleaders, we are of opinion that it would be directly the reverse, inasmuch as the saukár, having ordinarily a good deal of business in Court, would be able to employ as his servant, and send to Court on his behalf, some man who, though not a professional legal practitioner, would have a considerable knowledge of law and of the ways of the Court, whereas the raiyat would have to appear in person and depend upon himself.

On the whole, we are convinced that it will be best not to interfere with the existing law on this particular point.

28. The only other amendment made by us which calls for special notice in this report is the insertion of section 71 of the Bill as now amended, requiring all mortgages below Rs. 100 in value executed before the Bill becomes law to be registered within one year. This section has been inserted at the instance of the Government of Bombay and of some of the other authorities consulted, and it appears to us to be necessary in order to guard against documents being forged with dates prior to the passing of the Bill with a view to evading the provisions of the chapter on village registration.

29. The Bill has been published in English in the *Bombay Government Gazette* of the 24th and 31st July and 7th August last, and in Maráthí in the same Gazette of the 9th instant. Some of the amendments we have made are doubtless of importance; but, looking to the urgency of the measure and the very full discussion it has already undergone, we think no further publication is necessary, and we recommend that the Bill as now amended be passed.

(Signed) A. J. Arbuthnot.
" Whitley Stokes.
" Rivers Thompson.*
" Sayyad Ahmad.
*The 10th October* 1879. " B. W. Colvin.

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* I cannot accept the conclusions arrived at by the majority of the Committee on several paragraphs of this report. In exceptional legislation of this kind applicable to a limited tract of country which has for years been subject to great distress from various causes, I am of opinion that the fullest freedom should be given to the Local Government as to the agency it should employ for carrying out the purposes of the Bill, and I would not impose any restrictions upon that freedom as advocated in the first clause of paragraph 22 of the report. I think, too, under the special circumstances of the case, and when the primary object in view is to bring about, not so much by the technical procedure of Civil Courts as by conciliation between the parties, the adjustment of long-standing

disputes, the rejection of the proposal to have a Special Judge to supervise all the proceedings under the Act is a mistake. As the Bombay Government were prepared to meet the expenses of such an arrangement, I would retain it, and would prefer that such officer should be vested with general powers of revision, and that the provision for appeals and the intervention of pleaders in any class of suits up to Rs. 100 should be given up.

There are some minor points (section 30, sale of moveables, and section 49, conciliation on old decrees) in which I differed from the majority of the Committee; but as I shall have an opportunity of stating the reasons of my dissent when the report comes up for consideration in Council, I need say nothing further on those points at present.

(Signed) RIVERS THOMPSON.

*The 13th October* 1879.

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I REGRET that I am unable to sign this report even *pro formâ*. It contains some inaccuracies; the Bill it supports overrules, even in many matters of secondary importance, the opinions of the Local Governments and other authorities in the best position to judge rightly; and its fourth, sixteenth, seventeenth, nineteenth and twenty-second to twenty-seventh paragraphs in particular seem to me to support by insufficient arguments conclusions fatal in the aggregate to the success of the measure.

(Signed) T. C. HOPE.

*The 14th October* 1879.

D. FITZPATRICK,
*Secy. to the Govt. of India,*
*Legislative Department.*

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The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 7th November 1879 :—

## Bill No. 17 of 1879.

## THE FACTORIES BILL, 1879.

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### *A Bill to regulate Labour in Factories.*

Preamble.

WHEREAS it is expedient to regulate labour in Factories; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Factories Act, 1880."

Commencement.

And it shall come into force at once.

Local extent.

This section applies to the whole of British India; the other sections of this Act apply only to those parts of British India to which they may, from time to time, be extended by the Local Government, with the previous sanction of the Governor General in Council, by a notification in the official Gazette.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context,—

"Factory."

"Factory" means any premises in the same occupation, situate in the same town or place, and constituting one trade-establishment in, on or within the precincts of which fifty or more persons are employed in any manual labour exercised by way of trade or for purposes of gain in or incidental to the making any article or part thereof or the altering, repairing, ornamenting, finishing or otherwise adapting the same for sale;

and every part of a factory shall be deemed to be a factory, except any part used exclusively as a dwelling:

"Child."

"child" means a child under the age of twelve years:

"young person."

"young person" means a person between the ages of twelve and sixteen years:

"mill-gearing."

"mill-gearing" includes every shaft, whether upright, oblique or horizontal, and every wheel, drum or pulley, by which the motion of the first moving power is communicated to any machine.

Inspectors.

3. The Local Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors of Factories for any place or district.

Such persons shall be deemed public servants within the meaning of the Indian Penal Code.

Such Inspectors may enter any factory whenever any person is employed therein.

Age of employment.

4. No person shall be employed in any factory—

(a) during the first year in which this section applies to the part of British India in which such factory is situate, if he is under the age of seven years;

(b) after that year, if he is under the age of eight years;

Hours of employment.

5. No child shall be employed more than six and no young person more than eight hours in any factory in any one day.

No child or young person to be engaged in certain dangerous work.

6. No occupier of a factory shall allow any child or young person to clean any part of the mill-gearing or machinery of such factory while the same is in motion, or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of the steam-engine, water-wheel or other mechanical power, as the case may be.

Fencing.

7. Every fly-wheel directly connected with a steam-engine or water-wheel or other mechanical power in any part of a factory, and every part of a steam-engine or water-wheel, and every hoist or teagle or other other part of the machinery or mill-gearing of a factory which may, in the opinion of the local Inspector of Factories, be dangerous if left unfenced, and near which any child or young person is liable to pass or be employed, shall, while the same is in motion, if such Inspector so requires, be kept by the occupier of such factory securely fenced.

Notice to be given of injuries to persons in factories.

8. Every occupier of a factory, or, in his absence, his principal agent in the management of such factory, shall send such notice of injuries occurring to persons therein to such authorities and within such time as the Local Government may, from time to time, by rule direct.

Penalties.

9. Any person who, in breach of this Act,—

(a) employs any child or young person in any factory;

(b) allows any child or young person to perform the work forbidden by, or to work in contravention of, section six;

(c) neglects to securely fence any machinery or mill-gearing in any factory; or

(d) neglects to give notice of any injury, shall be liable to a fine not exceeding two hundred rupees:

Only one penalty for same kind of offence on one day.

Provided that no such person shall be liable to more than one penalty for any one description of offence committed on the same day:

Right to compensation saved.

Provided also that nothing in this Act shall affect the right of any person injured by any breach of the provisions of this Act to obtain compensation therefor according to law.

Occupier primarily liable for breaches of provisions of Act.

10. Every occupier of a factory shall be deemed primarily liable for any breach therein of the provisions of this Act; but he may discharge himself from liability by proof to the satisfaction of the local Inspector of Factories, before prosecution therefor, that such breach was committed by some other person without his knowledge or consent; and the person committing such breach shall be liable therefor.

Local Government may make rules.

11. The Local Government may, from time to time, make rules consistent with this Act to provide, with respect to factories under this Act, for—

(a) the fencing of machinery;

(b) inspection;

(c) the notices to be given by occupiers or agents of factories of injuries occurring therein;

(d) otherwise carrying out the provisions of this Act.

Such rules shall be published in the official Gazette, and shall thereupon have the force of law.

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STATEMENT OF OBJECTS AND REASONS.

The subject of the regulation of labour in factories has been for a long time under discussion, and there has been much difference of opinion regarding it. The Governor General in Council, having now considered the different views that have been put forward and the various suggestions that have been made, has come to the conclusion that the legislation to be undertaken at present should be restricted to the following points, namely:—

1st—The determination of the age at which children may be employed;

2nd—The limitation of the hours of labour for children and young persons;

3rd—The prohibition of the employment of children and young persons on certain dangerous work;

4th—The fencing of dangerous machinery;

5th—The reporting of accidents; and,

6th—The appointment of Government Inspectors.

The present Bill has been prepared on these lines, and will apply only to those parts of British India to which it may be extended by the Local Governments, with the previous sanction of the Governor General in Council.

(Signed) B. W. COLVIN.

*The 13th October* 1879.

D. FITZPATRICK,
*Secy. to the Govt. of India,*
*Legislative Department.*

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# PART VI.

# BILLS OF THE GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th November 1879:—

### Bill No. 18 of 1879.

### THE TRADES AND PROFESSIONS TAX BILL, 1879.

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THE FIRST SCHEDULE.—Acts repealed.

THE SECOND SCHEDULE.—Tax on business.

*A Bill to impose a Tax on Trades and Professions.*

Preamble.

WHEREAS it is expedient to consolidate and amend the Acts at present in force for the licensing of trades, dealings and industries in certain parts of British India, and to extend the operation of the said Acts in manner hereinafter appearing: It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

Short title.

1. This Act may be called "The Trades and Professions Tax Act, 1880."

Local extent.

It extends to the whole of British India and to all servants of the Government of India within the dominions of Princes and States in alliance with Her Majesty;

Commencement.

and shall come into force on the first day of January 1880.

Saving of certain laws.

But nothing herein contained shall affect any law imposing a tax on any arts, trades, professions, callings or employments, and not hereby expressly repealed.

Repeal.

2. On and from the said date the Acts mentioned in the first schedule hereto annexed shall be repealed.

Interpretation-clause.

3. In this Act—

"Collector."

"Collector" means the Chief Officer in charge of the revenue administration of a district and in the Presidency-towns such officer as the Local Government may from time to time appoint in this behalf:

"Business."

"Business," used with reference to any person, means any trade, dealing, art, industry or profession, or any number of trades, dealings, arts, industries or professions, carried on by him in British India, except agriculture or the sale by a cultivator of land of the produce of such land or by a receiver of rent in kind of produce received by him as rent:

*Explanation* (1). When any business is carried on by any member of a firm on behalf of such firm, such business is the business of the firm and not of such person.

*Explanation* (2). "Agriculture" includes any process ordinarily employed by a cultivator or a receiver of rent in kind, in order to render the produce raised or received by him fit to be taken to market.

For the purposes of this Act, each of the Presidency-towns shall be deemed to be a district.

## CHAPTER II.

### TAX ON BUSINESS.

Persons carrying on business to pay according to class.

4. Every person carrying on, whether on behalf of himself or any other person, any business during any portion of a year commencing on the first day of April 1880, or any subsequent month of April, shall, if he falls under any class mentioned in the second schedule hereto annexed, pay in respect of that year to the Collector of the district in which the principal place of such business is situate the amount shown in that schedule as proper to be paid by persons of such class:

Provided that when any person not previously carrying on any business begins to carry on a business on or after the first day of July in any such year, no more than the following shall be payable by him in respect of that year, that is to say—

when he begins to carry on such business before the first day of October in such year, three-fourths of the said amount;

when he begins to carry on such business on or after the first day of October but before the first day of January in such year, one-half of the said amount; and

when he begins to carry on such business on or after the first day of January in such year, one-fourth of the said amount.

Provided also that in any other case in which a person carries on his business for a portion only of such year, the Collector may, by an order in writing, remit a proportionate part of the said amount.

When any question arises as to what shall, for the purposes of this Act, be deemed to be the principal place of any business, the Governor General in Council, or such authority as the Governor General in Council may, from time to time, appoint in this behalf, shall decide such question, and his or its decision thereof shall be final.

Collector to determine class and prepare list.

5. The Collector shall, from time to time, determine the class to which every person liable to make any payment to him under this chapter belongs, and shall, not later than the first day of April in each year, prepare, in the language of the district, and file in his office, a list of such persons showing the business carried on by each of them, the places at which such business is carried on, the class to which such person belongs, and the amount payable by him in respect of the year beginning on such day.

Publication of list.

The list so filed shall be open to public inspection, at all reasonable times, without any payment; and such part or parts thereof as the Collector thinks fit shall, not later than the first day of April, be published in such public place or places of all towns and villages concerned, and shall be made known to the persons affected in such other manner (if any) as the Local Government may from time to time direct.

When any question arises as to what, for the purposes of this section, shall be deemed to be the language of a district, the Local Government shall decide the same, and its decision thereof shall be final.

Persons omitted from list.

6. Any person who is, on the first day of April in any year, carrying on a business in respect of which he is liable to make any payment to the Collector under this chapter, but whose name is omitted from the list prepared under section five, shall, before the first day of May in such year,

Persons beginning business after it is prepared.

and any person not previously carrying on any business who, after the first day of April in any year, begins to carry on any business in respect of which he is liable to make any such payment, shall, within one month from his so beginning,

apply to the Collector to determine the class under which he is chargeable and the amount payable by him, and the Collector shall thereupon by an order in writing determine the same.

Tax when payable.

7. Every person whose name is included in any list prepared under section five shall, before the first day of May next following the preparation of such list, and any person whose class has been determined under section six shall, within one month from such determination, pay to the Collector the amount shown in such list or determined by the Collector (as the case may be) to be payable by him, or when such amount exceeds forty rupees, half of such amount.

When only one-half of such amount is payable under the first clause of this section, the remaining half thereof shall be payable on the expiration of six months from the date on which the first half is payable, or when the first day of March next following falls within such period of six months on that day.

Receipts to be granted.

8. The Collector shall grant to every person paying any sum under section seven a receipt specifying—

(a) the date of the grant thereof:—

(b) the name and business of the person to whom it is granted:

(c) the class to which he belongs:

(d) the nature of the business carried on by him:

(e) the place or places where he carries on such business:

(f) the amount so paid by him:

(g) the year or part of a year in respect of which it has been paid: and

(h) such other particulars as the Local Government may, from time to time, prescribe.

Every fact stated in such receipt shall, for the purposes of this Act, be regarded as proved, unless and until it is disproved.

Penalty for non-compliance with sections 6 and 7.

9. When any person neglects to apply to the Collector as required by section six, the Collector may, of his own motion, determine, by an order in writing, the class to which, for the purposes of this chapter, such person shall belong; and such person shall be liable, by order of the Collector, to pay a penalty not exceeding thrice the amount payable by persons of such class in addition to such amount.

Any person omitting to make any payment as required by section seven shall be liable, by order of the Collector, to pay a penalty not exceeding thrice the amount of such payment in addition to the same.

Petition of objector.

10. Any person objecting to the class in which he is placed in a list prepared under section five or by an order of the Collector subsequent to the preparation of that list, and who has paid the amount shown in such list or order to be payable by him, or when such amount exceeds forty rupees, half the same may, within thirty days after the publication of the list or the date of such order (as the case may be), or within such further time as the Collector may, in each case, think fit, apply by petition to the Collector, in order to establish his right to have his name transferred to another class, or to be exempt from taxation under this chapter.

Hearing of petition.

The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, or on such subsequent day as he may, from time to time, direct, shall hear the same and pass such order thereon as he thinks fit.

Assessment and collection by Municipal authorities.

11. The Local Government may, by an order in writing, direct—

(a) that any local area under the control of a Municipal authority shall be deemed to be a district for the purposes of this chapter;

(b) that such Municipal authority or an officer of such authority shall, subject to the control of the Collector, and subject to such restrictions and conditions as may be specified in such order, exercise any of the powers of a Collector under this Act for the purpose of assessing or collecting, or both assessing and collecting, the whole or any portion of the tax leviable under this chapter in such local area;

(c) that for the purpose of realizing any sums due on account of such tax, such authority or officer may, in lieu of, or in addition to, any powers conferred by this Act, exercise any powers conferred by law for the realization of any Municipal tax in such local area;

(d) that all money collected by such authority on account of such tax shall be credited to the funds under the control of such authority; and

(c) that from such funds such authority shall pay in each year to the credit of the Secretary of State in Council such amount as the Local Government may estimate to be a fair composition for such sums as such authority could with due diligence realize on account of the tax during such year.

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## CHAPTER III.

### Tax on Officers and Servants.

Interpretation-clause.

12. In this chapter, unless there be something repugnant in the subject or context,—

"Private employer."

"Private employer" includes a company and a municipal or other public body or association:

"Pay."

"Pay" includes allowances, fees, commissions, perquisites or profits received from an employer in lieu of, or in addition to, a fixed salary; but does not include travelling, tentage, horse or sumptuary allowance, or any other allowances granted to meet specific expenditure.

Deduction in case of Government officials.

13. In the case of every person holding any paid office, employment or commission under Her Majesty, the sum of one-and-a-half per cent. of the amount of any pay due in respect of a period subsequent to the thirty-first day of March 1880, shall, when such pay amounts to one hundred rupees per month, be deducted from such pay at the time of payment by the examiner of claims or other officer whose duty it is to make such payments, and shall be deemed to be a tax paid under this Act.

Exemption.

Nothing in this chapter applies to the pay of officers, warrant-officers, non-commissioned officers and privates of Her Majesty's army who are not in any employment which, according to the ordinary practice, is held indifferently by military persons and civilians, and whose pay does not exceed five hundred rupees per mensem.

Deduction in case of other persons holding paid employments.

14. In the case of every person holding a paid employment under any private employer, the sum of one-and-a-half per cent. of the amount of any pay due in respect of a period subsequent to the thirty-first day of March 1880, shall, when such pay amounts to one hundred rupees per month, be deducted therefrom at the time of payment by such employer, and shall be deemed to be a tax payable under this Act.

Receipt to be given for deduction.

15. Every private employer shall, at the time of deduction, give a receipt for the same to the person from whose pay the said sum of one-and-a-half per cent. is deducted;

and any employer refusing so to give such receipt shall be liable, by order of the Collector, to a penalty of ten rupees.

Private employer primarily liable to Government for tax.

16. Every private employer shall be primarily liable to Government for the said sum in respect of every person employed by him, whether the said sum has been deducted from the pay of such person or not;

Payment to be by instalments.

and shall, on the first day of January, the first day of April, the first day of July, and the first day of October, in each year, pay to the Collector of the district in which the pay of such person is disbursed or to such other Collector as the Local Government may, from time to time, appoint in this behalf all sums then due by such employer under this section.

Liability of employee for tax due where employer becomes insolvent, &c.

17. When any private employer is declared an insolvent, or being a company or firm is wound up or dissolved, without having paid the amount required by section sixteen, the person employed shall be bound, on the demand of the Collector, to pay the same.

Subsequent deduction of tax omitted to be levied.

18. Whenever a sum to be deducted under this chapter is not deducted at the time of payment from the pay chargeable therewith, it shall be deducted from some pay subsequently payable by the same employer to the same person.

Collector to grant receipt.

19. The Collector shall grant to every person paying any sum under this chapter a receipt specifying—

(a) the date of the grant thereof;

(b) the names of the employer and the person employed;

(c) the amount paid;

(d) the period in respect of which it has been paid; and

(e) the person by whom it has been paid.

Persons objecting to amount deducted may apply by petition to the Collector.

20. Any person objecting to the amount deducted from his pay under the provisions of section fourteen, or denying his liability to have any amount deducted therefrom, may, within fifteen days from the date of such deduction, or within such further time as the Collector may, in each case, think fit, apply by petition to the Collector in order to establish his right to receive the amount deducted, or any portion thereof.

Notice to employer of petitioner.

21. The Collector shall fix a day for the hearing of the petition, which shall not be less than ten days from the date of such petition: notice shall be given to the employer of such person;

Hearing of petition.

and the Collector shall on the day so fixed, or on such subsequent day as he may, from time to

time, direct, hear the petitioner and the employer if he appears, and pass such order thereon as he thinks fit.

Penalty for failing to make payment under section 16.

22. Every private employer failing to make any payment as required by section sixteen shall be liable, by order of the Collector, to pay a penalty not exceeding thrice the amount of such payment in addition to the amount thereof.

## CHAPTER IV.

### SUPPLEMENTARY.

Revision of order passed under section 10, 21 or 22.

23. The Commissioner of Revenue of the Division, or such other officer as the Local Government may, from time to time, empower in this behalf, may, in his discretion, on the application of any person deeming himself aggrieved by an order passed by the Collector under section ten, twenty-one or twenty-two, or by the refusal of the Collector to grant a remission under the second proviso to section four, call for the record of the case, and pass such order thereon as he thinks fit, and such order shall be final.

Recovery of sum due under Act.

24. All sums due and all penalties payable under this Act shall be recoverable as if they were arrears of land-revenue:

But no proceedings for the recovery of any such sum or penalty shall be commenced after the expiration of three months from the last day of the year ending on the thirty-first day of March in which such sum or penalty became due or payable.

Powers of Collector under Act may be exercised by other officers.

25. All or any of the powers and duties conferred and imposed by this Act on a Collector may, subject to the control and orders of the Collector of the District, be exercised and performed by an Assistant Collector or such other officer as the Local Government, from time to time, appoints in this behalf.

The Collector may, in respect of any order passed under section ten, twenty-one or twenty-two by an officer appointed under this section, exercise the power of revision conferred on the Commissioner of a Division by section twenty-three, and the order passed in the exercise of such power shall be final.

Receipt to be produced on demand.

26. Every person holding a receipt given under this Act shall produce and show the same when required so to do by an officer generally or specially empowered in writing by the Collector to make such requisition.

Prosecution to be at instance of Collector.

But no person shall be proceeded against for neglect or refusal to produce a receipt except at the instance of the Collector.

Receivers and managers chargeable.

27. Courts of Wards and Receivers and Managers appointed by any Court in British India shall be chargeable under this Act in respect of any business of which the income is officially in their possession or under their control, and in respect of any persons employed by them.

Power to retain assessment paid by trustee, &c.

28. When any trustee, guardian, curator, committee or agent is charged, under this Act, in such capacity, or when any Court of Wards, or Receiver or Manager appointed by any Court, is charged under this Act, every person and court so charged may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee or agent, or as such Court of Wards, Receiver or Manager, retain so much as is sufficient to pay the amount charged.

Every such person or court is hereby indemnified for every retention and payment made in pursuance of this Act.

Collector to exercise powers of a Civil Court.

29. The Collector may, for the purposes of any proceeding under section ten or section twenty-one, exercise any of the powers conferred by the Code of Civil Procedure on a Civil Court for the trial of suits:

Provided that the Collector shall not, in the course of any such proceeding, call for any evidence, except at the instance of the petitioner, or in order to ascertain the correctness of facts alleged by him.

Obligation to furnish information to the Collector.

30. Every person shall be legally bound to furnish to any officer exercising any of the powers of a Collector under this Act such information in writing or otherwise as such officer may require.

Power to exempt and make rules.

31. The Local Government may, from time to time, with the previous sanction of the Governor General in Council,—

(*a*) exempt any portion of the territories administered by such Government, or any persons or class of persons in such territories, from the operation of this Act or any provision thereof, and cancel such exemption:

(*b*) reduce the amount payable by any person or class of persons under this Act: and

(*c*) make rules consistent with this Act, (1) for regulating the manner of collecting the sums payable under this Act; (2) for providing in any case or class of cases for serving notices on persons under this Act; and (3) generally for the guidance of officers in matters connected with this Act.

Exemption from house-cess under Road-cess and Public Works Acts.

32. No person who pays any tax under this Act shall, so long as he continues to pay the same, be liable to pay any instalment of road-cess or public works cess on his house under Part IV. of Bengal Act X. of 1871 or section seven of Bengal Act II. of 1877 when such instalment falls due after the first day of April 1880.

## THE FIRST SCHEDULE.

### Acts repealed.

(*See Section* 2).

### Act of the Governor General in Council.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| Act No. II. of 1878... ... | An Act for the licensing of trades and dealings in the Panjáb, the North-Western Provinces and Oudh. | The whole. |

### Act of the Governor of Fort St. George in Council.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| Act No. III. of 1878 ... | An Act for licensing trades, dealings and industries in the Presidency of Madras. | The whole. |

### Act of the Governor of Bombay in Council.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| Act No. III. of 1878 ... | An Act for the licensing of trades, dealings and industries in the Presidency of Bombay. | The whole. |

### Act of the Lieutenant-Governor of Bengal in Council.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| Act No. I. of 1878... ... | An Act for the licensing of trades, dealings and industries within the territories subject to the Lieutenant-Governor of Bengal. | The whole. |

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## THE SECOND SCHEDULE.

### Tax on Business.

(*See Section* 4.)

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Number of class. | Persons whose annual income from business exceeds | But does not exceed | Tax payable. |
| | Rs. | Rs. | Rs. |
| 1 ... ... | 250 | 350 | 4 |
| 2 ... ... | 350 | 500 | 7 |
| 3 ... ... | 500 | 600 | 10 |
| 4 ... ... | 600 | 800 | 12 |
| 5 ... ... | 800 | 1,000 | 16 |
| 6 ... ... | 1,000 | 1,200 | 20 |
| 7 ... ... | 1,200 | 1,600 | 24 |
| 8 ... ... | 1,600 | 2,000 | 32 |
| 9 ... ... | 2,000 | 2,500 | 40 |
| 10 ... ... | 2,500 | 3,000 | 50 |
| 11 ... ... | 3,000 | 4,000 | 60 |
| 12 ... ... | 4,000 | 5,000 | 80 |
| 13 ... ... | 5,000 | 6,000 | 100 |
| 14 ... ... | 6,000 | 8,000 | 120 |
| 15 ... ... | 8,000 | 10,000 | 160 |
| 16 ... ... | 10,000 | 12,000 | 200 |

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Number of class. | Persons whose annual income from business exceeds | But does not exceed | Tax payable. |
| | Rs. | Rs. | Rs. |
| 17 ... ... | 12,000 | 16,000 | 240 |
| 18 ... ... | 16,000 | 20,000 | 320 |
| 19 ... ... | 20,000 | 24,000 | 400 |
| 20 ... ... | 24,000 | 32,000 | 480 |
| 21 ... ... | 32,000 | 40,000 | 640 |
| 22 ... ... | 40,000 | 48,000 | 800 |
| 23 ... ... | 48,000 | 60,000 | 960 |
| 24 ... ... | 60,000 | 80,000 | 1,200 |
| 25 ... ... | 80,000 | 1,00,000 | 1,600 |
| 26 ... ... | 1,00,000 | 1,25,000 | 2,000 |
| 27 ... ... | 1,25,000 | 1,50,000 | 2,500 |
| 28 ... ... | 1,50,000 | 2,00,000 | 3,000 |
| 29 ... ... | 2,00,000 | 2,50,000 | 4,000 |
| 30 ... ... | 2,50,000 | 3,00,000 | 5,000 |
| 31 ... ... | 3,00,000 | 4,00,000 | 6,000 |
| 32 ... ... | 4,00,000 | 5,00,000 | 8,000 |

and so on, the figures in columns 2 and 3 being increased by 1,00,000 and those in column 4 by 2,000 for each new class.

### Statement of Objects and Reasons.

1. The existing License Tax Acts are four in number. Act II. of 1878, passed by the Council of the Governor General, applies to the Panjab, the North-Western Provinces and Oudh; and Acts, more or less similar, passed by the Local Legislatures, apply to the Presidencies of Madras and Bombay, and to Bengal. These Acts it is now thought desirable to consolidate and amend, and the present Bill has been prepared for this purpose.

2. It is considered necessary to exempt from liability to this form of taxation all persons whose presumed incomes are less than Rs. 250 per annum. The effect of this change of system will be to exempt more than a million persons from taxation, and it will involve a sacrifice of an annual revenue of about £240,000.

3. With a view to making good the loss of revenue caused by this exemption of the smaller incomes now liable to the License tax, and to obtaining at the same time greater equality in the incidence of taxation, it is proposed to extend to the professional classes, and also to the wealthier officials and other persons receiving salaries, taxation at a similar rate to that imposed on the trading classes.

It is proposed to treat the trading and professional classes alike. In regard to traders, the Bill makes no important change in the system followed under the existing License Tax Acts, except that it is obviously necessary to increase the fees payable by persons with the larger incomes, as the richer traders would otherwise be taxed at a lower rate than that applied to the salaried classes. The system of classification now in force is generally retained. Some small variation in the rate at which the tax falls on different incomes is under any such system unavoidable; but the new schedule has been so framed that the difference between the highest and the lowest rates does not exceed one-half per cent, the average incidence of the tax being a little over $1\frac{1}{2}$ per cent. on estimated annual earnings.

4. Separate provisions are made for the taxation of the salaried classes, whether official or non-official; as, in their case, the exact incomes being known, the rough process of classification which is desirable for traders and professional persons would obviously be neither necessary nor expedient. It is proposed, following pretty closely the precedents of Act XXI. of 1867 and Act IX. of 1868, to assess the salaried classes on their actual salaries; the lower limit of taxable salary being Rs. 100 per mensem or Rs. 1,200 per annum.

The rate of the tax on these classes will be $1\frac{1}{2}$ per cent., and in practice, the tax will on the average fall on all classes at the same rate.

5. Following the precedents above quoted, it is proposed to exempt from liability to the tax the military servants of the Government whose pay and allowances do not exceed Rs. 500 per mensem, or Rs. 6,000 per annum.

6. It is estimated that the extension of taxation to the professional and salaried classes in the manner proposed by the Bill will yield very nearly the same amount as that sacrificed by giving up the tax on the lower classes of traders, or about £240,000. The measure will, therefore, have no appreciable effect on the public revenues.

7. The present opportunity has been taken to amend the law in other particulars, but they are not of sufficient importance to call for notice here.

8. As the existing Acts require the assessment lists to be made out in the beginning of January, it is desirable that the present Bill, if it is to become law, should be passed before the 31st December; but no payments will be due until after the 1st April, when the next financial year begins.

John Strachey.

*The 13th November* 1879.

D. FITZPATRICK,
*Secy. to the Govt. of India,*
*Legislative Department.*

[*Published with the "Bombay Government Gazette" on the 11th December* 1879.]

# PART VI.

# BILLS OF THE GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th November 1879:—

### Bill No. 18 of 1879.

### THE TRADES AND PROFESSIONS TAX BILL, 1879.

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CONTENTS.

## *A Bill to impose a Tax on Trades and Professions.*

Preamble.

WHEREAS it is expedient to consolidate and amend the Acts at present in force for the licensing of trades, dealings and industries in certain parts of British India, and to extend the operation of the said Acts in manner hereinafter appearing: It is hereby enacted as follows:—

### CHAPTER I.

#### PRELIMINARY.

Short title.

1. This Act may be called "The Trades and Professions Tax Act, 1880."

Local extent.

It extends to the whole of British India and to all servants of the Government of India within the dominions of Princes and States in alliance with Her Majesty;

Commencement.

and shall come into force on the first day of January 1880.

Saving of certain laws.

But nothing herein contained shall affect any law imposing a tax on any arts, trades, professions, callings or employments, and not hereby expressly repealed.

Repeal.

2. On and from the said date the Acts mentioned in the first schedule hereto annexed shall be repealed.

Interpretation-clause.

3. In this Act—

"Collector."

"Collector" means the Chief Officer in charge of the revenue administration of a district and in the Presidency-towns such officer as the Local Government may from time to time appoint in this behalf:

"Business."

"Business," used with reference to any person, means any trade, dealing, art, industry or profession, or any number of trades, dealings, arts, industries or professions, carried on by him in British India, except agriculture or the sale by a cultivator of land of the produce of such land or by a receiver of rent in kind of produce received by him as rent:

*Explanation* (1). When any business is carried on by any member of a firm on behalf of such firm, such business is the business of the firm and not of such person.

*Explanation* (2). "Agriculture" includes any process ordinarily employed by a cultivator or a receiver of rent in kind, in order to render the produce raised or received by him fit to be taken to market.

For the purposes of this Act, each of the Presidency-towns shall be deemed to be a district.

### CHAPTER II.

#### TAX ON BUSINESS.

Persons carrying on business to pay according to class.

4. Every person carrying on, whether on behalf of himself or any other person, any business during any portion of a year commencing on the first day of April 1880, or any subsequent month of April, shall, if he falls under any class mentioned in the second schedule hereto annexed, pay in respect of that year to the Collector of the district in which the principal place of such business is situate the amount shown in that schedule as proper to be paid by persons of such class:

Provided that when any person not previously carrying on any business begins to carry on a business on or after the first day of July in any such year, no more than the following shall be payable by him in respect of that year, that is to say—

when he begins to carry on such business before the first day of October in such year, three-fourths of the said amount;

when he begins to carry on such business on or after the first day of October but before the first day of January in such year, one-half of the said amount; and

when he begins to carry on such business on or after the first day of January in such year, one-fourth of the said amount.

Provided also that in any other case in which a person carries on his business for a portion only of such year, the Collector may, by an order in writing, remit a proportionate part of the said amount.

When any question arises as to what shall, for the purposes of this Act, be deemed to be the principal place of any business, the Governor General in Council, or such authority as the Governor General in Council may, from time to time, appoint in this behalf, shall decide such question, and his or its decision thereof shall be final.

Collector to determine class and prepare list.

5. The Collector shall, from time to time, determine the class to which every person liable to make any payment to him under this chapter belongs, and shall, not later than the first day of April in each year, prepare, in the language of the district, and file in his office, a list of such persons showing the business carried on by each of them, the places at which such business is carried on, the class to which such person belongs, and the amount payable by him in respect of the year beginning on such day.

Publication of list.

The list so filed shall be open to public inspection, at all reasonable times, without any payment; and such part or parts thereof as the Collector thinks fit shall, not later than the first day of April, be published in such public place or places of all towns and villages concerned, and shall be made known to the persons affected in such other manner (if any) as the Local Government may from time to time direct.

When any question arises as to what, for the purposes of this section, shall be deemed to be the language of a district, the Local Government shall decide the same, and its decision thereof shall be final.

Persons omitted from list.

6. Any person who is, on the first day of April in any year, carrying on a business in respect of which he is liable to make any payment to the Collector under this chapter, but whose name is omitted from the list prepared under section five, shall, before the first day of May in such year,

Persons beginning business after it is prepared.

and any person not previously carrying on any business who, after the first day of April in any year, begins to carry on any business in respect of which he is liable to make any such payment, shall, within one month from his so beginning,

apply to the Collector to determine the class under which he is chargeable and the amount payable by him, and the Collector shall thereupon by an order in writing determine the same.

Tax when payable.

7. Every person whose name is included in any list prepared under section five shall, before the first day of May next following the preparation of such list, and any person whose class has been determined under section six shall, within one month from such determination, pay to the Collector the amount shown in such list or determined by the Collector (as the case may be) to be payable by him, or when such amount exceeds forty rupees, half of such amount.

When only one-half of such amount is payable under the first clause of this section, the remaining half thereof shall be payable on the expiration of six months from the date on which the first half is payable, or when the first day of March next following falls within such period of six months on that day.

Receipts to be granted.

8. The Collector shall grant to every person paying any sum under section seven a receipt specifying—

(a) the date of the grant thereof:—

(b) the name and business of the person to whom it is granted:

(c) the class to which he belongs:

(d) the nature of the business carried on by him:

(e) the place or places where he carries on such business:

(f) the amount so paid by him:

(g) the year or part of a year in respect of which it has been paid: and

(h) such other particulars as the Local Government may, from time to time, prescribe.

Every fact stated in such receipt shall, for the purposes of this Act, be regarded as proved, unless and until it is disproved.

Penalty for non-compliance with sections 6 and 7.

9. When any person neglects to apply to the Collector as required by section six, the Collector may, of his own motion, determine, by an order in writing, the class to which, for the purposes of this chapter, such person shall belong; and such person shall be liable, by order of the Collector, to pay a penalty not exceeding thrice the amount payable by persons of such class in addition to such amount.

Any person omitting to make any payment as required by section seven shall be liable, by order of the Collector, to pay a penalty not exceeding thrice the amount of such payment in addition to the same.

Petition of objector.

10. Any person objecting to the class in which he is placed in a list prepared under section five or by an order of the Collector subsequent to the preparation of that list, and who has paid the amount shown in such list or order to be payable by him, or when such amount exceeds forty rupees, half the same may, within thirty days after the publication of the list or the date of such order (as the case may be), or within such further time as the Collector may, in each case, think fit, apply by petition to the Collector, in order to establish his right to have his name transferred to another class, or to be exempt from taxation under this chapter.

Hearing of petition.

The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, or on such subsequent day as he may, from time to time, direct, shall hear the same and pass such order thereon as he thinks fit.

Assessment and collection by Municipal authorities.

11. The Local Government may, by an order in writing, direct—

(a) that any local area under the control of a Municipal authority shall be deemed to be a district for the purposes of this chapter;

(b) that such Municipal authority or an officer of such authority shall, subject to the control of the Collector, and subject to such restrictions and conditions as may be specified in such order, exercise any of the powers of a Collector under this Act for the purpose of assessing or collecting, or both assessing and collecting, the whole or any portion of the tax leviable under this chapter in such local area;

(c) that for the purpose of realizing any sums due on account of such tax, such authority or officer may, in lieu of, or in addition to, any powers conferred by this Act, exercise any powers conferred by law for the realization of any Municipal tax in such local area;

(d) that all money collected by such authority on account of such tax shall be credited to the funds under the control of such authority; and

(e) that from such funds such authority shall pay in each year to the credit of the Secretary of State in Council such amount as the Local Government may estimate to be a fair composition for such sums as such authority could with due diligence realize on account of the tax during such year.

## CHAPTER III.

### Tax on Officers and Servants.

Interpretation-clause.

12. In this chapter, unless there be something repugnant in the subject or context,—

"Private employer."

"Private employer" includes a company and a municipal or other public body or association:

"Pay."

"Pay" includes allowances, fees, commissions, perquisites or profits received from an employer in lieu of, or in addition to, a fixed salary; but does not include travelling, tentage, horse or sumptuary allowance, or any other allowances granted to meet specific expenditure.

Deduction in case of Government officials.

13. In the case of every person holding any paid office, employment or commission under Her Majesty, the sum of one-and-a-half per cent. of the amount of any pay due in respect of a period subsequent to the thirty-first day of March 1880, shall, when such pay amounts to one hundred rupees per month, be deducted from such pay at the time of payment by the examiner of claims or other officer whose duty it is to make such payments, and shall be deemed to be a tax paid under this Act.

Exemption.

Nothing in this chapter applies to the pay of officers, warrant-officers, non-commissioned officers and privates of Her Majesty's army who are not in any employment which, according to the ordinary practice, is held indifferently by military persons and civilians, and whose pay does not exceed five hundred rupees per mensem.

Deduction in case of other persons holding paid employments.

14. In the case of every person holding a paid employment under any private employer, the sum of one-and-a-half per cent. of the amount of any pay due in respect of a period subsequent to the thirty-first day of March 1880, shall, when such pay amounts to one hundred rupees per month, be deducted therefrom at the time of payment by such employer, and shall be deemed to be a tax payable under this Act.

Receipt to be given for deduction.

15. Every private employer shall, at the time of deduction, give a receipt for the same to the person from whose pay the said sum of one-and-a-half per cent. is deducted;

and any employer refusing so to give such receipt shall be liable, by order of the Collector, to a penalty of ten rupees.

Private employer primarily liable to Government for tax.

16. Every private employer shall be primarily liable to Government for the said sum in respect of every person employed by him, whether the said sum has been deducted from the pay of such person or not;

Payment to be by instalments.

and shall, on the first day of January, the first day of April, the first day of July, and the first day of October, in each year, pay to the Collector of the district in which the pay of such person is disbursed or to such other Collector as the Local Government may, from time to time, appoint in this behalf all sums then due by such employer under this section.

Liability of employee for tax due where employer becomes insolvent, &c.

17. When any private employer is declared an insolvent, or being a company or firm is wound up or dissolved, without having paid the amount required by section sixteen, the person employed shall be bound, on the demand of the Collector, to pay the same.

Subsequent deduction of tax omitted to be levied.

18. Whenever a sum to be deducted under this chapter is not deducted at the time of payment from the pay chargeable therewith, it shall be deducted from some pay subsequently payable by the same employer to the same person.

Collector to grant receipt.

19. The Collector shall grant to every person paying any sum under this chapter a receipt specifying—

(a) the date of the grant thereof;

(b) the names of the employer and the person employed;

(c) the amount paid;

(d) the period in respect of which it has been paid; and

(e) the person by whom it has been paid.

Persons objecting to amount deducted may apply by petition to the Collector.

20. Any person objecting to the amount deducted from his pay under the provisions of section fourteen, or denying his liability to have any amount deducted therefrom, may, within fifteen days from the date of such deduction, or within such further time as the Collector may, in each case, think fit, apply by petition to the Collector in order to establish his right to receive the amount deducted, or any portion thereof.

Notice to employer of petitioner.

21. The Collector shall fix a day for the hearing of the petition, which shall not be less than ten days from the date of such petition: notice shall be given to the employer of such person;

Hearing of petition.

and the Collector shall on the day so fixed, or on such subsequent day as he may, from time to

time, direct, hear the petitioner and the employer if he appears, and pass such order thereon as he thinks fit.

Penalty for failing to make payment under section 16.

22. Every private employer failing to make any payment as required by section sixteen shall be liable, by order of the Collector, to pay a penalty not exceeding thrice the amount of such payment in addition to the amount thereof.

## CHAPTER IV.

### SUPPLEMENTARY.

Revision of order passed under section 10, 21 or 22.

23. The Commissioner of Revenue of the Division, or such other officer as the Local Government may, from time to time, empower in this behalf, may, in his discretion, on the application of any person deeming himself aggrieved by an order passed by the Collector under section ten, twenty-one or twenty-two, or by the refusal of the Collector to grant a remission under the second proviso to section four, call for the record of the case, and pass such order thereon as he thinks fit, and such order shall be final.

Recovery of sum due under Act.

24. All sums due and all penalties payable under this Act shall be recoverable as if they were arrears of land-revenue:

But no proceedings for the recovery of any such sum or penalty shall be commenced after the expiration of three months from the last day of the year ending on the thirty-first day of March in which such sum or penalty became due or payable.

Powers of Collector under Act may be exercised by other officers.

25. All or any of the powers and duties conferred and imposed by this Act on a Collector may, subject to the control and orders of the Collector of the District, be exercised and performed by an Assistant Collector or such other officer as the Local Government, from time to time, appoints in this behalf.

The Collector may, in respect of any order passed under section ten, twenty-one or twenty-two by an officer appointed under this section, exercise the power of revision conferred on the Commissioner of a Division by section twenty-three, and the order passed in the exercise of such power shall be final.

Receipt to be produced on demand.

26. Every person holding a receipt given under this Act shall produce and show the same when required so to do by an officer generally or specially empowered in writing by the Collector to make such requisition.

Prosecution to be at instance of Collector.

But no person shall be proceeded against for neglect or refusal to produce a receipt except at the instance of the Collector.

Receivers and managers chargeable.

27. Courts of Wards and Receivers and Managers appointed by any Court in British India shall be chargeable under this Act in respect of any business of which the income is officially in their possession or under their control, and in respect of any persons employed by them.

Power to retain assessment paid by trustee, &c.

28. When any trustee, guardian, curator, committee or agent is charged, under this Act, in such capacity, or when any Court of Wards, or Receiver or Manager appointed by any Court, is charged under this Act, every person and court so charged may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee or agent, or as such Court of Wards, Receiver or Manager, retain so much as is sufficient to pay the amount charged.

Every such person or court is hereby indemnified for every retention and payment made in pursuance of this Act.

Collector to exercise powers of a Civil Court.

29. The Collector may, for the purposes of any proceeding under section ten or section twenty-one, exercise any of the powers conferred by the Code of Civil Procedure on a Civil Court for the trial of suits:

Provided that the Collector shall not, in the course of any such proceeding, call for any evidence, except at the instance of the petitioner, or in order to ascertain the correctness of facts alleged by him.

Obligation to furnish information to the Collector.

30. Every person shall be legally bound to furnish to any officer exercising any of the powers of a Collector under this Act such information in writing or otherwise as such officer may require.

Power to exempt and make rules.

31. The Local Government may, from time to time, with the previous sanction of the Governor General in Council,—

(*a*) exempt any portion of the territories administered by such Government, or any persons or class of persons in such territories, from the operation of this Act or any provision thereof, and cancel such exemption:

(*b*) reduce the amount payable by any person or class of persons under this Act: and

(*c*) make rules consistent with this Act, (1) for regulating the manner of collecting the sums payable under this Act; (2) for providing in any case or class of cases for serving notices on persons under this Act; and (3) generally for the guidance of officers in matters connected with this Act.

Exemption from house-cess under Road-cess and Public Works Acts.

32. No person who pays any tax under this Act shall, so long as he continues to pay the same, be liable to pay any instalment of road-cess or public works cess on his house under Part IV. of Bengal Act X. of 1871 or section seven of Bengal Act II. of 1877 when such instalment falls due after the first day of April 1880.

## THE FIRST SCHEDULE.

### Acts repealed.

*(See Section 2).*

### Act of the Governor General in Council.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| Act No. II. of 1878... ... | An Act for the licensing of trades and dealings in the Panjáb, the North-Western Provinces and Oudh. | The whole. |

### Act of the Governor of Fort St. George in Council.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| Act No. III. of 1878 ... | An Act for licensing trades, dealings and industries in the Presidency of Madras. | The whole. |

### Act of the Governor of Bombay in Council.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| Act No. III. of 1878 ... | An Act for the licensing of trades, dealings and industries in the Presidency of Bombay. | The whole. |

### Act of the Lieutenant-Governor of Bengal in Council.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| Act No. I. of 1878... ... | An Act for the licensing of trades, dealings and industries within the territories subject to the Lieutenant-Governor of Bengal. | The whole. |

## THE SECOND SCHEDULE.

### Tax on Business.

*(See Section 4.)*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Number of class. | Persons whose annual income from business exceeds | But does not exceed | Tax payable. |
| | Rs. | Rs. | Rs. |
| 1 ... ... | 250 | 350 | 4 |
| 2 ... ... | 350 | 500 | 7 |
| 3 ... ... | 500 | 600 | 10 |
| 4 ... ... | 600 | 800 | 12 |
| 5 ... ... | 800 | 1,000 | 16 |
| 6 ... ... | 1,000 | 1,200 | 20 |
| 7 ... ... | 1,200 | 1,600 | 24 |
| 8 ... ... | 1,600 | 2,000 | 32 |
| 9 ... ... | 2,000 | 2,500 | 40 |
| 10 ... ... | 2,500 | 3,000 | 50 |
| 11 ... ... | 3,000 | 4,000 | 60 |
| 12 ... ... | 4,000 | 5,000 | 80 |
| 13 ... ... | 5,000 | 6,000 | 100 |
| 14 ... ... | 6,000 | 8,000 | 120 |
| 15 ... ... | 8,000 | 10,000 | 160 |
| 16 ... ... | 10,000 | 12,000 | 200 |
| 17 ... ... | 12,000 | 16,000 | 240 |
| 18 ... ... | 16,000 | 20,000 | 320 |
| 19 ... ... | 20,000 | 24,000 | 400 |
| 20 ... ... | 24,000 | 32,000 | 480 |
| 21 ... ... | 32,000 | 40,000 | 640 |
| 22 ... ... | 40,000 | 48,000 | 800 |
| 23 ... ... | 48,000 | 60,000 | 960 |
| 24 ... ... | 60,000 | 80,000 | 1,200 |
| 25 ... ... | 80,000 | 1,00,000 | 1,600 |
| 26 ... ... | 1,00,000 | 1,25,000 | 2,000 |
| 27 ... ... | 1,25,000 | 1,50,000 | 2,500 |
| 28 ... ... | 1,50,000 | 2,00,000 | 3,000 |
| 29 ... ... | 2,00,000 | 2,50,000 | 4,000 |
| 30 ... ... | 2,50,000 | 3,00,000 | 5,000 |
| 31 ... ... | 3,00,000 | 4,00,000 | 6,000 |
| 32 ... ... | 4,00,000 | 5,00,000 | 8,000 |

and so on, the figures in columns 2 and 3 being increased by 1,00,000 and those in column 4 by 2,000 for each new class.

STATEMENT OF OBJECTS AND REASONS.

1. The existing License Tax Acts are four in number. Act II. of 1878, passed by the Council of the Governor General, applies to the Panjab, the North-Western Provinces and Oudh; and Acts, more or less similar, passed by the Local Legislatures, apply to the Presidencies of Madras and Bombay, and to Bengal. These Acts it is now thought desirable to consolidate and amend, and the present Bill has been prepared for this purpose.

2. It is considered necessary to exempt from liability to this form of taxation all persons whose presumed incomes are less than Rs. 250 per annum. The effect of this change of system will be to exempt more than a million persons from taxation, and it will involve a sacrifice of an annual revenue of about £240,000.

3. With a view to making good the loss of revenue caused by this exemption of the smaller incomes now liable to the License tax, and to obtaining at the same time greater equality in the incidence of taxation, it is proposed to extend to the professional classes, and also to the wealthier officials and other persons receiving salaries, taxation at a similar rate to that imposed on the trading classes.

It is proposed to treat the trading and professional classes alike. In regard to traders, the Bill makes no important change in the system followed under the existing License Tax Acts, except that it is obviously necessary to increase the fees payable by persons with the larger incomes, as the richer traders would otherwise be taxed at a lower rate than that applied to the salaried classes. The system of classification now in force is generally retained. Some small variation in the rate at which the tax falls on different incomes is under any such system unavoidable; but the new schedule has been so framed that the difference between the highest and the lowest rates does not exceed one-half per cent, the average incidence of the tax being a little over 1½ per cent. on estimated annual earnings.

4. Separate provisions are made for the taxation of the salaried classes, whether official or non-official; as, in their case, the exact incomes being known, the rough process of classification which is desirable for traders and professional persons would obviously be neither necessary nor expedient. It is proposed, following pretty closely the precedents of Act XXI. of 1867 and Act IX. of 1868, to assess the salaried classes on their actual salaries; the lower limit of taxable salary being Rs. 100 per mensem or Rs. 1,200 per annum.

The rate of the tax on these classes will be 1½ per cent., and in practice, the tax will on the average fall on all classes at the same rate.

5. Following the precedents above quoted, it is proposed to exempt from liability to the tax the military servants of the Government whose pay and allowances do not exceed Rs. 500 per mensem, or Rs. 6,000 per annum.

6. It is estimated that the extension of taxation to the professional and salaried classes in the manner proposed by the Bill will yield very nearly the same amount as that sacrificed by giving up the tax on the lower classes of traders, or about £240,000. The measure will, therefore, have no appreciable effect on the public revenues.

7. The present opportunity has been taken to amend the law in other particulars, but they are not of sufficient importance to call for notice here.

8. As the existing Acts require the assessment lists to be made out in the beginning of January, it is desirable that the present Bill, if it is to become law, should be passed before the 31st December; but no payments will be due until after the 1st April, when the next financial year begins.

JOHN STRACHEY.

*The* 13*th November* 1879.

D. FITZPATRICK,
*Secy. to the Govt. of India,*
*Legislative Department.*