

THE



Bombay Government Gazette

Published by Authority.

THURSDAY, 6TH FEBRUARY 1890.

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 31st January 1890:—

No. 3 OF 1890.

A Bill to Amend the Indian Factories Act, 1881.

WHEREAS it is expedient to amend the Indian Factories Act, 1881; It is hereby enacted as follows:—

1. For the words "one hundred" in section 2 of the said Act the word "twenty" shall be substituted.

2. For the word "seven" in sections 4, 5, 6 and 16 of the said Act the word "nine" shall be substituted.

3. To section 4 of the said Act the following shall be added, namely:—
"or for more than the time allowed by this Act for the employment of women."

4. (1) For the first clause of section 7 of the said Act the following shall be substituted, namely:—

"No woman shall be actually employed more than eleven hours, nor any child more than nine hours, in any factory in any one day."

(2) In the second clause of the same section, before the word "child" the words "woman or", and between the words "allowed to" and the word "him" the words "her or" shall be inserted.

(3) In the last clause of the same section, for the words "A child shall not be deemed to be employed" the words "A woman or child shall not be deemed to be actually employed" shall be substituted.

5. For section 8 of the said Act the following shall be substituted, namely:—

"8. Every occupier of a factory in which women or children are employed shall, before the beginning of each month, fix, according to the castes or classes to which such women or children belong or otherwise, not less than four days in such month to be observed as holidays by each woman or child employed in the factory, and shall forthwith give notice of the days so fixed to such officer as the Local Government may, from time to time, appoint in this behalf.

"An occupier of a factory may, with the previous sanction of the Inspector, substitute, for any day fixed under this section, another day in the same month.

"A woman or child shall not be employed in such factory on a day fixed under this section as a day to be observed as a holiday by the

woman or child, unless when another day has been substituted for such day as hereinbefore provided, in which event the woman or child shall not be employed in such factory on the day so substituted."

6. In section 9 of the said Act, before the word "child" the words "woman or" shall be inserted.

Amendment of section 9, Act XV, 1881.

7. (1) In clause (a) of, and the second proviso to, section 15 of the said Act, between the words "any" and "each" respectively and the word "child" the words "woman or", and in the same proviso between the words "two or more" and the word "children" the words "women or", shall be inserted.

Amendment of section 15, Act XV, 1881.

(2) For clauses (e) and (f) of the same section the following shall be substituted, namely:—

- "(e) neglects to fence any machinery or mill-gearing in any factory;
- (f) neglects to maintain a supply of water for the use of persons employed in any factory;
- (g) neglects to ventilate any factory or to keep any factory in a cleanly state and free from effluvia arising from any drain, privy or other nuisance;
- (h) suffers any factory to be so overcrowded, while work is carried on therein, as to be injurious to the health of the persons employed therein; or
- (i) neglects to give any notice or furnish any return."

8. (1) For clauses (b), (c) and (d) of section 18 of the said Act the following shall be substituted, namely:—

Amendment of section 18, Act XV, 1881.

"(b) the water-supply to be maintained for the use of persons employed in factories;

- (c) the ventilation of factories and their cleanliness (including lime-washing, painting, varnishing and washing) and freedom from effluvia arising from any drain, privy or other nuisance;
- (d) the prevention of such overcrowding of factories, while work is carried on therein, as is likely to be injurious to the health of the persons employed therein;
- (e) the obligation of occupiers of factories to furnish true returns, occasional or periodical, on and in accordance with the requisition of the local Inspector or the Local Government;
- (f) the inspection of factories;
- (g) the manner in which appeals under this Act are to be presented and heard; and
- (h) otherwise carrying out the purposes of this Act."

[41 Vict., c. 16, s. 61 (1).]

(2) To the same section the following shall be added, namely:—

"Before making rules under clause (b), clause (c) or clause (d) of this section, the Local Government shall publish in such manner as may in its opinion be sufficient for giving information to persons interested a draft of the proposed rules, with a notice specifying a date at or after which the draft will be taken into consideration, and shall consider any objection or suggestion which may be received from any person with respect to the draft before the date so specified."

9. A reference in any enactment or document to the Indian Factories Act, 1881, shall be read as a reference to that Act as amended by this Act.

References to Act XV of 1881 to be read as references to that Act as amended by this Act.

[Cf. India Act XIII, 1887, s. 3 (b); Bom. Act III, 1888, s. 392 (2); and India Act IV, 1889, ss. 10 (2) (f) (iii) and 12 (1).] IV of 1881.

STATEMENT OF OBJECTS AND REASONS.

THE Government of India, having recently had under its consideration the reports of Local Governments on the operation of the Indian Factories Act, 1881, and the proceedings of the Commission appointed in 1884 to consider the working of factories in the Bombay Presidency, is of opinion that the Act of 1881 should be so amended as to—

- (a) bring within its scope any factory in which not fewer than twenty hands are employed,
- (b) raise from seven to nine years the age below which a child may not be employed in a factory,
- (c) limit the hours of work for women to eleven in any one day,
- (d) extend to women the provisions of the Act with respect to the allowance of holidays to children, and enable occupiers of factories to fix such days as holidays for the women and children employed therein as, having regard to the different classes or castes to which they belong, may be most convenient for them,
- (e) authorise Local Governments to make sanitary rules suited to local requirements, and
- (f) render it obligatory on occupiers of factories to furnish such statistics as may from time to time be required by the Government.

The object of the Bill is to amend the Act accordingly.

Among the enactments which will be incidentally affected by the Bill (section 9) are the Electricity Act, 1887, the City of Bombay Municipal Act, 1888, and the Indian Merchandise Marks Act, 1889.

A reprint of Act XV of 1881, with the proposed amendments set forth in italics, is appended to this Statement.

The 31st January 1890.

ANDREW R. SCOBLE.

APPENDIX.

ACT No. XV of 1881.

*(As amended by the Bill.)**An Act to regulate labour in Factories.*

Preamble.

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

Preliminary.

Short title.

1. This Act may be called the Indian Factories Act, 1881.

Local extent. Commencement.

It applies to the whole of British India, and shall come into force on the first day of July 1881.

Interpretation-clause.

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

“Factory” means any premises (other than indigo-factories or premises situated on, and used solely for the purposes of, a tea or coffee plantation) wherein is carried on, for not less than 4 months in the whole in any one year, any process

for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale, any article or part of an article; and

(a) wherein steam, water or other mechanical power is used in aid of any such process; and

(b) wherein not less than *twenty* persons are on any day simultaneously employed in any manual labour in, or incidental to, any such process; 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 person under the age of twelve years:

“mill-gearing” includes every shaft, whether upright, oblique or horizontal, and every wheel, drum, pulley, rope, driving strap or band, by which the motion of the first moving power is communicated to any machine:

“mill-gearing:”

a child who works in a factory, whether for wages or not, either in a manufacturing process or handicraft, or in cleaning any part of the factory used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to, or connected with, the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process or handicraft therein, shall be deemed to be employed therein within the meaning of this Act.

“employed.”

Inspectors and certifying Surgeons.

3. The Local Government may in its discretion, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors of factories within such local limits as it may assign to such Inspectors, and may suspend or dismiss any person so appointed.

Inspectors.

In default of such appointment, the Magistrate of the district shall, in virtue of his office, be Inspector of all factories (if any) in the district.

Such Inspectors shall be deemed public servants within the meaning of the Indian Penal Code; and shall be officially subordinate to such authority as the Local Government may, from time to time, indicate in this behalf.

Powers of Inspector.

4. An Inspector of factories may, within the local limits for which he is appointed,—

(a) enter, with such assistants (if any) as he thinks fit, any factory whenever he has reason to believe that any person is employed therein;

(b) make such examination of the premises and machinery, and of the registers hereinafter prescribed, and take on the spot or otherwise such evidence of any person, as such Inspector may deem necessary for carrying out the provisions of this Act;

(c) order that any person shall not be employed in a factory when he has reason to believe that such employment would be in contravention of this Act—
until the age of such person has been certified, in the manner hereinafter provided to be above *nine* years; or,

for more than the time allowed by this Act for the employment of children until his age has been so certified to be above twelve years; or

for more than the time allowed by this Act for the employment of women.

5. The civil surgeon or such other person practising medicine or surgery as the Local Government may, from time to time, appoint in this behalf for any local area (hereinafter called the certifying surgeon) shall, at the request of any person employed or desirous of being employed in a factory situate in such local area, or of the parent or guardian of such person, examine such person and grant him a certificate, stating whether his age, as nearly as it can be ascertained from such examination, is above or below *nine* years, or twelve years, as the case may be.

Certifying surgeons.

*Women and Children.**Age for employment of children.*

6. No child shall be employed in any factory if he is under the age of nine years.

Hours of employment for women and children.

7. No woman shall be actually employed more than eleven hours, nor any child more than nine hours, in any factory in any one day.

And no woman or child shall be employed in any factory on any day without an interval, or intervals, amounting in the whole to at least an hour, being allowed to her or him for food and rest.

The times at which such intervals shall be allowed, and the length of each interval, shall be fixed by the Local Government for each factory, after ascertaining, as far as possible, the existing practice in such factory and the wishes of the occupier thereof.

The occupier shall set up and maintain, in some conspicuous place in the factory, a printed or written notice, in English and the languages of the district in which the factory is situate, showing the times at which such intervals shall be allowed and the length of each interval.

A woman or child shall not be deemed to be actually employed within the meaning of the first clause of this section during any interval allowed for food or rest.

8. Every occupier of a factory in which women or children are employed shall, before the beginning of each month, fix, according to the castes or classes to which such women or children belong or otherwise, not less than four days in such month to be observed as holidays by each woman or child employed in the factory, and shall forthwith give notice of the days so fixed to such officer as the Local Government may, from time to time, appoint in this behalf.

An occupier of a factory may, with the previous sanction of the Inspector, substitute, for any day fixed under this section, another day in the same month.

A woman or child shall not be employed in such factory on a day fixed under this section as a day to be observed as a holiday by the woman or child, unless when another day has been substituted for such day as hereinbefore provided, in which event the woman or child shall not be employed in such factory on the day so substituted.

Prohibition of employment of woman or child in two factories on same day.

9. No occupier of a factory shall employ therein on any day any woman or child who has to his knowledge already been employed on the same day in any other factory.

10. No occupier of a factory shall allow any child 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.

Prohibition of employment of child in certain dangerous work.

11. The Local Government may direct any occupier of a factory to keep, in such form and with such particulars as such Government may, from time to time, prescribe, registers of the children (if any) employed in such factory, and of their respective employments.

*Register of children in a factory.**Fencing.*

12. (a) 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,

Fencing.

(b) every hoist or teagle near which any person is liable to pass or be employed, and

(c) every other part of the machinery or mill-gearing of a factory which may, in the opinion of the local Inspector, be dangerous if left unfenced, and which he may have ordered to be fenced,

shall, while the same is in motion, be kept by the occupier of such factory securely fenced.

Any order under clause (c) may be set aside, on appeal or otherwise, by the Local Government or such authority as it may appoint in this behalf.

Notices.

13. When any accident occurs in a factory causing death or bodily injury whereby the person injured is prevented from returning to his work in the factory during forty-eight hours after the occurrence of the accident, the occupier of such factory, or, in his absence, his principal agent in the management of such factory, shall send such notice of such accident to such authorities in such form and within such time as the Local Government may, from time to time, by rule direct.

Notice to be given of accidents.

14. Every person shall, within one month after he begins to occupy a factory, send to the Local Inspector a written notice containing the name of the factory, the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work performed in such factory, the nature and amount of the moving power therein, and the name of the person (if any) under whom the business of the factory is to be carried on.

Person beginning to occupy factory to give notice.

Penalties.

Penalties. 15. Any person who, in breach of this Act, or of any order or rule made hereunder,—

- (a) employs any woman or child in any factory;
 - (b) neglects to set up or maintain the notice required by section seven, or to fix the days referred to in section eight;
 - (c) allows any child to perform the work forbidden by, or to work in contravention of, section ten;
 - (d) neglects to keep a register in manner prescribed under section eleven;
 - (e) neglects to fence any machinery or mill-gearing in any factory;
 - (f) neglects to maintain a supply of water for the use of persons employed in any factory.
 - (g) neglects to ventilate any factory or to keep any factory in a cleanly state and free from effluvia arising from any drain, privy or other nuisance;
 - (h) suffers any factory to be so overcrowded, while work is carried on therein, as to be injurious to the health of the persons employed therein; or
 - (i) neglects to give any notice or furnish any return,
- shall be punished with fine which may extend to two hundred rupees:
Provided that—

1st, no prosecution under this section shall be instituted except by, or with the previous sanction of, the local Inspector; and

2nd, no person shall be liable under this section to more than one penalty for any one description of offence committed on the same day, except where two or more women or children are employed contrary to the provisions of this Act, in which case one penalty may be imposed in respect of each woman or child so employed.

16. Where an act or omission would, if a person were under nine or twelve years of age, be an offence punishable under this Act, and such person is, in the opinion of the Court, apparently under such age, it shall lie on the accused to prove that such person is not under such age.

A declaration in writing by a certifying surgeon that he has personally examined a person employed in a factory, and believes him to be under or over the age set forth in such declaration, shall, for the purposes of this Act, be admissible as evidence of the age of that person.

17. 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 such liability by proof to the satisfaction of the local Inspector, 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.

Miscellaneous.

18. The Local Government may, from time to time, make rules consistent with this Act to provide for—

- (a) the fencing of machinery and mill-gearing in factories;
- (b) the water-supply to be maintained for the use of persons employed in factories;
- (c) the ventilation of factories and their cleanliness (including lime-washing, painting, varnishing and washing) and freedom from effluvia arising from any drain, privy or other nuisance;
- (d) the prevention of such overcrowding of factories, while work is carried on therein, as is likely to be injurious to the health of the persons employed therein;
- (e) the obligation of occupiers of factories to furnish true returns, occasional or periodical, on and in accordance with the requisition of the local Inspector or the Local Government;
- (f) the inspection of factories;
- (g) the manner in which appeals under this Act are to be presented and heard; and
- (h) otherwise carrying out the purposes of this Act.

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

Before making rules under clause (b), clause (c) or clause (d) of this section, the Local Government shall publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, with a notice specifying a date at or after which the draft will be taken into consideration, and shall consider any objection or suggestion which may be received from any person with respect to the draft before the date so specified.

19. This Act shall apply to factories belonging to the Crown: provided that, in case of any public emergency, the Governor General in Council or the Local Government may, by an order in writing, exempt any such factory from this Act to such extent and during such period as the Governor General in Council or the Local Government, as the case may be, thinks fit.

S. HARVEY JAMES,

Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to make better provision for recovering certain public demands was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 31st January 1890:—

WE, the undersigned, Members of the Select Committee to which the Bill to make

From Mr. P. R. Desai, Pleader, District Court, Thána, dated 4th September 1887, and enclosure [Papers No. 1].

From President, Simla Municipality, No. 335—209, dated 9th September 1887 [Paper No. 2].

From Chief Commissioner. Ajmere-Merwára, No. 1266—698, dated 17th October 1887 [Paper No. 3].

From Secretary to Chief Commissioner, Coorg, No. 1970—3326, dated 26th October 1887, and enclosure [Papers No. 4].

From Officiating Chief Secretary to Chief Commissioner, Burma, No. 195—108R., dated 10th November, 1887, and enclosure [Papers No. 5].

From Secretary to Chief Commissioner, Assam, No. 2534, dated 2nd November 1887 [Paper No. 6].

From First Assistant Resident at Hyderabad, No. 463G., dated 11th November 1887, and enclosures [Papers No. 7].

From Secretary to Government, Bengal, No. 3442—236, dated 17th November, 1887, and enclosure [Papers No. 8].

From Officiating Under Secretary to Chief Commissioner, Central Provinces, No. 5707—302, dated 16th November 1887, and enclosure [Papers No. 9].

From Deputy Commissioner, Kángra, No. 776, dated 9th November 1887, and enclosure [Papers No. 10].

From Chief Secretary to Government, Madras, No. 2769 Judicial, dated 7th December 1887, and enclosures [Papers No. 11].

From Acting Chief Secretary to Government, Bombay, No. 8794, dated 24th December 1887, and enclosures [Papers No. 12].

From Registrar, High Court, Calcutta, No. 13, dated 5th January 1888 [Paper No. 13].

From Secretary to Government, North-Western Provinces and Oudh, No. 177—L-30A. dated 9th February, 1888, and enclosures [Papers No. 14].

From Officiating Junior Secretary to Government, Punjab, No. 3, dated 6th January 1888, and enclosures [Papers No. 15].

better provision for recovering certain public demands was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as revised by us annexed thereto.

2. In section 6 we have prescribed the manner in which the proclamation of the Collector is

to be made, and have so limited the effect of the proclamation that transfers prohibited by it will only be void as against the Government and an auction-purchaser.

3. In section 7 we have provided, in the terms of section 61 of the Punjab Municipal Act, 1884, and section 35 of Central Provinces Municipal Act, 1889, that nothing in the proposed Act is to be deemed to authorise arrest as a process for the recovery of any tax payable to a municipal authority.

4. By section 8 we have provided for the recovery in British India of arrears of revenue accruing in territories beyond British India which are administered by the Governor General in Council.

5. The publication ordered by the Council has been made as follows:—

		<i>In English.</i>			
		<i>Gazette.</i>			<i>Date.</i>
	Gazette of India	...	...	...	... 27th August 1887.
	Port Saint George Gazette	...	...	...	... 17th September 1887.
	Bombay Government Gazette	...	...	...	... 1st September 1887.
	Calcutta Gazette	...	...	...	... 7th September 1887.
	North-Western Provinces and Oudh Government Gazette	...	...	...	... 3rd September 1887.
	Punjab Government Gazette	...	...	...	... 12th September 1887.
	Central Provinces Gazette	...	...	...	... 10th September 1887.
	Burma Gazette	...	...	...	... 17th September 1887.
	Assam Gazette	...	...	...	... 17th September 1887.
	Coorg District Gazette	...	...	...	... 1st October 1887.

		<i>In the Vernaculars.</i>			
		<i>Provinces.</i>	<i>Language.</i>		<i>Date.</i>
Madras	Kánarese	...	... 18th October 1887.
			Telugu	...	... 8th November 1887.
			Tamil	...	... 15th November 1887.
			Malayalam	...	... 15th November 1887.
Bombay	Hindustani	...	... 6th December 1887.
			Maráthi	...	... 13th October 1887.
			Gujaráti	...	... 13th October 1887.
			Kánarese	...	... 13th October 1887.
Bengali	Sindhi	...	... 20th October 1887.
			Bengali	...	... 11th October 1887.
			Uriya	...	... 20th October 1887.
North-Western Provinces and Oudh.	Hindi	...	... 1st November 1887.
			Urdu	...	... 8th October 1887.
Punjab	Urdu	...	... 13th October, 1887.
Central Provinces	Hindi	...	... 26th October, 1887.
Burma	Burmese	...	... 24th September, 1887.

6. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

R. J. CROSTHWAITE.
ANDREW R. SCOBLE.
PHIL. P. HUTCHINS.
F. M. HALLIDAY.
K. L. NULKAR.

The 25th January 1890.

No. II.

A Bill to make better provision for recovering certain public demands.

WHEREAS it is expedient to make better provision for recovering certain public demands; it is hereby enacted as follows:—

1. (1) This Act may be called the Revenue Title, extent and commencement. Recovery Act, 1890.

(2) It extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; and

(3) It shall come into force at once.

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

(1) "district" includes a presidency-town;

(2) "Collector" means the chief officer in charge of the land-revenue administration of a district: and

(3) "defaulter" means a person from whom an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is due, and includes a person who is responsible as surety for the payment of any such arrear or sum.

3. (1) Where an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the schedule, stating—

(a) the name of the defaulter and such other particulars as may be necessary for his identification, and

(b) the amount payable by him and the account on which it is due.

(2) The certificate shall be signed by the Collector making it, and, save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated.

(3) The Collector of the other district shall, on receiving the certificate, proceed to recover the amount stated therein as if it were an arrear of land-revenue which had accrued in his own district.

4. (1) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he

denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed

by him or his agent, institute a suit for the repayment of the amount or the part thereof so paid.

(2) A suit under sub-section (1) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability for the payment of the sum arose.

(3) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, but subject to the law in force at the place aforesaid, give evidence with respect to any matter stated in the certificate.

5. Where any sum is recoverable as an arrear of land-revenue by any public officer other than a Collector or by any local authority, the Collector of the district in

which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land-revenue which had accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act as if the sum were payable to himself.

6. (1) When the Collector of a district receives a certificate under this Act, he may issue a proclamation prohibiting the transfer or charging of any immovable property belonging to the defaulter in the district.

(2) The Collector may at any time, by order in writing, withdraw the proclamation, and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount.

(3) Any private alienation of the property or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void as against the Government and any person who may purchase the property at a sale held for the recovery of the amount stated in the certificate.

(4) Subject to the foregoing provisions of this section, when proceedings are taken against any immovable property under this Act for the recovery of an amount stated in a certificate, the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests.

(5) A proclamation under this section shall be made by beat of drum or other customary method and by the posting of a copy thereof on a con-

spacious place in or near the property to which it relates.

7. Nothing in the foregoing sections shall be Saving of local laws construed— relating to revenue.

(a) to impair any security provided by, or affect the provisions of, any other enactment for the time being in force for the recovery of land-revenue or of sums recoverable as arrears of land-revenue, or

(b) to authorise the arrest of any person for the recovery of any tax payable to the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force.

8. When this Act has been applied to any local area which is under the administration of the Governor General in Council but which is not part of British India, an arrear of land-revenue accruing in that local area, or a sum recoverable as an arrear of land-revenue and payable to a Collector or other public officer or to a local authority in that local area, may be recovered under this Act in British India.

THE SCHEDULE.

CERTIFICATE.

(See section 3, sub-section (1):)

From

The Collector of

To

The Collector of

Dated the of 18

The sum of Rs. is payable on account of by

of , son of , resident at , who is believed (to be of) (to have property consisting of at) in your district.

Subject to the provisions of the Revenue Recovery Act, 1890, the said sum is recoverable by you as if it were an arrear of land-revenue which had accrued in your own district, and you are hereby desired so to recover it and to remit it to my office at

A. B.,

Collector of

S. HARVEY JAMES,

Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend Acts XVII of 1864, X of 1865, II of 1874 and V of 1881 was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 31st January 1890:—

We, the undersigned, Members of the Select Committee to which the

Endorsement by Under Secretary to Government of India, Home Department, No. 1249, dated 31st August 1889, and enclosure [Papers No. 1].
 From Chief Commissioner, Coorg, No. 1652—1699 E.-I, dated 22nd October 1889, and enclosure [Papers No. 2].
 From Secretary for Berar to Resident, Hyderabad, No. 412G., dated 6th November 1889 [Paper No. 3].
 From Officiating Secretary to Chief Commissioner, Assam, No. 4022, dated 5th November 1889 [Paper No. 4].
 From Chief Commissioner, Ajmere-Merwara, No. 8C—690, dated 11th November 1889, and enclosure [Papers No. 5].
 From Chief Secretary to Government, Madras, No. 1933, dated 12th November 1889, and enclosures [Papers No. 6].
 From Administrator General, Bengal, dated 12th November 1889 [Paper No. 7].
 From Under Secretary to Chief Commissioner, Central Provinces, No. 6786,—359, dated 18th November 1889 [Paper No. 8].
 From Acting Secretary to Government, Bombay, No. 6059, dated 15th November 1889, and enclosures [Papers No. 9].
 From Officiating Secretary to Government, Punjab, No. 1290, dated 27th November 1889, and enclosures [Papers No. 10].
 From Chief Secretary to Government, Bengal, No. J.-19-A.—217, dated 30th November 1889, and enclosures [Papers No. 11].
 From Officiating Secretary to Chief Commissioner, Burma, No. 1230—2—L., dated 29th November 1889 [Paper No. 12].
 From Official Trustee, Bengal, No. 13, dated 3rd December 1889 [Paper No. 13].
 From the Right Hon'ble the Secretary of State for India, No. 28, dated 14th November 1889 [Paper No. 14].
 From Registrar, High Court, Calcutta, No. 2532, dated 6th December 1889, and enclosure [Papers No. 15].
 From Secretary to Government, North-Western Provinces and Oudh, No. 884—VII—230B., dated 9th December 1889, and enclosures [Papers No. 16].
 From Secretary to Government, North-Western Provinces and Oudh, No. 64—VII—230B., dated 18th January, 1890, and enclosure [Papers No. 17].

Bill to amend Acts XVII of 1864, X of 1865, II of 1874 and V of 1881 was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We have provided by section 6 of the Bill as revised that the High Court, when appointing under section 10 of Act XVII of 1864 the Official Trustee to be the trustee of property which is already subject to a trust, may, for special reasons to be recorded by the Court, declare the Official Trustee to be entitled to commission at higher rates than those now permissible under section II of the Act.

3. By sections 7 and 14 of the Bill as revised we have provided for the submission by Administrators General and Official Trustees of such returns and statements as the Government may require from them. By section 7 we have also provided for the future division of the Presidency of Bengal into Provinces for the purposes of Act XVII of 1864 in the same manner as the Bill had already provided for the future division of that Presidency into Provinces for the purposes of Act II of 1874.

4. By section 10 of the Bill as revised we have, on geographical, military and other considerations, included British Baluchistan in the Presidency of Bombay.

5. By section 13 of the Bill as revised we have proposed to authorize District Judges in charge of the property of deceased persons under section 64 of Act II of 1874 to make payments thereout for certain emergent purposes.

6. The other amendments of the Bill are unimportant and do not call for remark.

7. The publication ordered by the Council has been made as follows:—

		<i>In English.</i>		<i>Date.</i>
<i>Gazette.</i>				
Gazette of India	31st August 1889.
Fort Saint George Gazette	17th September 1889.
Bombay Government Gazette	5th September 1889.
Calcutta Gazette	11th September 1889.
North-Western Provinces and Oudh Government Gazette	7th September 1889.
Punjab Government Gazette	5th September 1889.
Central Provinces Gazette	14th September 1889.
British Burma Gazette	21st September 1889.
Assam Gazette	21st September 1889.
Coorg District Gazette	1st October 1889.

		<i>In the Vernaculars.</i>		<i>Date.</i>
<i>Province.</i>		<i>Language.</i>		
Bombay	...	... Maráthi	...	17th October 1889.
		... Gujaráti	...	17th October 1889.
		... Kánarese	...	17th October 1889.
Bengal	...	... Uriya	...	26th September 1889.
		... Bengali	...	8th October 1889.
		... Hindi	...	8th October 1889.
North-Western Provinces and Oudh.	...	... Urdu	...	2nd November 1889.
Punjab	...	... Urdu	...	7th November 1889.
Assam	...	... Bengali	...	19th October 1889.

8. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

(Signed) ANDREW R. SCOBLE.
 „ PHIL. P. HUTCHINS.
 „ R. J. CROSTHWAITE.
 „ K. L. NULKAR.

The 27th January 1890.

No. II.

A Bill to amend Acts XVII of 1864, X of 1865, II of 1874 and V of 1881.

WHEREAS it is expedient to amend Act XVII of 1864 (an Act to constitute an Office of Official Trustee), the Indian Succession Act, 1865, the Administrator General's Act, 1874, and the Probate and Administration Act, 1881; It is hereby enacted as follows:—

Act XVII of 1864.

1. In section 1 of Act XVII of 1864, before the definition of the expression "High Court", the following shall be inserted, namely:—

"The word 'Government' shall mean, in relation to the Presidency of Fort William in Bengal, the Governor General in Council; in relation to the Presidency of Fort St. George, the Governor of Fort St. George in Council; and, in relation to the Presidency of Bombay, the Governor of Bombay in Council:—"

2. After section 1 of the said Act the following shall be inserted, namely:—

"2. In this Act references to the Presidency of Fort William in Bengal, the Presidency of Fort St. George and the Presidency of Bombay shall, as regards all persons for whom the Governor General in Council has for the time being power to make laws and regulations, be read as references to the Presidency of Bengal, the Presidency of Madras and the Presidency of Bombay, respectively, as those expressions are severally defined in the law for the time being in force relating to the office and duties of Administrator General."

3. For section 5 of the said Act the following shall be substituted, namely:—

"5. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his office by the Government."

4. In section 6 of the said Act, for the words "Chief Justice by whom he is appointed" the word "Government" shall be substituted.

5. For the portion of section 7 of the said Act beginning with the words "It shall be lawful for the Chief Justice of the High Court" and ending with the words "it shall be lawful for the Chief Justice to appoint some person to officiate as Official Trustee" the following shall be substituted, namely:—

"It shall be lawful for the Government from time to time to grant leave of absence to the Official Trustee, but subject always to such and the like rules as may be for the time being in force as to leave of absence of officers attached to the High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Official Trustee."

6. To section 11 of the said Act the following shall be added, namely:—

"Provided that the High Court, by its order appointing the Official Trustee to be trustee of such property, may, for special reasons to be recorded by the Court, direct that the Official Trustee shall be entitled by way of remuneration, in respect of the capital moneys, sums and rents aforesaid, or any of them, to a commission at rates or a rate to be specified in the order and exceeding the rates or rate hereinbefore in this section prescribed."

7. To the said Act, after section 32, the following shall be added, namely:—

"33. The Official Trustee shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper."

"34. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor General in Council, upon the occurrence of any vacancy in the office of the Official Trustee of Bengal, may, by notification in the Gazette of India,—

- (a) divide the Presidency of Fort William in Bengal into so many Provinces as he thinks fit,
- (b) define the limits of each of those Provinces and
- (c) appoint an Official Trustee for each province,

and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely:—

- (i) the office of Official Trustee of Bengal shall cease to exist;
- (ii) the Official Trustee of a Province shall have the like rights and privileges, and perform the like duties, in the territories and dominions included in the Province as the Official Trustee of Bengal had and performed as Official Trustee therein;
- (iii) the functions of the Government under this Act shall, as regards the territories and dominions included in the Province, be discharged by the Governor General in Council:

X of 1865.
II of 1874.
V of 1881.

Addition to section 1, Act XVII, 1864.

Insertion of new section after section 1, Act XVII, 1864.

Construction of references to Presidencies.

Appointment, suspension and removal of Official Trustees.

ment."

Amendment of section 6, Act XVII, 1864.

Amendment of section 7, Act XVII, 1864.

Addition to section 11, Act XVII, 1864.

Addition of sections to Act XVII, 1864.

Compliance with requisitions for returns.

Division of the Presidency of Fort William in Bengal into Provinces.

(iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court of Judicature at Fort William in Bengal in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf:

(v) in the foregoing provisions of this Act, the word 'Presidency' shall be deemed to include a Province, the expression 'Chief Justice' the Chief Justice, senior Judge or sole Judge, as the case may be, of a High Court appointed by the Governor General in Council under clause (iv) of this subsection, and the expression 'Advocate General' a Government Advocate or other officer appointed by the Governor General in Council to discharge for a Province the functions under this Act of an Advocate General for a Presidency: and,

(vi) generally, the provisions of the foregoing sections and of any other enactment for the time being in force with respect to the Official Trustee of Bengal shall, in relation to a Province, be construed, so far as may be, to apply to the Official Trustee appointed for the Province under this section.

(2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Fort William in Bengal into Provinces, and to or in which the Official Trustee of Bengal in his representative character was a party or was otherwise concerned, shall be continued as if the notification had not been published, and the Official Trustee of the Province in which the town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Official Trustee of Bengal, and shall hold and execute the trusts of which immediately before the publication of the notification the Official Trustee of Bengal was trustee in all respects as if he were such successor.

(3) The Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (1)."

8. Every person holding the office of Official Trustee at the commencement of this Act shall be deemed to have been appointed under Act XVII of 1864 as amended by this Act.

Official Trustees holding office at commencement of this Act.

The Indian Succession Act, 1865.

9. After section 326 of the Indian Succession Act, 1865, the following shall be inserted, namely:—

Addition of new section after section 326, Act X, 1865.

326A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death and there have been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 320 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

Transfer of assets from British India to executor or administrator in country of domicile for distribution.

The Administrator General's Act, 1874.

10. In clause (b) of the definition of the expression "Presidency of Bengal" in section 3 of the Administrator General's Act, 1874, the word "Burma" shall be substituted for the words "British Burma", and to clause (a) of the definition of the expression "Presidency of Bombay" in the same section of that Act the words "and under the administration of the Chief Commissioner of British Baluchistan" shall be added.

Amendment of definitions of "Presidency of Bengal" and "Presidency of Bombay" in section 3, Act II, 1874.

II of 1874.

11. (1) For the first paragraph of section 37 of the said Act, as amended by section 5 of the Administrator General's Act, 1881, beginning with the words "if in cases falling within section 36" and ending with the words "as if such letters had been granted to him", the following shall be substituted namely:—

"If, in cases falling within section 36, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator General under the same section, or letters of administration to the estate and effects of the deceased, and such deceased was not a Hindu, Muhammadan, Parsi or Buddhist, or exempted under the Indian Succession Act, 1865, section 332, from the operation of that Act, the Administrator General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him;".

IX of 1881.

(2) The portion of section 5 of the Administrator General's Act, 1881, beginning with the words "and in section 37 of the same Act" and ending with the words "from the operation of that Act" is hereby repealed.

X of 1865.

IX of 1881.

12. After section 41 of the said Act the following shall be inserted, namely:—

Addition of new section after section 41, Act II, 1874.

"41A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in British India have been taken under section 36 or section 37, and there has been a grant of administration in the country of domicile with respect to the assets in that country, the holder of the certificate granted under section 36 or section 37, or the Administrator General, as the case may be, after having given such notices as the High Court may by any general rule to be made from time to time prescribe, for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.

has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in British India have been taken under section 36 or section 37, and there has been a grant of administration in the country of domicile with respect to the assets in that country, the holder of the certificate granted under section 36 or section 37, or the Administrator General, as the case may be, after having given such notices as the High Court may by any general rule to be made from time to time prescribe, for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

13. To section 64 of the said Act the following Addition to section 64, shall be added, Act II, 1874. namely:—

"The District Judge may cause to be paid out of any property of which he or such officer has charge, or out of the proceeds of such property or of any part thereof, such sums as may appear to him to be necessary for all or any of the following purposes, namely:—

- (a) the payment of the expenses of the funeral of the deceased and of obtaining probate of his will or letters of administration to his estate and effects,
- (b) the payment of wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan or domestic servant, and
- (c) the relief of the immediate necessities of the family of the deceased,

and nothing in section 279, section 280 or section 281 of the Indian Succession Act, 1865, or in any other law for the time being in force with respect to rights of priority of creditors of deceased persons, shall be held to affect the validity of any payment so caused to be made."

14. To Part VI, and after section 66, of the Addition to Part VI, said Act the following Act II, 1874. shall be added, namely:—

"67. The Administrator General shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper."

Compliance with requisitions for returns.

Addition to Act II, 1874. of a Part respecting the division of the Presidency of Bengal into Provinces.

15. To the said Act, after Part VI and section 67 thereof, the following shall be added, namely:—

"PART VII.

DIVISION OF THE PRESIDENCY OF BENGAL INTO PROVINCES.

68. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor General in Council, upon the occurrence of any vacancy in the office of the Administrator General of Bengal, may, by notification in the Gazette of India,—

- (a) divide the Presidency of Bengal, as defined in this Act, into so many Provinces as he thinks, fit,
- (b) define the limits of each of those Provinces, and
- (c) appoint an Administrator General for each Province,

and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely:—

- (i) the office of Administrator General of Bengal shall cease to exist;
- (ii) the Administrator General of a Province shall have the like rights and privileges, and perform the like duties, in the territories and dominions included in the Province as the Administrator General of Bengal had and performed as Administrator General therein;
- (iii) the functions of the Government under this Act shall, as regards the territories and dominions included in a Province, be discharged by the Governor General in Council;
- (iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court at Calcutta in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf, and probate or letters of administration granted to the Administrator General of the Province by the High Court so appointed shall have the same effect throughout the Presidency of Bengal, as defined in this Act, or, if the Court so directs, throughout British India, as, but for the abolition of the office of Administrator General of Bengal, probate or letters of administration granted to the holder of that office by the High Court at Calcutta would have had:

(v) in the foregoing provisions of this Act the word 'Presidency' shall be deemed to include a Province, the expression 'Presidency-town' the place of sitting of a High Court appointed by the Governor General in Council under clause (iv) of this sub-section, and the expression 'Advocate General' a Government Advocate or other officer appointed by the *Governor General in Council* to discharge for a Province the functions under this Act of an Advocate General for a Presidency :

(vi) the provisions of this Act with respect to the commission of the Administrator General of Bengal shall regulate the commission payable to the Administrator General of a Province : and,

(vii) generally, the provisions of the foregoing sections of this Act with respect to the High Court at Calcutta, and the provisions of those sections or of any other enactment with respect to the Administrator General of Bengal, shall, in relation to a Province, be construed, so far as may be, to apply to the High Court and Administrator General, respectively, appointed for the Province under this section.

(2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Bengal into Provinces and to or in which the Administrator General of Bengal in his representative character was a party or was otherwise concerned shall be continued as if the notification had not been published, and the Administrator General of the Province in which the town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Administrator General of Bengal.

(3) The Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (1).

(4) Notwithstanding any division of the Presidency of Bengal, as defined in this Act, into Provinces under this section, the Administrator General of the Province in which the town of Calcutta is comprised shall be deemed to be the Administrator General for the whole of the said Presidency for the purposes of the Regimental Debts Act, 1863."

26 and 27
Vict.,
c. 57.

The Probate and Administration Act, 1881.

16. After section 145 of the Probate and Administration Act, 1881, V of 1881, addition of new section after section 145, Act V, 1881, the following shall be inserted, namely :

"145A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there have been a grant of probate or letters of Administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 139 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

S. HARVEY JAMES,
Secretary to the Government of India.