

THE



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Separate paying 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 Report of the Select Committee on the Bill to amend the Law relating to Fraudulent Marks on Merchandise was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th February 1889:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Law

From Registrar, High Court, Calcutta, No. 3171, dated 5th December 1888 [Paper No. 1].
From Chief Commissioner, Ajmere-Merwara, No. 78C.—690, dated 12th December 1888 [Paper No. 2].

From Secretary to Chief Commissioner, Coorg, No. 2202—2037, dated 18th December 1888, and enclosure [Papers No. 3].

From Chief Secretary to Government, Madras, No. 2603, dated 21st December 1888, and enclosures [Papers No. 4].

From Her Majesty's Secretary of State for India, No. 30, Legislative, dated 6th December 1888, and enclosures [Papers No. 5].

From Officiating Chief Secretary to Chief Commissioner, Burmah, No. 186.—17L., dated 9th January 1889, and enclosures [Papers No. 6].

From Secretary for Berar to Resident, Hyderabad, No. 17G., dated 11th January 1889 [Paper No. 7].

Telegram from Secretary to Chief Commissioner, Assam, dated 17th January 1889 [Paper No. 8].

From Secretary to Government, North-Western Provinces and Oudh, No. 73R.—VI-95A., dated 17th January 1889 [Paper No. 9].

Telegram from Secretary to Chief Commissioner, Central Provinces, dated 21st January 1889, [Paper No. 10].

From Chief Secretary to Government, Bombay, No. 182, dated 16th January 1889, and enclosures [Papers No. 11].

From Secretary to Government, North-Western Provinces and Oudh, No. 96—VI-95A., dated 19th January 1889, and enclosures [Papers No. 12].

From Officiating Junior Secretary to Chief Commissioner, Central Provinces, No. 81 S., dated 24th January 1889 [Paper No. 13].

From Secretary to Government, Punjab, No. 88, dated 23rd January 1889, and enclosures [Papers No. 14].

Observations by the Honourable Sir Dinshaw Maneckjee Petit, Kt. [Paper No. 15].

From Secretary to Government, Bengal, No. 37, dated 28th January 1889, and enclosures [Papers No. 16].

From Secretary to Government, North-Western Provinces and Oudh, No. 195—VI-95 A., dated 2nd February 1888, and enclosures [Papers No. 17].

From Secretary to Government, Bengal, No. 205, dated 4th February 1889.

they are removed from the factory in the case of goods manufactured in British India. The adoption

of a compulsory provision of this kind was advocated by the Madras Chamber of Commerce, and has been strongly pressed upon us by the Bengal Chamber. In a communication received by us from the latter body, it is stated :—

“A very important suggestion put forward by the Sub-Committee—though with one dissentient—is that the stamping upon all goods sold by length or the piece of the length of such goods in standard yards of 36 inches or fractions of a yard should be made compulsory.

The Committee of the Chamber of Commerce have, after special consideration of the principle here involved, come to the decision that the interests of the trade generally, of the honest trader, and of the Indian consumer, require them to give to this recommendation their strong support. The scope of the “Indian Merchandise Marks Act,” is so wide that, as regards goods sold by length, a door would be left open for a resort to those fraudulent practices the measure is intended to combat if the importation of goods not bearing a stamp of length were permitted. The Committee have made enquiries which satisfy them that even in Calcutta this way of escaping the provisions of the Act has already begun to be availed of, and they have reason to believe that the importation of goods having no stamp of length is on the increase.

Some five years ago a powerful agitation against ‘unstamped goods’ sprung up in Bombay and led to a combination on the part of native dealers which resulted in the almost total displacement of such goods in the Bombay market. The agitation spread to Calcutta, where it forced itself on the consideration of the Chamber of Commerce, and induced the Committee to sanction special arrangements for the protection of native buyers, not only against goods not stamped with an indication of length, but also against goods incorrectly so stamped. To-day the Committee feel themselves justified in saying that the experience of the various Indian import markets points very clearly to the mischief which will result from allowing goods to be brought forward for sale bearing no indication of their length, and on this point they would ask to be excused if they briefly mention some of the evidence which has been put before them.

In Calcutta itself a trading firm in the import trade felt themselves compelled to stamp the length on certain goods, because they discovered that the goods they had imported unstamped were being fraudulently stamped in the bazar.

At Karachi the importation of unstamped goods has quite recently almost disorganised that market. The Committee have before them a notice, published at Karachi, and dated 1st of October 1888, in the Sindhi, Mārwāri, Persian and Arabic languages, which runs as follows :—

‘Notice—Caution.

‘Dealers in European piece-goods are warned that for time past goods have been imported and sold in Karachi market bearing no length stamp as has been the invariable custom up to this time.

‘Buyers of goods without length stamp plainly written on each piece run the risk of being deceived.’

The state of things which has given rise to the necessity for such a notice as that just quoted would probably cause at Karachi, as it did in Bombay and Calcutta, a combination amongst dealers against the purchase of unstamped goods; and as at Bombay and Calcutta, such a combination would not do more than check, to a greater or less extent, the evil at which it was directed and would fail to stop it altogether. The question which thus forces itself upon the consideration of the Legislature is whether such an Act as the Indian Merchandise Marks Act being under consideration, the mercantile communities of India should be left to combat an admitted mercantile mischief by the proved ineffective means of combinations amongst native buyers.

The Committee of the Chamber of Commerce are in a position to supplement what they have said above by evidence not only weighty in itself but so independent in character as, in their opinion, to increase its value. During the discussions on the Bill the Committee received from Mr. James Kerr Bell, a member of the Manchester Chamber of Commerce, a letter dated from Madras the 19th December 1888, in which that gentleman says :—

‘I find in my visits to the Indian bazars that the omission of length stamps is a source of great misrepresentation in the sale of piece-goods. I would suggest that the new Act should make the stamping of exact length compulsory. In this way the honest trader would be protected from the many underhand ways which are at present in vogue to elude the scope of the English Act.’

The Madras, Bombay and Karachi Chambers of Commerce and the Bombay Mill-owners Association have been consulted by us with reference to this proposal of the Bengal Chamber and requested to favour us with their opinion as to whether or not effect should be given to it. These bodies have all replied that in their opinion the fullest effect should be given to the proposal.

3. On the suggestion of the Bengal Government we have, in section 2, sub-section (2), and in the amended section 478 of the Indian Penal Code in section 3, so revised the definitions of trade-description and trade-mark that the one may not overlap the other. We have further, with reference to some remarks of the Calcutta Trades Association on the Bill, so expressed the definition of trade-mark as to make it include a proprietary mark of a trader as well as of a manufacturer.

4. On the suggestion of the Bengal Chamber of Commerce we have substituted the word “numeral” (L. R. Ch. D. 659) for the word “figure” in section 2, sub-section (2), and section 4, sub-section (1).

5. Certain remarks of the same Chamber have led us to amplify section 4, sub-section (1), corresponding to section 3, sub-section (2), of the English Act.

6. We have provided in section 9, sub-sections (2) and (3), for appeals against forfeitures.

7. We have by sections 13, 14 and 15 introduced into the Bill section 10, sub-sections (2), of the English Act respecting evidence of origin of goods imported by sea, section 14 of the same Act respecting costs of criminal proceedings, and section 15 of the same Act respecting the limitation of prosecutions.

8. By section 16 we have, at the instance of the Bengal Chamber, proposed to invest the Governor General in Council with authority to prescribe rules as to the limits of variation which are to be recognised by the Courts as permissible in the case of certain goods, and as to other such matters likely to arise in the working of the Act.

9. The other alterations which we have proposed are not material and do not call for special remark.

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

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	20th October 1888.
Fort Saint George Gazette	6th November 1888.
Bombay Government Gazette	25th October 1888.
Calcutta Gazette	31st October 1888.
North-Western Provinces and Oudh Government Gazette.	27th October 1888.
Punjab Government Gazette	25th October 1888.
Central Provinces Gazette	3rd November 1888.
Burma Gazette	10th November 1888.
Assam Gazette	3rd November 1888.
Coorg District Gazette	1st December 1888.
Sindh Official Gazette	29th November 1888.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Tamil	8th January 1889.
	Kanarese	8th January 1889.
	Telugu	29th January 1889.
Bombay	Maráthi	27th December 1888.
	Gujaráthi	27th December 1888.
	Kanarese	27th December 1888.
Bengal... ..	Bengali	4th December 1888.
	Hindi	18th December 1888.
	Uriya	27th December 1888.
North-Western Provinces and Oudh	Urdu	15th December 1888.
Punjab	Urdu	20th December 1888.
Central Provinces	Maráthi	9th January 1889.
	Hindi	9th January 1889.
Burma... ..	Burmese	12th January 1889.
Assam... ..	Bengali	22nd December 1888.
Sind	Sindhi	6th December 1888.

11. 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.

ANDREW R. SCOBLE.

PHIL. P. HUTCHINS.

D. BARBOUR.

ROBT. STEEL.

DINSHAW MANOCKJEE PETIT.

DOORGA CHURN LAW.

The 7th February 1889.

No. II.

A Bill to amend the Law relating to Fraudulent Marks on Merchandise.

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Title, extent and Merchandise Marks Act, commencement. 1889.

(2) It extends to the whole of British India; and, subject to the provision of the last section of this Act,

(3) It shall come into force on the first day of April 1889.

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

(1) "trade mark" has the meaning assigned to that expression in section 478 of the Indian Penal Code as amended by this Act:

XLV of 1860.

[50 & 51
Vict., c. 28,
s. 3 (1).]

(2) "trade description" means any description, statement or other indication, direct or indirect,—

(a) as to the number, quantity, measure, gauge or weight of any goods, or

(b) as to the place or country in which, or the time at which, any goods were made or produced, or

(c) as to the mode of manufacturing or producing any goods, or

(d) as to the material of which any goods are composed, or

(e) as to any goods being the subject of an existing patent, privilege or copyright;

and the use of any numeral, word or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act:

(3) "false trade description" means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act:

(4) "goods" means anything which is the subject of trade or manufacture: and

(5) "name" includes any abbreviation of a name.

[Act XLV,
1860, s. 478.]

[50 & 51
Vict., c. 29,
s. 3 (1).]

Amendment of the Indian Penal Code.

3. For that part of Chapter XVIII of the Indian Penal Code which relates to Trade and Property Marks, the following shall be submitted, namely:—

XLV of 1860.

Substitution of new sections for sections 478 to 489 of the Indian Penal Code.

"Of Trade, Property and Other Marks.

"478. A mark used for denoting that goods are the manufacture or Trade mark. merchandise of a particular person is called a trade mark, and for the purposes of this Code the expression 'trade mark' includes any trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under order in Council, for the time being applicable.

[50 & 51
Vict., c. 28,
s. 3 (1).]
46 & 47 Vict.,
c.

"479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

"480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

"481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

"482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a trade mark or property mark used by another.

"484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

"485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

"486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things or
- (c) that otherwise he had acted innocently, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

"488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

"489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

Trade Descriptions.

4. (1) The provisions of this Act respecting the application of a false trade description to goods or respecting goods to which a false trade description is applied, shall extend to the application to goods of any such numerals, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are and to goods having such numerals, words or marks, or arrangement or combination, applied thereto.

(2) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

- (a) not being a trade mark, or part of a trade mark, and
- (b) being identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description and not having authorised the use of such name or initials.

(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description. [New.]

5. (1) A person shall be deemed to apply a trade description to goods who—

- (a) applies it to the goods themselves, or
- (b) applies it to any covering label, reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or

(c) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any, covering, label, reel or other thing to which a trade description has been applied, or

(d) uses a trade description in any manner *reasonably* calculated to lead to the belief that the goods in connexion with which it is used are designated or described by that trade description.

(2) A trade description shall be deemed to be applied whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(3) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression "label" includes any band or ticket.

6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Act and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in the case of a second or subsequent conviction with imprisonment which may extend to *one year*, or with fine, or with both.

7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, and goods or things to which a false trade description is applied, he shall, unless he proves—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to *one year*, or with fine, or with both.

Unintentional Contravention of the Law relating to Marks and Descriptions.

8. Where a person is accused under section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods

any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark and proves—

(a) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and

(b) that he took reasonable precautions against committing the offence charged, and

(c) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and

(d) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied, he shall be acquitted.

Forfeiture of Goods.

9. (1) When a person is convicted under section 482 of the Indian Penal Code of using a

false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(2) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture.

[Act XLV,
1860, s. 482,
s. 2 (f).]

[Act XLV,
1860, s. 482.]

[50 & 51
Vict., c. 28,
s. 2 (g).]

Penalty for selling goods to which a false trade description is applied.

[Act XLV,
1860, s. 486.]

[50 & 51
Vict., c. 28,
s. 6.]
XLV of 1860.

Unintentional contravention of the law relating to marks and descriptions.

of the Indian Penal Code of using a false trade mark or property mark by reason of his having

[50 & 51 Vict.,
c. 28, s. 2 (f)
(iii).]
XLV of 1860.

Amendment of the Sea Customs Act, 1878.[50 & 51 Vict.,
c. 28, s. 16
(2).]

VII of 1878.

10. (1) For clause (d) of section 18 of the Sea Customs Act, 1878, the following shall be substituted, namely:—

(d) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889:

(e) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be, or being a colourable imitation of, the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—

(i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

(ii) that place and the country in which it is situated are in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and in the same language and character as the name or trade mark:

(2) To section 18 of the Sea Customs Act, 1878, as amended by sub-section (1), the following shall be added, namely:—

“(f) piece-goods, such as are ordinarily sold by length or by the piece, which—

(i) have not conspicuously stamped on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and

(ii) have been manufactured beyond the limits of India, or,

(iii) having been manufactured within those limits, have been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Indian Factories Act, 1881.

XV of 1881.

[50 & 51 Vict.,
c. 28, s. 16 (2),
(3), (4), (5),
(7) & (8).]

VIII of 1878.

Addition of a section
after section 19, Act VIII
of 1878.

11. The followings shall be added after section 19 of the Sea Customs Act, 1878, namely:—

“19A. (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs-officer or other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported.

(2) The Governor General in Council may make regulations, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence.

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India. [New.]

(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

(5) The regulations may provide for the informant reimbursing any public officer and Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

(6) All regulations under this section shall be published in the Gazette of India and in the Calcutta, Fort St. George, Bombay and Burma Gazettes.”

Stamping of Length of Piece-goods manufactured in British India.

12. (1) Piece-goods, such as are ordinarily sold by length or by the piece, which have been manufactured in premises which are a factory as defined in the Indian Factories Act, 1881, shall not be removed from those premises without having conspicuously stamped on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece. [New.]

(2) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees. XV of 1881.

(2) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees. Cf. Act VIII, 1878, s. 167, cl. 2.]

Supplemental Provisions.

13. In the case of goods brought into British India by sea, evidence of the port of shipment shall, in a prosecution for an offence against this Act or section 18 of the Sea Customs Act, 1878, as amended by this Act, be prima facie evidence of the place or country in which the goods were made or produced. [50 & 51 Vict., c. 28, s. 10 (2).]

[50 & 51
Vict., c. 28, s.
14.]

14. (1) On any such prosecution as is mentioned in the last foregoing section, or on any prosecution for an offence against any of the sections of the Indian Penal Code, as amended by this Act, which relate to trade, property and other marks, the Court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively.

[New.]
[50 & 51]

(2) Such cost shall, on application to the Court, be recoverable as if they were a fine.

[Vict., c. 28, s.
15.]

15. No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens.

[New]

16. (1) The Governor General in Council may, by notification in the Gazette of India and in local official Gazettes, issue instructions for observance by Criminal Courts in giving effect to any of the provisions of this Act.

(2) Instructions under sub-section (1) may provide, among other matters, for the limits of variation, as regards number, quantity, measure, gauge or weight, which are to be recognised by Criminal Courts as permissible in the case of any goods.

[50 & 51 Vict.,
c. 28, s. 17.]

17. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant

that the mark is a genuine mark and not counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

18. (1) Nothing in this Act shall exempt any person from any suit or other proceeding which might, but for anything in this Act, be brought against him.

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in section 14.

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

Transitory Provision.

19. The prohibition of the bringing into [New.]

Date of commencement of this Act as regards unstamped piece-goods.

British India of such piece-goods as are described in clause (f) of section 13 of the Sea Customs

Act, 1878, as amended by this Act, shall not take effect till the first day of August, 1889, and the provisions of section 12 shall, as regards piece-goods made up in bales in a factory before the first day of April, 1889, remain in abeyance till the first day of July 1889.

(Signed) S. HARVEY JAMES,
Secretary to the Government of India.