



# Bombay Government Gazette.

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

## PART VI.

### BILLS OF THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 11th March 1898 :—

#### No. 2 of 1898.

*A Bill to further amend the Presidency Small Cause Courts Act, 1882.*

WHEREAS it is expedient to further amend the Presidency Small Cause Courts Act, 1882; it is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Presidency Small Cause Courts Act, 1898; and

(2) It shall come into force at once.

2. To section 4 of the said Act the words 'and the expression "Registrar" includes a Deputy Registrar' shall be added.

3. For section 8A of the Presidency Small Cause Courts Act, 1882, as amended by the Presidency Small Cause Courts Act XV, 1882, as amended by Act I, 1895, s. 4.

Act, 1895, the following section shall be substituted, namely :

"8A. (1) During any absence of the Chief Judge or any Judge of the said Court, or during the period for which any Judge is acting as Chief Judge, the Local Government may appoint any person, having the qualifications required by section 7, to act as Chief Judge or Judge of the said Court, as the case may be.

(2) Every person so appointed shall be authorized to perform the duties of the Chief Judge or a Judge of the said Court until the return of the absent Chief Judge or Judge, or of the Judge acting as Chief Judge, or until the Local Government sees cause to cancel the appointment of such acting Chief Judge or Judge, as the case may be."

4. In section 9, sub-section (1), of the said Act as so amended, after clause (a) the following clause shall be added, namely :—

"(aa) empower the Registrar to hear and dispose of undefended suits and interlocutory applications or matters;".

#### STATEMENT OF OBJECTS AND REASONS.

SECTION 8A of the Presidency Small Cause Courts Act, 1882, which was inserted by the amending Act I of 1895, does not admit of the appointment to officiate as Chief Judge of a person who, though otherwise qualified to be Chief Judge, is not already a Judge of the Court. Clause 3 of the Bill proposes to make such an appointment admissible by substituting a differently worded provision.

2. The fourth clause is intended to amplify section 9 of the Act, as amended in 1895, so as to enable the High Court, when making rules thereunder, to empower the Registrar of the Presidency Small Cause Court to hear and dispose of non-contentious causes and interlocutory applications or matters.

3. The opportunity has been taken by clause 2 of the Bill to add a few words to section 4 of the Act in order to make the expression "Registrar" cover a Deputy Registrar.

(Signed) M. D. CHALMERS.

J. M. MACPHERSON,  
Secretary to the Government of India.

The 9th March 1898.



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to the Post Office in India was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 11th March 1898 :—

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend

the law relating to the Post Office in India was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed hereto.

From High Court, Calcutta, No. 2502, dated 2nd December 1897 [Paper No. 1].  
 From Chief Commissioner, Coorg, No. 54, dated 12th January 1898 [Paper No. 2].  
 From Inhabitants of Madras, dated 21st January 1898 [Paper No. 3].  
 From Ray Yatindra Nath Chowdhury, Zamindar, Baranagore, Calcutta, dated 24th January 1898, and enclosure [Papers No. 4].  
 From Chief Commissioner, Central Provinces, No. 439, dated 24th January 1898, and enclosures [Papers No. 5].  
 From Chief Commissioner, Ajmere-Merwara, No. 232-C.—690, dated 25th January 1898 [Paper No. 6].  
 From Government, Burma, No. 571-7P.—4, dated 29th January 1898, and enclosures [Papers No. 7].  
 From Chief Commissioner, Assam, No. 11-L. & L.—338-J., dated 1st February 1898, and enclosure [Papers No. 8].  
 From Government, North-Western Provinces and Oudh, No. 206, dated 9th February 1898, and enclosures [Papers No. 9].  
 From Officiating Agent to Governor General in Baluchistan, No. 748-C., dated 10th February 1898, and enclosures [Papers No. 10].  
 From Resident, Hyderabad, No. 53, dated 8th February 1898, and enclosures [Papers No. 11].  
 From Government, Punjab No. 305, dated 22nd February 1898, and enclosures [Papers No. 12].  
 From Government, Bengal, No. 755, dated 24th February 1898, and enclosures [Papers No. 13].  
 From Government, Madras, No. 123, dated 10th February 1898, and enclosures [Papers No. 14].

the law relating to the Post Office in India was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed hereto.

2. *Clause 1 (3).*—

We have inserted the 1st July 1898 as the date of the

commencement of the Act in order to make it correspond with the date of the issue of the half-yearly Postal Guide.

3. *Clause 2 (d).*—We have made a drafting alteration in the definition of “mail-ship” to cover the case of a ship not ordinarily used to carry the mails, but belonging to a company having a mail contract.

4. *Clause 3 (a).*—We have made an addition here to meet cases in which postal articles cannot be delivered to the addressees.

5. *Clause 4.*—We have added a paragraph to provide that the expression “letters” includes postcards. We think it inadvisable to attempt an exhaustive definition.

6. *Clauses 7 and 8.*—Clause 8 (2) (a) of the Bill as introduced appears to us to be out of place. We have, therefore, transposed the provision so as to form paragraph (3) of clause 7, and we have made some drafting alterations in clause 8.

7. *Clause 10.*—We have added a paragraph saving existing arrangements until altered.

8. *Clause 11 (1).*—We have added a proviso similar to the proviso to section 23 of the present Act.

9. *Clause 20.*—We have cut out the word “defamatory” as being too wide, and substituted the words “scurrilous, threatening”.

10. *Clause 23.*—The provisions of paragraph (2) were intended mainly for fiscal purposes and we have, therefore, inserted words of limitation. The third paragraph we have re-cast so as to provide that postal articles sent in contravention of the provisions of section 19 may be opened and destroyed, and that postal articles sent in contravention of the provisions of section 20 may be destroyed. In both cases we have made it clear that the authority of the Post Master General is to be required before the action provided for can be taken.

11. *Clause 44.*—We have made an alteration so as to provide that sums unclaimed for a year, instead of being actually forfeited, shall no longer be claimable from the Government. This will leave the matter to the discretion of the Government.

12. *Clause 47.*—We have made an addition in order to provide for the case of excess payments as well as for that of payments to the wrong person.

13. *Clause 49.*—We have added some words to bar after one year suits in respect of wrong payments which are not covered by sub-clause (b).

14. *Clause 50.*—We have confined this provision to cases of voluntary withdrawal from duty, and we have provided for punishment with one month's imprisonment as well as with fine.

15. *Clause 52.*—We have qualified the word “misappropriates” by prefixing “dishonestly,” and we have transposed the expression “for any purpose whatsoever” so as to govern the secreting, destroying or throwing away of postal articles.



16. *Clauses 53 and 67.*—We have made amendments so as to save also the authority of a competent Court acting under, for example, the provisions of section 95 of the Code of Criminal Procedure. The language of the two clauses has at the same time been assimilated.

17. *Clause 54.*—We have omitted as unnecessary sub-clause (c) of the clause in the original Bill, and inserted the word “knowingly” before the words “demands or receives” in the latter part of the provision.

18. *Clause 57.*—We have added a paragraph to exclude in the cases here dealt with the provisions of section 188 of the Code of Criminal Procedure, which require special certificates before proceedings can be taken in British India for offences committed by certain British subjects elsewhere.

19. *Clause 72.*—We have confined this provision to the particular cases in which the Postal Department, rather than the public, seems to us to be primarily concerned, or in which we think that prosecutions ought not to be instituted without a guarantee that the expediency of prosecuting has been considered by a high officer of the Department. We have at the same time followed the language of section 196 of the Code of Criminal Procedure.

20. Such other alterations as we have made seem to call for no comment.

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

| <i>In English.</i>                                  |     |     |     | <i>Date.</i>        |
|---|-----|-----|-----|---------------------|
| <i>Gazette.</i>                                     |     |     |     |                     |
| Gazette of India                                    | ... | ... | ... | 7th November 1897.  |
| Fort Saint George Gazette                           | ... | ... | ... | 23rd November 1897. |
| Bombay Government Gazette                           | ... | ... | ... | (Not reported.)     |
| Calcutta Gazette                                    | ... | ... | ... | 24th November 1897. |
| North-Western Provinces and Oudh Government Gazette | ... | ... | ... | 20th November 1897. |
| Punjab Government Gazette                           | ... | ... | ... | 18th November 1897. |
| Burma Gazette...                                    | ... | ... | ... | 4th December 1897.  |
| Central Provinces Gazette                           | ... | ... | ... | 20th November 1897. |
| Assam Gazette                                       | ... | ... | ... | 4th December 1897.  |
| Coorg District Gazette                              | ... | ... | ... | 1st December 1897.  |
| Sind Official Gazette                               | ... | ... | ... | (Not reported.)     |

| <i>In the Vernaculars.</i> |     |                  |     | <i>Date.</i>        |
|----------------------------|-----|------------------|-----|---------------------|
| <i>Province.</i>           |     | <i>Language.</i> |     |                     |
| Bengal                     | ... | Bengali          | ... | 8th February 1898.  |
|                            |     | Hind             | ... | 15th February 1898. |
|                            |     | Uriya            | ... | 4th February 1898.  |
| Burma                      | ... | Burmes           | ... | 29th January 1898.  |
| Assam                      | ... | Bengali          | ... | 19th February 1898. |

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

(Signed) J. WESTLAND.  
 ( „ ) M. D. CHALMERS.  
 ( „ ) JOY GOVIND LAW.  
 ( „ ) H. E. M. JAMES.

I sign this Report subject to the minute of dissent appended.

(Signed) P. ANANDA CHARLU.

*The 10th March, 1898.*

As to the power taken under section 26 (1), I recognise the necessity for it to meet an emergency in the first instance, but I do not see why, after the action shall have been taken, the grounds for it should not see the light or the action itself should not run the gauntlet of a judicial investigation if necessary. Under the section the Government themselves will, in any event, be perfectly safe when reasonable or *prima facie* grounds exist; and I can realise no reason why anything more than this should be sought to be secured. To hush up an affair or to fight shy of its publication is bad policy, while to give it publicity will be a tangible warning to similar offenders as to what they should avoid. The balance of advantage to the public, for whose protection the power is taken, is in placing even the Government under the reign of law; for, with a *bona fide* case, the position of the Government would be absolutely impregnable. These are some of my reasons for this dissent.

(Signed) P. ANANDA CHARLU.

J. M. MACPHERSON,  
 Secretary to the Government of India.