



# Bombay Government Gazette.

Published by Authority.

THURSDAY, 29<sup>TH</sup> SEPTEMBER 1898.

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 23rd September 1898 :—

No. 10 of 1898.

*A Bill to amend the Indian Marine Act, 1887.*

WHEREAS it is expedient to amend the Indian Marine Act, 1887 (hereinafter referred to as "the said Act"); It is hereby enacted as follows :

1. (1) This Act may be called the Indian Marine Act (1887) Amendment Act, 1898; and

(2) It shall come into force at once.

2. In section 2, sub-section (1), clause (a), of the said Act, for the words "the Indian Marine Service" the words "the Royal Indian Marine Service" (herein referred to as "the Indian Marine Service" or "Her Majesty's Indian Marine Service") shall be substituted.

3. In the same section and sub-section of the said Act, for clauses (b), (c) and (d) the following clauses shall be substituted, namely :

(b) "gazetted officer" means a person who, by virtue of his letter of appointment, is holding a position in the Indian Marine Service as—

|                 |                     |
|-----------------|---------------------|
| Commander,      | Chief Engineer,     |
| Lieutenant,     | Engineer, or        |
| Sub-Lieutenant, | Assistant Engineer; |

(c) "warrant officer" means a person who, by virtue of his appointment, is holding a position in the Indian Marine Service as—

|                    |                              |
|--------------------|------------------------------|
| Assistant Surgeon, | Carpenter,                   |
| Gunner,            | Clerk, or                    |
|                    | Engine-driver, first class : |

(d) "petty officer" means a person who is employed in the Indian Marine Service as—

|  |                                    |
|--|------------------------------------|
| General Mess Steward,                  | Carpenter's Mate, first class,     |
| Chief Syrang of Lascars, first class,  | Carpenter's Mate, second class,    |
| Chief Syrang of Lascars, second class, | Carpenter's Crew, first class,     |
| Syrang of Lascars, first class,        | Carpenter's Crew, second class,    |
| Syrang of Lascars, second class,       | Plumber,                           |
| Sukkani,                               | General Mess Butler, first class,  |
| Tindal of Lascars, first class,        | General Mess Butler, second class, |
| Tindal of Lascars, second class,       | Cook, first class,                 |
| Engine-driver, second class,           | Cook, second class,                |
| Syrang of Stokers, first class,        | Ship's Steward,                    |
| Syrang of Stokers, second class,       | Tide-watcher,                      |
| Tindal of Stokers, first class,        | Kassab, first class,               |
| Tindal of Stokers, second class,       | Kassab, second class,              |
|  | Pilot,                             |
|  | Chart-room Attendant,              |
|  | Leadsmen, or                       |
|  | Interpreter :                      |

4. (1) In section 53 of the said Act, for sub-sections (1), (2) and (3) the following sub-sections shall be substituted, namely :

Substitution of new sub-sections for sub-sections (1), (2) and (3), section 53, Act XIV, 1887.

“ 53. (1) An Indian Marine Court shall consist of a president and not less than two, or more than four, other members, such members to be of rank not inferior to that of Lieutenant.

(2) The president of an Indian Marine Court for the trial of a Commander shall be of rank not below that of Commander, and two at least of the other officers composing the Court shall be of rank not below that of Commander.

(3) Except in the case of an Indian Marine Court convened under section 52, sub-section (2), the president of an Indian Marine Court for the trial of any person below the grade of Commander shall be of rank not below that of Commander.”

(2) To the said section the following sub-sections shall be added, namely :

“(10) The seniority and precedence of officers serving on the same Indian Marine Court shall be governed by their seniority as shown in the latest Indian Marine List. The fact of any officer bearing a superior title by virtue of an appointment which he may for the time being be holding, shall not give him seniority or pre-

cedence over any officer serving with him on the Indian Marine Court who may be senior to him on the Indian Marine List.

(11) The authority convening an Indian Marine Court shall, when practicable, appoint a Judge Advocate to every trial, who shall be, if possible, an officer of the Judge Advocate-General's Department.

(12) The authority convening an Indian Marine Court, shall also appoint a person as Provost-Marshal, who shall be responsible for the arrest and safe custody of the prisoner or prisoners as directed until the decision of the confirming authority is made known and communicated to him by the convening authority.”

Addition of new section after section 70, Act XIV, 1887.

5. After section 70 of the said Act the following shall be added, namely :

“Supplemental.

“70A. When an Indian Marine vessel is wrecked, lost, destroyed or captured by the enemy, it shall, for the purposes of this Act, be deemed to remain an Indian Marine vessel until her crew are regularly removed into some other Indian Marine vessel or until a court of inquiry has been held into the cause of the wreck, loss, destruction or capture thereof.”

Provision in case of wreck, loss, destruction or capture of Indian Marine vessel.

[29 & 30 Vict., c. 109, s. 91.]

#### STATEMENT OF OBJECTS AND REASONS.

SINCE the Indian Marine Act, 1887 (XIV of 1887), was passed, the titles of some of the gazetted officers of the Indian Marine Service have been altered by an Order in Council, and certain modifications have been made in the nomenclature of warrant and petty officers. Her Majesty has further been graciously pleased to approve of the Indian Marine being designated the “Royal Indian Marine.” Clauses 2, 3 and 4 of this Bill are intended to give effect to these changes.

2. By the remaining clause it is proposed to add to the Act a new section which is based on section 91 of the Naval Discipline Act, 1866 (29 & 30 Vict., c. 109), and will provide for the maintenance of discipline after the wreck, loss, destruction or capture of Indian Marine vessel.

The 15th September 1898.

(Signed) EDWIN H. H. COLLEN.

J. M. MACPHERSON,  
Secretary to 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 23rd September 1898 :

**No. 11 of 1898.**

*A Bill to amend the law relating to the forgery of currency-notes and bank-notes.*

WHEREAS it is expedient to amend the law relating to the forgery of currency-notes and bank-notes ; It is hereby enacted as follows :

Short title and commencement. 1 (1) This Act may be called the Currency-Notes Forgery Act, 1898; and

(2) It shall come into force at once.

XLV of 1860.

Insertion of new sections after section 489, Act XLY, 1860. 2. After section 489 of the Indian Penal Code the following sections shall be inserted, namely:

*"Of Currency-Notes and Bank-Notes.*

[Cf. 24 & 25 Vict., c. 98, s. 13.]

"489A. Whoever without lawful authority or excuse (the proof whereof shall lie on the accused) buys or receives from any other person or has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punishable with transportation for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

[Cf. 24 & 25 Vict., c. 98, ss. 14, 16, 17 & 18.]

"489B. Whoever without lawful authority or excuse (the proof whereof shall lie on the accused)—  
Making or possession of any instruments or materials for forging currency-notes or bank-notes.

(a) makes or begins or prepares to make or uses or knowingly has in his possession or disposes of—

(i) any paper or other substance resembling any paper such as is specially provided by the proper authority for the purposes of being used for making any currency-note or bank-note, or

(ii) any machinery or instrument or material for making any such paper or other substance or capable of producing in or on such paper or substance any words, figures, letters, marks or lines, resembling any words, figures, letters, marks or lines used in or on any paper specially provided for any such purpose ; or

(b) impresses or makes upon any plate or material any words, figures, letters, marks or lines, the impression whereof resembles, in whole or part, the words, figures, letters, marks or lines used in any such document as aforesaid ; or

(c) uses, or knowingly has in his possession or disposes of, any plate or material upon which any such words, figures, letters, marks or lines are impressed or made ; or

(d) uses, or knowingly has in his possession or disposes of, any paper or other substance on which is written or printed the whole or any part of the usual contents of any such document as aforesaid ;

shall be punishable with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

3. In the Code of Criminal Procedure, 1898, of 1898, Addition to Schedule II, Schedule II, after the entries relating to section 489 of the Indian Penal Act V, 1898.

Code the following shall be inserted, namely : XLV of 1860.

*Of Currency-Notes and Bank-Notes.*

|       |  |                             |          |                |                       |  |                   |
|-------|--|-----------------------------|----------|----------------|-----------------------|--|-------------------|
| 489A. | Possession of forged notes ...   | May arrest without warrant. | Warrant. | Not bail-able. | Not com- pound- able. | Transportation for life, or imprisonment of either description for 10 years, and fine. | Court of Session. |
| 489B. | Making or possession of any instruments or materials for forging currency-notes or bank-notes. | Ditto ...                   | Ditto... | Ditto...       | Ditto ...             | Transportation for life, or imprisonment of either description for 7 years, and fine.  | Ditto.            |

**STATEMENT OF OBJECTS AND REASONS.**

The object of this Bill is to amend the Indian Penal Code (Act XLV of 1860) so as to provide more adequately for the protection of currency-notes and bank-notes from forgery.

2. The subject has been forced on the attention of the Government of India by the fact that cases of forged currency-notes have become more frequent in recent years, and that several instances have of late occurred of the reproduction, by means of photography and with apparent fraudulent intent, of currency-notes.

3. Under the Indian Penal Code, which was passed prior to the existence of a paper-currency in India, currency-notes are not protected by any special provisions, but merely by the general provisions applying to the forgery of valuable securities. There appears, however, to be a very clear and obvious distinction between documents which pass from hand to hand as money, form about one-sixth of the whole currency circulation and come into the possession, occasionally at any rate, of even the most ignorant classes of the population, and other valuable securities which are often drawn up by a lawyer, concern only the persons who execute them, can be transferred only under certain legal formalities and usually come into the possession only of experts. Protection which may be ample for documents of the latter kind, may be quite inadequate for those of the former.

4. Such a distinction is already recognized by the English Statute law, which contains special penal provisions for the forgery of bank-notes (as well as certain other notes and bills circulating among merchants and bankers almost as freely as bank-notes), for the possession and uttering of forged bank-notes, and for the possession of papers and instruments (such as engraved plates, etc.) intended to be used in forging bank-notes. These provisions are to be found in the Forgery Act, 1861 (24 & 25 Vict., c. 98), and relate to the following offences:

- (1) the forging or altering a bank-note, or the uttering a forged bank-note with intent to defraud (section 12);
- (2) the purchasing, receiving or possessing a forged bank-note or blank bank-note, without lawful authority or excuse, the proof of which lies on the party accused (Section 13);
- (3) the making or having a mould, etc., for making paper with water-marks, etc., such as are used for bank-notes, or the selling or having or imitating such paper without lawful authority or excuse, the proof of which lies on the party accused (section 14);
- (4) the engraving or having any plate, etc., for making bank-notes or blank bank-notes, or the uttering or having paper upon which a blank bank-note or part of a bank-note has been printed without lawful authority or excuse, the proof of which lies on the party accused (section 16);
- (5) the engraving or having any plate, etc., for producing a word, number, figure, device, character or ornament resembling any part of a bank-note, or the uttering or having paper bearing any such impression without lawful authority or excuse, the proof of which lies on the party accused (section 17).

5. In India charges for forging currency-notes have to be preferred under section 467 of the Indian Penal Code; for uttering them under section 471; and for making or possessing counterfeit plates under section 472. The provisions of section 467, as to the forgery of documents seem not materially to differ from those of the English law on the subject, and they afford sufficient means for dealing both with forgery generally and with the forgery of currency-notes. But a reference to the other sections will show how much less explicit they are than the English law and how much more difficult it consequently is to obtain a conviction under them.

6. It is, for instance, provided in section 472 that the preparing or having a plate, &c., for making an impression, intending that the same shall be used for the purpose of committing forgery, is an offence, the intention being of the very essence and the burden of proving it being laid upon the prosecution. The English law, on the other hand, renders the same act punishable, if it is done without lawful authority or excuse, and throws the burden of proving lawful authority or excuse upon the accused person, and not upon the prosecution.

7. This is a very important point throughout these offences. In every instance (except that of actual forgery), instead of the prosecution being bound to prove the intention, the accused is under the English law required to show that he has lawful authority or excuse for what he does or for what he has in his possession. The Courts will, doubtless, often presume the accused's intention from his actions and the concomitant circumstances, but the fact remains that the burden of proof as regards lawful excuse is in England thrown on the accused, and it will readily be seen in how much stronger a position the prosecution in that country is thus placed.

8. There is another distinction, and it seems to be of almost as great importance as, or perhaps of even greater importance than, that just mentioned. It will be noticed that the English law renders punishable the possession of "blank" bank-notes, or even of a very small part of a bank-note, when forged, unless the accused can show lawful authority or excuse. But under the Indian Penal Code this is not an offence, and even the uttering, or attempting to utter such blank notes or parts of notes (though it might possibly be punishable as cheating or attempting to cheat) is not punishable under the sections relating to forgery. This is apparently due in the main to the fact that currency-notes are protected only by the general law relating to valuable securities, in the case of which the signature of some party to the deed is the all-important formality. It has been held that the "making" of a false document consists in the document or part of a document being signed or sealed with the name or seal of a person who did not in fact sign or seal it; and this ruling has been applied to currency-notes. Therefore, in order to forge a currency-note, it is necessary to forge the signature, and the possession of a portion of a counterfeit note, or even of the whole of such a note complete in every respect except as to the signature, is not an offence of any kind. It is clear that this constitutes a dangerous position for the paper-currency of British India.

9. The foregoing remarks relate to the protection of currency-notes from preparations for, and attempts at, forgery. It has, however, been deemed desirable to bring within the scope of the Bill bank-notes as well as currency-notes; for, although the case of the former is much less important than that of the latter, the Government of India consider that bank-notes, and especially those of the Bank of England, should, as in the United Kingdom, be afforded the same general protection as that which it is proposed to secure for Indian currency-notes.

10. The clauses of the Bill do not seem to require any further explanation. The provisions of the English law, on which the two sections which clause 2 proposes to add to the Penal Code are based, are referred to in the margin opposite those sections. Clause 3 makes a consequential amendment in the Code of Criminal Procedure.

(Signed) J. WESTLAND.

*The 23rd September 1898.*

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