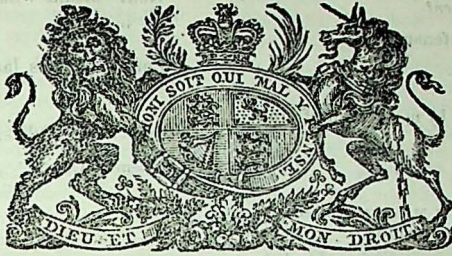


THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 30TH JANUARY 1868.

Separate paging is given to this Part in order that it may be filed as a separate compilation.
The paging of this Part commenced with the Number for January 1867.

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

HOME DEPARTMENT (Legislative).

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th January 1868:—

No. 4 of 1868.

PANJA'B TENANCY BILL.

CONTENTS.

Preamble.

PART I.

PRELIMINARY.

SECTION.

1. Short title.
2. Saving of agreements between landowners and tenants, and of decrees.
3. Interpretation clause.

PART II.

RIGHTS OF OCCUPANCY.

4. Tenant who has lost proprietary rights otherwise than by forfeiture to Government.
5. Tenant whose name is in settlement records, or who has occupied continuously for certain period.
6. When tenants not recorded as having right of occupancy shall have same rights as other tenants.
7. No right of occupancy acquired by mere lapse of time.

GOVT. OF INDIA BILLS—76

PART III.

OF RENT.

1.—Enhancement.

8. Liability to enhancement of rent.
9. Suit for re-enhancement.

2.—Rent payable by Tenant-at-will.

10. Rent payable by tenant-at-will.

3.—Abatement of Rent.

11. Grounds of right to abatement.

4.—Remission of Rent.

12. When Court may allow remission from rent.

5.—Rent in kind.

13. Commutation of rent in kind.
14. Division and appraisal of produce taken for rent.
15. Procedure in case of dispute.

PART IV.

OF EJECTMENT, ABANDONMENT, RELINQUISHMENT, SUB-LEASES.

Ejectment.

16. Ejectment of tenants-at-will and tenants having right of occupancy.
17. Tenant-at-will not liable to ejectment without notice.
18. Ejectment of tenant having a right of occupancy.
19. Time of ejectment.
20. Compensation to ejected tenant for growing crops.
21. Loss of right of occupancy on ejectment.

Abandonment.

- 22. Loss of right of occupancy on abandonment. Abandonment, what.

Relinquishment.

- 23. Relinquishment of land by tenant.

Sub-leases.

- 24. Right to sub-let.
- 25. Loss of right of occupancy by non-receipt of produce.

PART V.

OF CERTAIN DISABILITIES WHICH MAY BE REMOVED BY PAYMENT OF COMPENSATION.

- 26. Right of land-owner to resume possession of leased land required for his own cultivation.
- 27. Right of tenant to alienate tenure. Land-owner's right of pre-emption. Right of tenant's alienee.
- 28. Removal of disability to plant or cut trees.

PART VI.

OF COMPENSATION FOR TENANTS' IMPROVEMENTS.

- 29. Rights as to improvements.
- 30. Enforcement of tenant's right to require or make improvements.
- 31. Tenant's right to compensation for improvements.
- 32. Compensation how made.
- 33. "Improvements" defined.

PART VII.

PROCEDURE.

- 34. Revenue Courts, what.
- 35. Revenue Courts to hear claims under certain sections.

A Bill to define and amend the law relating to the tenancy of land in the Panjáb.

WHEREAS it is expedient to define and amend the law relating to certain matters connected with the tenancy of land in the Panjáb; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

- 1. This Act may be called "The Panjáb Short title. Tenancy Act."
- 2. Nothing contained in this Act shall affect the operation of any agreement entered into between a land-owner and a tenant or of any decree of court under which a tenant holds. Saving of agreements between landowners and tenants, and of decrees.
- 3. In this Act, unless there be something repugnant in the subject Interpretation clause. or context—
 "Land-owners" means any person entitled to receive rent, but does not include the Government, in cases where the Government is entitled only to the land-revenue, nor any mere assignee of land-revenue;
 "Tenant" means any occupant of land liable to pay rent therefor, who does not, at the date of the passing of this Act, possess both a heritable

and a transferable interest in such land, and includes the person from whom the land may have been inherited, or otherwise legally acquired;

"Rent" means whatever is payable on account of the use or occupation of land;

"Land" means land subject to a settlement, whether regular or sunmary, of land-revenue;

"Settlement Officer" means any officer employed in making or revising a regular settlement of land revenue.

PART II.

RIGHTS OF OCCUPANCY.

4. Every tenant who has at any time possessed Tenant who has lost proprietary rights otherwise than by forfeiture to Government, those rights otherwise than by forfeiture to Government, shall be deemed to have a right of occupancy in such land.

5. Every tenant whose name appears in the records of a regular settlement records, or who has occupied continuously Local Government prior to the passing of this Act, as having a right of occupancy in land which he has continuously occupied from the date of entering his name in such settlement, or who, if no such settlement has been made, shall have occupied the land continuously for a term commencing not less than twelve years prior to the first day of April 1849, shall, unless and until the contrary be proved, be presumed to have a right of occupancy in the land so occupied.

The land-owner may rebut the said presumption by showing—

(1).—That the entry in the said records was made in violation of the rules laid down by the settlement officer, as set forth in the official report or the records of the settlement; or

(2).—That the tenant has voluntarily admitted before any settlement officer, or before any officer authorized to attest mutation of entries in the village record, that he is a tenant-at-will; or

(3).—That within the thirty years immediately before the institution of a suit relating to the right of occupancy, other tenants of the same class and holding under similar circumstances in the same or in adjacent villages (excepting tenants specified in section three), have ordinarily been ejected from their holdings at the will of the land-owner; or

(4).—That on any other grounds which may satisfy a Civil Court, the tenant is only a tenant-at will.

Explanation.—If the tenant shall have voluntarily exchanged the land, or any portion of the land, formerly occupied by him, for other land belonging to the same land-owner, the land taken in exchange shall, for the purposes of this Act, be held to be subject to the same right of occupancy as the land given in exchange would have been subject to if the exchange had not taken place.

6. Any tenant who at a regular settlement sanctioned by the Local Government prior to the

cupancy shall have same rights as other tenants. passing of this Act was not recorded as having a right of occupancy, shall, if in the opinion of the Court there is reason for believing that he would have been so recorded if he had preferred his claim at the settlement have the same rights and be subject to the same liabilities as other tenants who were recorded in the same settlement as having rights of occupancy.

7. No tenant-at-will shall be deemed to acquire a right of occupancy by mere lapse of time. No right of occupancy acquired by mere lapse of time.

**PART III.
OF RENT.**

1.—Enhancement.

8. Every tenant having a right of occupancy shall be liable to have his rent enhanced; but the rent of no such tenant shall be enhanced otherwise than in execution of a decree of Court made in accordance with the following provisions, (that is to say):—

(1)—In no case shall the rent payable by the tenant, be more than eighty-five per cent. of the average annual net produce which, in the opinion of the Court, the land is capable of yielding during a period of five years from the date of suit; and

(2)—The rent payable by the tenant shall not exceed seventy-five per cent. of such net produce, if before the institution of a suit for enhancement or the regular settlement he did not pay rent at any higher rate than that of the land-revenue.

Explanation.—These rates are laid down on the assumption that the land-revenue and all extra cesses, such as Road Fund, Lumberdars' fees, Patwari's fees, School Fund, district dak cess, and the like, are payable by the land-owner. If the land-revenue or any of the said cesses is payable by the tenant, the rate to which his rent may be enhanced shall be reduced by the amount so payable.

9. After a decree shall have been passed in accordance with section eight, no suit shall lie for re-enhancement of the rent until the expiration of five years from the date of such decree, unless—

(1)—A general revision of settlement shall have taken place in the meantime; or

(2)—The quantity of land held by the tenant shall be ascertained to be greater than the quantity for which he has paid rent previously to the institution of the suit; or

(3)—The productive power of the land shall have been increased by improvements of the description mentioned in section thirty-three effected at the sole expense of the land-owner.

2.—Rent payable by Tenant-at-will.

10. Every tenant-at-will shall pay such rent as may be agreed upon between him and the land-owner; or, if no such agreement has been made, such rent as was payable for the land in the last preceding year.

3.—Abatement of Rent.

11. Every tenant having a right of occupancy shall be entitled to claim abatement of the rent previously paid by him on either of the following grounds, and on no others:—

(1)—That the area of the land has been diminished by diluvion or otherwise, or proved to be less than the quantity for which rent has been previously paid by him; or

(2)—That the productive powers of the land have been decreased by any cause beyond the control of the tenant.

4.—Remission of Rent.

12. Notwithstanding anything contained in section ten or section eleven, it shall be lawful for the Court, in making a decree for an arrear of rent, to allow such remission from the rent payable by any tenant as may appear equitable, if the area of the land in the occupation of such tenant be diminished by diluvion or otherwise, or if the produce of such land has been diminished by drought or hail, or other calamity beyond the control of the tenant, to such an extent that the full amount of rent payable by such tenant cannot, in the opinion of the Court, be equitably decreed.

5.—Rent in Kind.

13. No commutation of rent in kind into rent in money shall take place without the consent of the land-owner; and no commutation of rent in money into rent in kind shall take place without the consent of both the land-owner and the tenant.

14. Whenever rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other procedure of a similar nature, requiring the presence of the person entitled to the rent and of the cultivator either personally or by their recognised agents, if either party shall neglect to be present at the proper period, or if a dispute shall arise between the parties regarding such division, estimate or appraisement, either party may present an application to the Court requesting that a suitable person be deputed to make the division, estimate or appraisement.

15. On receiving such application the Court shall issue a written notice to the other party requiring him to attend on the date and at the place specified in the notice, and shall depute a suitable person before whom the division, estimate or appraisement shall be made. The award of such person in respect of the division, estimate or appraisement shall be final, unless within three months from the date thereof either party shall institute a suit in the Civil Courts to set it aside.

PART IV.

OF EJECTMENT, ABANDONMENT, RELINQUISHMENT, SUB-LEASES.

Ejectment.

16. Subject to the provisions contained in sections sixteen, seventeen, and eighteen, every tenant-at-will shall be liable

to be ejected from the land in his occupancy, and every tenant having a right of occupancy, from whom an arrear of rent is due, shall be liable to be ejected from the land in respect of which the arrear is due.

17. No tenant-at-will from whom no arrear of rent is due shall be ejected to Tenant-at-will not liable to ejectment without notice. occupancy, unless he shall have received notice of the land-owner's intention to eject him, and such notice shall have been recorded by the Patwari, or a written notice put up in some conspicuous place in the village in which the land is situate, at the time fixed in the village administration paper for such notices to be given, if or no such time be so fixed, on or before the first day of May in any year after the passing of this Act.

18. No tenant having a right of occupancy shall be ejected otherwise than in execution of a decree for ejectment, and such decree shall not be made unless at the date of the decree, a decree against such tenant for an arrear of rent in respect of the land from which the land-owner desires to eject him shall have remained unsatisfied for fifteen days or upwards.

19. Not tenant shall, whether in execution of a decree or otherwise be ejected from the land occupied by him except at such time as may have been fixed in that behalf in the village administration paper; or, if no such time has been fixed, except between the first day of May and the fifteenth day of June, any year after the passing of this Act: Provided that, if, while his rent is in arrear, he has failed to cultivate the land for which the arrear is due, in accordance with the terms on which he holds it, he may be ejected therefrom at any time.

20. Any tenant ejected in accordance with the provisions of this Act, shall be entitled to receive from the land-owner the value of any growing crops or other ungathered products of the earth belonging to such tenant and being on the land at the time of such ejectment.

21. If a tenant having a right of occupancy be ejected in accordance with the provisions of section seventeen from the land in which he possesses such right, he shall lose his right of occupancy in such land.

22. If a tenant having a right of occupancy abandon the land in his occupancy, he shall lose his right of occupancy in such land.

23. Every tenant shall continue liable for the rent of the land occupied by him, unless at the time fixed in that behalf in the

Relinquishment.

23. Every tenant shall continue liable for the rent of the land occupied by him, unless at the time fixed in that behalf in the

village administration paper, or, if no such time be fixed, on or before the fifteenth day of May in any year after the passing of this Act, he shall give notice to the land-owner of his intention to relinquish such land, or unless such land shall have been let to any other person by the land-owner.

Sub-leases.

24. Any tenant having a right of occupancy may sub-let, or otherwise temporarily provide for the cultivation of his land, whenever for any sufficient reason he is unable to cultivate it himself.

25. Provided that the tenant shall lose his right of occupancy, if it appear that, for a period of more than three years, neither the tenant nor his heir has received any portion of the produce of the land.

PART. V.

OF CERTAIN DISABILITIES WHICH MAY BE REMOVED BY PAYMENT OF COMPENSATION.

23. Any land-owner proving to the satisfaction of the Court that the quantity of land in his possession is insufficient for the support of himself and his household, may, on payment of the market value of the land, be entitled to require a surrender of as much of the land of any tenant having a right of occupancy subordinate to him (the land-owner) as shall, when added to the land already in the land-owner's possession, be sufficient in the opinion of the Court for the support of himself and his household: Provided that, at the option of the tenant, the land-owner shall be required to take at the market-value either such additional quantity only, or the whole of the land occupied by the tenant.

27. Any tenant having a right of occupancy in any land, and having an heir entitled to succeed to such land, shall have power, subject to any restrictions imposed on the disposition of immoveable property generally by law or local usage, to alienate his tenure on payment to the land-owner of a sum of ten per cent. of the market-value; provided that in every such case the tenure shall be offered for sale in the first instance to the land-owner at the market-value less ten per centum, and shall not be sold to any other person unless the land-owner shall for the space of one month refuse or neglect to complete the purchase.

Every person to whom a tenure shall be alienated under this section, shall be deemed to have the same rights and to be subject to the same liabilities as the tenant making the alienation.

28. Any tenant having a right of occupancy but disentitled to plant or cut down, remove and dispose of trees or timber planted by himself or of spontaneous growth, on the land in his occupation, shall, on tendering to

the land-owner such compensation as the Court shall think reasonable, become entitled to plant and cut down, remove and dispose of any such trees or timber as aforesaid. Provided that nothing herein contained shall be deemed to authorize the tenant to plant trees so as to diminish the amount of rent which he may from time to time be liable to pay in kind.

PART VI.

OF COMPENSATION FOR TENANTS' IMPROVEMENTS.

29. The land-owner may make improvements on the land in the occupation of any tenant; and any tenant may with the previous permission of the land-owner make improvements on such land: Provided that the land-owner shall be deemed to have given such permission in every case where, being cognizant of the improvements while they were being made, he did not expressly prohibit them.

30. Any tenant having a right of occupancy may require the land-owner either to make the improvements or to give the tenant permission to make them. If the land-owner refuse to make or neglect to commence and within a reasonable time to complete the improvements required of him, or to give the tenant permission to make them, the tenant may, on satisfying the Court that such improvements or any of them are or is desirable, obtain an order authorizing him to effect them or it himself.

31. If any tenant shall have made improvements on the land in his occupation in accordance with the conditions mentioned in sections twenty-nine and thirty, and if the land-owner ejects or brings a suit to eject or to enhance the rent of such tenant, the tenant shall be entitled to compensation for the outlay, in money or labour, or both, in making such improvements, which shall have been effected by him within twenty years next before such ejection or the institution of such suit as aforesaid.

32. Such compensation shall, in case the tenant is ejected or the land-owner sue to eject him, be made by payment in money; and in case the land-owner sue to enhance the rent within twenty years after the date of effecting any such improvement, the Court in making a decree in his favour shall not take into consideration the increase of the value of the land which may reasonably be attributed to such improvement: Provided that, in estimating the amount of the compensation, regard shall be had to any benefit derived by the tenant from his having been allowed to hold at a rate of rent more favourable than the rate at which he otherwise would have held.

33. The word "improvements," as used in sections twenty-nine, thirty, thirty-one and thirty-two, means works by which the annual letting value of the land has been, and, at the time of demanding compensation, continues to be, increased, and shall comprise—

1st.—The construction of wells and of works for the storage of water, for applying water for irrigation, for drainage, and for protection against floods; the reclaiming and clearing of waste lands and jungles; and other works of a like nature;

2nd.—The renewal or re-construction of any of the foregoing works, or such alterations therein or additions thereto as are not required for maintaining the same, and which increase durably their value.

PART VII.

PROCEDURE.

34. For the purposes of this Act, the Revenue Courts shall be the several Courts mentioned in section four of the Panjáb Courts' Act, 1865, holding sittings on the revenue side, other than Courts of Small Causes; but instead of the Chief Court of the Panjáb, the final Court of appeal shall be the Court of the Financial Commissioner of the Panjáb. The Court of the Settlement Officer shall also for the purposes of this Act be deemed to be a Revenue Court. All the provisions of the said Act and of Act No. XXVII. of 1867 (*to empower Deputy Commissioners in the Central Provinces, the Panjáb, Oudh and the Jhansi Division to distribute the business in subordinate Courts*) shall, so far as they are applicable, apply to the Revenue Courts.

35. Claims under sections eight, nine, thirteen, fourteen, fifteen, twenty-six, twenty-seven and twenty-eight shall, unless otherwise provided for, be heard in the Revenue Courts. The rules relating to civil procedure for the time being in force in the Panjáb shall, so far as they are applicable, apply to all suits brought before the Revenue Courts under this Act.

STATEMENT OF OBJECTS AND REASONS.

No Act at present exists to provide for the fixing or enhancing of the rent of land in the Panjáb, or for dealing with the claims of tenants to rights of occupancy and with other matters relating to the tenancy of land. Acts for these purposes are in existence, which apply to Bengal and the North-Western Provinces, and a Bill on the same subject for the Province of Oudh has recently been introduced in the Council. An enactment for the regulation of these matters is no less required for the Panjáb. Whatever appeared applicable to the requirements of the Panjáb, in the North-West Provinces' Acts (Nos. X. of 1859, and XIV. of 1863) and the Oudh Bill, has been adopted in the present draft, but other provisions differing in some very material respects from the provisions made for these Provinces, have been introduced where they appear to be required by the different circumstances of the Panjáb. Perhaps the most important point in which this Bill differs from Act No. X. of 1859 is that, whereas by that Act tenants who have cultivated for twelve years are deemed to have rights of occupancy in the land so cultivated, under this Bill mere length of possession confers no right of occupancy on the tenant, but only creates a rebuttable presumption of such a right, if he has been entered in the settlement record as having right of occupancy, or if he has occupied his land for a period of

twelve years before the annexation of the Panjáb; and mere length of possession under other circumstances creates no presumption of a right of occupancy in favour of the tenant.

I propose that this Bill be published for six or seven weeks before I move to pass it. There are so many experienced officers in the Panjáb, able to judge of the merits of the Bill, that I trust I shall, in this interval, receive from them valuable sug-

gestions in regard to all the points on which it may require amendment.

E. L. BRANDRETH.

CALCUTTA,
The 30th December 1867. }

WHITLEY STOKES,
Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)

PART VII.
Provisions

33. For the purpose of this Act the Revenue Courts shall be deemed to be the courts of law for the purposes of this Act. The Revenue Courts shall be deemed to be the courts of law for the purposes of this Act. The Revenue Courts shall be deemed to be the courts of law for the purposes of this Act. The Revenue Courts shall be deemed to be the courts of law for the purposes of this Act. The Revenue Courts shall be deemed to be the courts of law for the purposes of this Act.

34. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law.

35. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law.

36. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law. The provisions of this Act shall apply to the Revenue Courts in the same manner as they apply to the Courts of law.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 3rd January 1868, and was referred to a Select Committee, with instructions to make their report thereon in four weeks:—

Bill No. 1 of 1868.

A Bill to amend the law relating to appeals in the Punjab and its dependencies.

WHEREAS it is expedient to amend the law relating to appeals in the Punjab and its dependencies; It is hereby enacted as follows:—

Preamble.

Short title.

1. This Act may be called "The Punjab Appeals' Act 1868."

2. This Act shall extend only to the Punjab and its dependencies. It shall come into operation

Extent of Act.

from the thirty-first day of March 1868, in regard to all appeals preferred after that day, and shall continue in force to the thirty-first day of March 1873.

3. The Chief Court of the Punjab may, whenever it sees fit, remove and try any appeal falling within the jurisdiction of any Court subject to its superintendance.

Power of Chief Court to remove appeals.

4. Sections three hundred and thirty-three to three hundred and thirty-eight (both inclusive), three hundred and forty to three hundred and fifty-seven (both inclusive) three hundred and fifty-nine to three hundred and sixty-six (both inclusive), and three hundred and seventy-two to three hundred and seventy-four (both inclusive), of Act No. VIII. of 1859, and sections twenty-five to thirty-seven (both inclusive) of Act No. XXIII. of 1861, shall take effect in the Punjab and its dependencies, subject to the additions and provisoes hereinafter contained.

5. The sections of Act No. VIII. of 1859 and Act No. XXIII. of 1861 mentioned in the last preceding section, shall be read as if for "Sudder Court," the words "Chief Court" were substituted.

6. Except when otherwise expressly provided in this or any other Act for the time being in force, an appeal shall lie from the decrees of the Courts of original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts. If the lower appellate Court shall have reversed or modified the decree of the

Appeals from Courts of original jurisdiction to superior Courts.

Second appeals.

shall have reversed or modified the decree of the

Court of original jurisdiction upon any point other than a preliminary point, a second appeal shall lie to the Chief Court or the Court of the Commissioner, as the case may be.

7. Section three hundred and thirty-three of Act No. VIII. of 1859 shall be read as if, after "District Court," the following words were inserted (that is to say) "within sixty days, if the appeal be to a Divisional Court."

8. Section three hundred and forty-five of Act No. VIII. of 1859 shall be read as if the following proviso were added thereto (that is to say) "Provided that the Appellate Court may, if it sees fit, after fixing a time for hearing the appeal or his pleader, confirm the decision of the lower Court."

9. Section three hundred and seventy-two of Act No. VIII. of 1859 shall be read as if, after the words "in regular appeal" the following words were added (that is to say), "or second regular appeal, as the case may be."

STATEMENT OF OBJECTS AND REASONS.

The Code of Civil Procedure has, with the exception of the chapters on appeal and special appeal, already been extended to the Punjab. It is now proposed that these chapters also should be extended to that Province, with some slight modifications, required by its peculiar circumstances. In order to prevent, however, this difference of procedure between the Punjab and the rest of the empire being perpetuated, if it should not be required by the future circumstances of that Province, it has been provided that this Act shall only continue in force five years. The opportunity has been taken of supplying what appears to be a slight defect in the Punjab Chief Court Act, in that the Chief Court, under that Act, has no power to withdraw appeals from subordinate Courts in order to try the appeals itself.

(Signed) E. L. BRANDRETH.

CALCUTTA,
The 18th December 1867.

WHITLEY STOKES,
Asst. Secy. to the Govt. of India,
Home Dept. (Legislative).

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th January 1868, and was referred to a Select Committee with instructions to make their report thereon in a week :—

Bill No. 2 of 1868.

A Bill to amend Act No. III. of 1861.

WHEREAS Act No. III. of 1861 (to provide for the collection of duty of customs on pepper exported by sea from the British

Preamble. port of Cochin) provides that a duty of fifteen rupees per khandi shall be levied on all pepper exported by sea from the British port of Cochin; and whereas the Governments of Travancore and Cochin have recently reduced the duty on pepper exported from their ports from rupees fifteen to rupees nine per khandi; and whereas it is expedient that the duty leviable under the said Act should not exceed the said reduced duty; It is hereby enacted as follows :—

1. In lieu of the duty prescribed by the said

Duty leviable on pepper
exported by sea from Co-
chin.

Act No. III. of 1861,
or Act No. XVII. of 1867
(to amend the Law relat-
ing to Customs' Duties),

there shall be levied a duty not exceeding nine rupees a khandi on all pepper exported by sea from the said port of Cochin, and the Governor of Fort St. George in Council may from time to time determine the exact rate of duty to be levied under this Act.

2. This Act shall be read with and taken as

Act to be read with Act part of the said Act No.
No. III. of 1861. III. of 1861.

STATEMENT OF OBJECTS AND REASONS.

Act No III. of 1861 was passed to assimilate the duty on pepper grown in the Native States of Cochin and Travancore, but exported from the British port of Cochin, to that then levied on pepper exported from the ports of those States. The duty was accordingly fixed at rupees fifteen per khandi.

The States of Cochin and Travancore have recently reduced from rupees fifteen to rupees nine the duty on pepper exported from their own ports.

The present Bill (which has been prepared at the request of the Madras Government) accordingly proposes to effect a corresponding reduction in the case of pepper exported from the British port of Cochin. Provision has also been made for a further reduction in case the Native States referred to see fit to diminish the export duty now leviable in their ports. The duty will continue to be paid over to those States, minus the cost of collection.

(Signed) W. N. MASSEY.

CALCUTTA,
The 3rd January 1868. }

WHITLEY STOKES,

Asst. Secy. to the Govt. of India,
Home Dept. (Legislative)

GOVERNMENT OF INDIA BILLS—77 b

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th January 1868, and was referred to a Select Committee with instructions to make their report thereon in four weeks :—

Bill No. 3 of 1868.

THE MUNICIPAL IMPROVEMENTS' (N. W.P.)
ACT.

CONTENTS.

PART I.

PRELIMINARY.

Section.

1. Short title.
2. Interpretation clause.
3. Power to extend Act.
4. Power to define limits of places to which Act extends.
5. Existing Committees to be deemed Committees under this Act.

PART II.

APPOINTMENT OF MUNICIPAL COMMITTEES.

6. Committees appointed by Lieutenant Governor or election.
Removal of members.
Ex officio members.
Appointment of president and vice-president.
Notification of appointments.

PART III.

OFFICE AND MEETINGS OF COMMITTEES.

7. Committee to have an office. Meetings to be at least once a month.
Voting.
Publication of proceedings.
Secretary.
8. Presidency at meetings.
Casting-vote.
Quorum.
9. Commissioner of Division may attend meetings, inspect accounts and call for information.

PART IV.

POWERS OF COMMITTEES.

10. Power to make assessments and levy taxes.
11. Rules for confirmation and collection of taxes.
12. No rate invalid for defect of form.

Borrowing on Debentures.

13. Power to borrow on debenture.
14. Payment of principal.
15. Payment of interest.
16. Debentures transferable by endorsement and delivery.
17. Power to raise money for repayment of principal.
18. Form of debenture.
19. Orders authorizing Committees to borrow on debentures.

Section. Rules and By-laws.

20. Power of Committees to make rules.
21. Enforcement of rules and regulations.
22. Power to make by-laws as to nuisances, and registration of births, marriages, and deaths.
23. Power to prohibit obstructions, &c.
24. Power to remove nuisances, &c.
25. Confirmation of by-laws.
Publication of by-laws.
26. Power to acquire land.
Power to sell.
Receipts.
27. Limitation and suspension of powers of Committee.

PART V.

RIGHTS, DUTIES, AND LIABILITIES OF COMMITTEES.

Municipal Fund.

28. Municipal fund.
29. Custody and disbursement of municipal fund.
30. Duties of Committees.
Contracts.

Municipal Police.

31. Provision for Police.
32. Act V. of 1861, section 34, to be in force.
33. Police to aid in carrying out orders regarding nuisances.

Annual Reports.

34. Annual reports and statements to be submitted.

Public Highways.

35. Right of Committee in public highways.

Land required for Public Purposes.

36. Land required for municipal purposes may be taken up under Act No. VI. of 1857.

Suits by and against Committees.

37. Suits by and against Committees.
Members not personally liable for contracts made by Committee.
Liability of members for breach of trust.
38. Notice previous to bringing suit against Committee or its officers.

PART VI.

PENALTIES AND PROSECUTIONS, AND RECOVERY OF RATES.

39. Penalty on member or servant of a Committee being interested in contracts made with Committee.
40. Penalty for infringement of by-laws or rules, or non-payment of fines.
41. Prosecutions.
42. Recovery of rates.

SCHEDULE.

Form of Debenture.

A Bill to make better provision for the appointment of Municipal Committees in the North-Western Provinces, and for other purposes.

WHEREAS it is expedient to make better provision for the appointment of Municipal Committees in the North-Western Provinces of the Presidency of Fort William, and for the police, conservancy, and local improvements, and for education, and for the levying of rates and taxes, in the places to which this Act may be extended; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

1. This Act may be called "The Municipal Improvements' (North-Western Provinces) Act."
Short title.
2. In this Act, unless there be something repugnant in the subject or context—
Interpretation clause.
"Committee" means a Municipal Committee appointed under the provisions of this Act;
"Municipality" means any town or towns to which this Act may be extended;
- "Lieutenant Governor" means the Lieutenant Governor of the said Provinces.
3. The Lieutenant Governor may extend this Act or any of its sections or provisions, by notification in the local official *Gazette*, to any town or towns in the territories under his Government.
Power to extend Act.
4. For the purposes of this Act, the Lieutenant Governor may from time to time, by notification in the local official *Gazette*, define the limits of any town, and may include within the limits of such town any Railway-station, village, building, or land in the vicinity.
Power to define limits of places to which Act extends.

The Lieutenant Governor may from time to time, by notification in the local official *Gazette*, declare to be united for the purposes of this Act any two or more towns, and may also declare by what name the municipality so formed shall be designated.

5. All Municipal Committees hitherto appointed under the orders of the Lieutenant Governor, shall be deemed Committees under this Act, and Act No. XXVI. of 1850 (*to enable improvements to be made in towns*) shall cease to have effect in the towns into which it has been introduced, except as to any act done or liability incurred under it: Provided that all rules made and taxes imposed under it, which have been approved by the Lieutenant Governor, shall continue in force and recoverable as if they had been made and imposed under the provisions of this Act.
Existing Committees to be deemed Committees under this Act.

PART II.

APPOINTMENT OF MUNICIPAL COMMITTEES.

6. In any municipality to which this Act or any part thereof shall have been extended, the Lieutenant Governor may appoint or direct the appointment by election in such manner and for such period as to him may seem fit, any number of the inhabitants of such municipality, not less than eight in the case of a municipality at the head-quarters of a district, and not less than six in the case of a municipality not at the head-quarters of a district, to be members of a Committee for carrying out the purposes of the Act.
Committees appointed by Lieutenant Governor or election.

The Lieutenant Governor may, if he see fit, from time to time remove any of the members of the Committee, add to their number, and fill up vacancies occurring among them.

In addition to the members appointed as aforesaid the persons respectively filling for the time being the offices next hereinafter mentioned, shall be *ex officio* members of the Committee for every municipality in which they exercise their offices, and to which this Act shall have been extended—

Magistrate of District.....	} For a Municipality at Head Quarters of a District;
Civil Surgeon.....	
Tahsildar of Head Quarters' Tahsil.....	

together with such other officers as the Lieutenant Governor may from time to time appoint.

Magistrate of District.....	} For a Municipality not at Head Quarters of a District;
Civil Surgeon.....	
Tahsildar of Pargana.....	

together with such other officers as the Lieutenant Governor may from time to time appoint.

Provided that the number of such *ex-officio* members shall not be more than one-third of the total number of the Committee.

The Lieutenant Governor may also appoint the president and vice-president, or either of them, of any Committee, or sanction the election by any Committee of one of their members as president or as vice-president.

All appointments made under this section shall be notified in the local official *Gazette*.

PART III.

OFFICE AND MEETINGS OF COMMITTEES.

7. The Committee shall have an office, where they shall meet for the transaction of business at least once in every month, and as often at other times as a meeting shall be summoned by the president or vice-president.

All questions which may come before them at any meetings shall be decided by a majority of votes, and be recorded in a book kept for the purpose, and their proceedings shall be published in some local English or vernacular newspaper, or in such other manner as the Lieutenant Governor may direct.

The Committee may appoint one of the members or any other person to be their Secretary.

8. The president, or in his absence the vice-president, shall take the chair at every meeting of the Committee. In the absence of both the president and vice-president, the members present may elect a chairman for the occasion.

In case of equality of votes, the member presiding shall have a casting vote.

Not less than one-third of the total number of members shall form the quorum necessary for the transaction of business.

9. The Commissioner of the Division shall be entitled to attend all meetings of the Committee, to have free access to all records and accounts, books, and other documents of the municipality, and to make such suggestions for the consideration of the Committee as he may deem fit, and the Commissioner shall furnish him, so far as may be practicable, with any information he may call for connected with the duties entrusted to it.

All correspondence between the Committee and the Local Government shall pass through the Commissioner of the Division.

PART IV.

POWERS OF COMMITTEES.

10. The Committee may define the persons or property within the municipality to be taxed for the purposes of this Act, and if such taxes receive the sanction of the Lieutenant Governor, but not otherwise, they may impose them accordingly.

11. It shall be lawful for the Lieutenant Governor from time to time to make rules as to the persons by whom and the manner in which any assessment of taxes under this Act shall be confirmed, and for the collection of such taxes.

The Lieutenant Governor may from time to time repeal, alter, or add to such rules.

No tax shall be collected until it shall have been confirmed by the persons and in the manner hereinbefore referred to.

12. No rate on property made under this Act shall be invalid for defect of form, and it shall be enough in any such rate on property or any assessment of value for the purpose of making such rate, if the property rated or assessed shall be so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

Borrowing on Debentures.

13. For raising money for the purpose of executing works of a permanent nature, any Committee may, from time to time, with the previous sanction of the Lieutenant Governor, issue debentures under the hands of the president and two other members of the Committee, for such respective amounts and at such rate or rates of interest, as the Lieutenant Governor may think fit.

14. All such debentures shall be paid off at par at a time or times to be mentioned in such debentures respectively.
- Payment of principal.
15. The interest on all such debentures shall be payable half-yearly, on such days and at such place as shall be mentioned therein.
- Payment of interest.
16. All such debentures and all right to and in respect of the principal monies secured thereby, and all interest due and accruing thereon, shall be transferable by the endorsement and delivery of such debentures respectively.
- Debentures transferable by endorsement and delivery.
17. Upon or for the repayment of any principal monies secured under the authority of this Act, or any part of such monies, the Committee may, with such sanction as aforesaid, at any time raise by debentures all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money for the time being secured under this Act may require to be repaid; but the amount to be secured by new securities shall not in any case exceed the principal money required to be repaid.
- Power to raise money for re-payment of principal.

All debentures to be issued under this Act, and the principal monies and interest thereby secured, shall be charged on and payable out of the municipal fund of the municipality for which the Committee issuing such debentures shall have been appointed.

18. Every such debenture shall be in the form given in the Schedule to this Act, or as near thereto as circumstances permit.
- Form of debenture.
19. Every order of the Lieutenant Governor authorizing a Committee to borrow money on debenture, shall specify the amount of the loan, and the work for the execution of which the loan is to be raised, and shall be notified in the local official *Gazette*.
- Orders authorising Committees to borrow on debentures.

Rules and By-laws.

20. Every Committee may make rules, besides the rules prescribed in this Act, for regulating the time and place of their meeting, the conduct of their business, the division of duties among the members of the Committee, the salaries, appointment, suspension, and removal of the officers and servants of the Committee, and other similar matters.
- Power of Committees to make rules.
21. The Committee may appoint one or more of their number to carry out their resolutions, and to enforce the rules and regulations laid down under the provisions of this Act for the protection of the public health, or they may appoint a special officer or special officers for such purposes.
- Enforcement of rules and regulations.

22. It shall be lawful for any Committee to make by-laws for defining, prohibiting, and removing nuisances which are not public or common nuisances under the Indian Penal Code, or under Act V. of 1861 (*for the regulation of Police*), and for the securing of a proper registration of births, marriages, and deaths, and for carrying out all or any of the purposes of this Act. And such Committee may from time to time repeal, alter, or add to such by-laws.
- Power to make by-laws as to nuisances, and registration of births, marriages, and deaths.

23. Every Committee shall exercise within the limits of the municipality the powers conferred on a Magistrate by sections sixty-two and sixty-three of the Code of Criminal Procedure.
- Power to prohibit obstruction, &c.

Every Committee may exercise the powers of a Magistrate of a district as described in section three hundred and eight of the Code of Criminal Procedure, for the removal of nuisances, and in the exercise of such powers shall follow the procedure prescribed in chapter XX. of the same Code.

Power to remove nuisances, &c.

25. No by-law and no alteration or repeal of Confirmation of by-laws, shall have effect until the same shall have been confirmed by the Lieutenant Governor.

All by-laws made under this Act and all rules made under section twenty of this Act, and all alterations and repeals of, and additions to, such by-laws and rules shall be published for such length of time and in such manner as the Lieutenant Governor shall order.

Publication of by-laws.

26. Any Committee may agree with the owners of any land for the purchase thereof for the purposes of this Act, and may take conveyances of such land in the names of the president and any two members of the Committee; and may sell any portion of such land which is not required for the purposes aforesaid, upon such terms and under such conditions as the Committee shall think fit.
- Power to acquire land.
- Power to sell.

The receipt of the president and any two members of the Committee for any monies paid to them upon any such sale shall effectually discharge the persons paying the same therefrom, or from being concerned to see to the application thereof, or being accountable for the non-application or misapplication thereof; and the proceeds of any such sale shall be applied for the purposes of this Act.

Receipts.

27. The Lieutenant Governor may by order suspend or limit all or any of the powers of the Committee, and may also cancel any of the proceedings or rules of any Committee.
- Limitation and suspension of powers of Committee.

PART V.

RIGHTS, DUTIES, AND LIABILITIES OF COMMITTEES.

Municipal Fund.

28. All sums received by the Committee of any municipality to which this Act extends, and all fines levied under this Act, and all receipts from property entrusted to and managed by the Committee, shall constitute a fund which shall be called the Municipal Fund of such municipality, and shall, together with all property which may become vested in such Committee, be under their control, and shall be applied by them as Trustees for the purposes of this Act.

29. The funds of every Committee shall be kept in the Government Treasury of the District, or in the Bank (if any) to which the Government Treasury business shall have been made over. And no disbursement of such funds or any part thereof shall be made except under the signature of the President, or Secretary, or two Commissioners.

30. Every Committee, so far as the municipal fund at their disposal will permit, shall, after providing out of such fund for a police establishment in the manner hereinafter mentioned, keep the public streets, roads, drains, tanks, and watercourses of the municipality for which they are appointed, clean and in repair, and may cause such streets and roads or any of them to be watered and lighted ;

and may construct and provide for the management of poor-houses, dispensaries, market-places, and other works of general utility ;

And generally may do all acts and things necessary for the purposes of conservancy and local improvement, and may also make provision, by the establishment of new schools or the aiding of already existing schools or otherwise, for the promotion of education in the municipality for which such Committee is appointed.

Every contract made on behalf of any Committee in respect of any sum exceeding rupees twenty, or in respect of any property exceeding rupees twenty in value, shall be in writing, and shall be signed by the president and at least two members of the Committee, of whom one shall be an *ex-officio* member, and, unless so executed, shall not be binding on the Committee.

Municipal Police.

31. Every Committee shall provide in the first place from its funds for the maintenance of the police establishment in the municipality. The municipal police shall be appointed under such Act of the Governor General in Council as may be applicable to the municipality, and their number shall be fixed by the Committee in consultation with the Inspector General of Police, subject to the final decision of the Lieutenant Governor:

GOVT. OF INDIA BILLS—77 c

Provided that such number shall not exceed the proportion of one man to thirty houses, unless at the special desire of the Committee.

32. The provisions of section thirty-four of Act No. V. of 1861 (*for the regulation of Police*) shall be in force in every municipality for which a Committee is appointed under this Act.

33. The municipal police in any municipality to which this Act shall have been extended shall be bound to carry out the orders issued by the Committee for the prohibition and prevention of public nuisances, or nuisances defined to be such by any by-law made under section twenty-two of this Act.

Annual Reports.

34. Every Committee shall annually, or oftener if directed by the Lieutenant Governor, do so, submit statements of their receipts on account of and disbursements from the municipal fund, and also reports of all works executed or proceedings taken by them under the authority of this Act. The Committee shall also submit, at such time and in such form as may be directed by the Lieutenant Governor, an estimate of their probable receipts for the financial year next following, with proposals for their expenditure.

Public Highways.

35. All public highways in any municipality in which this Act is in force, not specially reserved by Government, together with all erections thereon and all materials thereof, shall be vested in and belong to the Committee.

Land required for Public purposes.

36. When any land within the limits of any municipality to which this Act is extended may be required for the construction or improvement of a highway, for the promotion of the healthiness of the neighbourhood, or for any other public purpose, if the Committee cannot agree with the owner for the purchase thereof, the Lieutenant Governor, on the recommendation of the Committee, may notify in the local official *Gazette* that such land is required under the provisions of Act No. VI. of 1857 (*for the acquisition of land for public purposes*), and on payment by the Committee of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

Suits by and against Committees.

37. Every Committee shall sue and be sued in the name of their president.

No member of a Committee shall be personally liable for any contracts made or expense incurred by or on behalf of the Committee, but the funds from time to time in the hands of the Committee shall be liable for and chargeable with all contracts made in the manner hereinbefore provided.

Members not personally liable for contracts made by Committee.

Every member of a Committee shall be liable for any mis-application of money entrusted to the Committee to which he shall have been a party, or which shall happen through or be facilitated by the neglect of his duty, and he shall be liable to be sued for the same in such Court as the Lieutenant Governor shall direct, as for money due to Government.

Liability of members for breach of trust.

38. No suit shall be brought against a Committee or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intended plaintiff, and unless such notice be proved, the Court shall find for the defendant. Every such suit shall be commenced within three months next after the accrual of the cause of the suit, and not afterwards. And if any person to whom any such notice of suit is given, shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Notice previous to bringing suit against Committee or its officers.

Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intended plaintiff, and unless such notice be proved, the Court shall find for the defendant. Every such suit shall be commenced within three months next after the accrual of the cause of the suit, and not afterwards. And if any person to whom any such notice of suit is given, shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

PART VI.

PENALTIES AND PROSECUTIONS, AND RECOVERY OF RATES.

39. No member of a Committee or servant of a

Committee shall be interested directly or indirectly in any contract made with the Committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of rupees five hundred.

Provided always that no person shall be disqualified from acting as a member or servant of a Committee by reason that he holds debentures issued by the Committee under section thirteen of this Act for money lent, nor by being a shareholder in or member of any incorporated or regulated Company by reason of any contract entered into between such Company and the Committee. Nevertheless it shall not be lawful for such shareholder or member to act as a member of the Committee in any matter relating to any contract entered into between the Committee and such Company.

40. Whoever infringes any rule made under

Penalty for infringement of by-laws or rules, or non-payment of fines.

section twenty of this Act, or any by-law made and confirmed as directed in this Act, shall be liable to a fine not exceeding rupees fifty, and in the case of a continuing infringement, to a fine not exceeding rupees five for every day after notice from the Committee of such infringement.

In default of payment of any fine imposed under this section, the defaulter shall be liable to be imprisoned for a term not exceeding eight days.

41. Prosecutions under this Act for infringements of rules, or by-laws, may be instituted before any Magistrate by the Committee or any person authorized by the Committee in this behalf.

42. All rates and arrears of rates imposed under this Act may be recovered as if they were fines, in the manner prescribed in section sixty-one of the Criminal Procedure Code.

SCHEDULE.

FORM OF DEBENTURE (referred to in section eighteen.)

The Municipal Committee of
The _____ 18
No. _____
By virtue of Act _____ of _____ (the
Municipal-Improvements" N. W. P. Act), we, the
Municipal Committee of _____, in consider-
ation of the sum of rupees _____ paid to us
by A. B. of _____ promise to pay to the said
A. B. _____ or order the said sum of
rupees _____ after the date hereof, together
with interest thereon at the rate of _____ per
cent. per annum, payable half-yearly on the
day of _____ and the
day of _____

(Signature of president and two members
of the Committee.)

STATEMENT OF OBJECTS AND REASONS.

The existing Municipal Act has by experience been found, in the North-Western Provinces, to be defective in several points.

It has been found inconvenient that the introduction of the Act into any town should be contingent on the submission of an application from the inhabitants. The necessity of improving the sanitary condition of towns, and the duty of providing for that object by the raising of sufficient funds, are as yet imperfectly recognized by the people, who are therefore sometimes slow to move for the introduction of the Act. At the same time, where Committees under the Act have been appointed much assistance has been received from the members both in carrying out improvements and in devising convenient modes of taxation. It is therefore desirable to enable the Local Government to anticipate the expression of a general desire for the promotion of improvements by the introduction of the Act, and to form a Committee in any town the circumstances of which are such as to require or justify the introduction of municipal government.

It is desirable also to define more clearly the liability of Municipal Committees to provide from their funds for the maintenance of the municipal police, to enlarge the description of the objects to

which, after providing for the police force, the funds of the municipality may be devoted, and thus to set at rest the doubts which have been started as to the legality of their appropriation to the support of educational, charitable, and similar institutions, which are peculiarly deserving of support from the locality immediately benefitted.

The present law does not authorize Committees to borrow money for the construction of works of permanent utility. Such works, however urgently required, cannot, therefore, in many instances, be undertaken, because the ordinary income is insufficient to meet the cost, and cannot be increased to the required amount without pressing unfairly and injuriously on the inhabitants. It is proposed to empower Committees to borrow money by debentures when the proposed works shall have received the sanction of the Local Government.

The powers of the Committees in dealing with nuisances are also susceptible of more careful definition and partial enlargement.

To accomplish these objects, and otherwise to enable the Local Government to supervise and improve municipal administration, the present Bill, which has in a great measure been framed on the model of Act No. XV. of 1867, lately passed for the Punjab, is now brought forward.

(Signed) E. L. BRANDRETH.

Calcutta,
The 17th December 1867. }

WHITLEY STOKES,

Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)