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PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 27th March 1868, and is hereby promulgated for general information:—

Act No. VII. of 1868.

An Act to amend the law relating to Appeals and Reviews of Judgment in the Panjáb.

WHEREAS it is expedient to amend the law relating to appeals and reviews of judgment in the Courts established in the Panjáb; It is hereby enacted as follows:—

1. This Act may be called "The Panjáb Appeals' Act, 1868."
2. This Act shall extend only to the territories for the time being under the government of the Lieutenant Governor of the Panjáb. It shall come into operation from the thirtieth day of April 1868, in regard to all appeals preferred after that day, and shall continue in force to the thirtieth day of April 1873:

Provided that, as to such appeals (if any) as shall before the day last-mentioned have been preferred under the provisions herein contained, and shall not have been disposed of, this Act shall remain in force until such appeals shall have been disposed of as aforesaid.

3. Except when otherwise provided in this Act or any other Act in force for the time being, an appeal shall lie from the decrees of the Courts of ori-

ginal and appellate jurisdiction to the Courts authorized under Act No. XIX. of 1865 (*The Panjáb Courts' Act*) and Act IV. of 1866 (*The Panjáb Chief Court Act*) to hear appeals.

4. All appeals falling within the jurisdiction of the Courts established in conformity with the said Acts shall, save as in the said Acts and in this Act is otherwise provided, be regulated by the Code of Civil Procedure.

5. If the decision of a Deputy Commissioner or of a Commissioner passed in regular appeal reverse or modify the decision of the Court of original jurisdiction on a point material to the merits of the case, the Commissioner, where the decision shall have been passed on regular appeal by the Deputy Commissioner, and the Chief Court where the decision shall have been passed on regular appeal by the Commissioner, may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the Courts below, a further consideration of the case appear to the Commissioner or the Chief Court (as the case may be) requisite for the ends of justice.

6. The memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, accompanied by copies of the judgments of the lower Courts, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within such period, that is to say, within sixty days if the appeal lie to the Court of a De-

puty Commissioner or Commissioner, and within ninety days if the appeal lie to the Chief Court.

The period shall be reckoned from and exclusive of the day on which the judgment and decree appealed against was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the judgment and decree from which the appeal is made.

7. When a memorandum of appeal, or an application for the admission of a special appeal, has been registered, the Appellate Court may, if it sees fit, after fixing a time for hearing the appellant or his pleader, and hearing him accordingly if he appears at such time, confirm the decision of the lower Court, without sending intimation of the appeal to such Court and without issuing notice to the respondent.

8. The Chief Court of the Panjáb may, whenever it thinks proper to do so, either on the agreement of the parties to that effect, or for purposes of justice, remove and try any appeal falling within the jurisdiction of any Court subject to its superintendence.

9. Any person considering himself aggrieved by a decree of a Court of original jurisdiction from which no appeal shall have been preferred to a superior Court, or by a decree of a District or Divisional Court from which no regular or special appeal shall have been admitted by the Chief Court, or by a decree of the Chief Court, from which

either no appeal may have been preferred to Her Majesty in Council, or, an appeal having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council, and who, from the discovery of new matter or evidence which was not within his knowledge, or could not have been adduced by him at the time when such decree was passed, or from any other good or sufficient reason, may be desirous of obtaining a review of the judgment passed against him may apply for a review of the judgment by the Civil Court which passed the decree, or by any Court to which the business of the former Court has been transferred.

Except as hereinbefore provided, the judgments of the Civil Courts established in conformity with the said Acts and with Act No. III. of 1868 (to authorize the Local Government of the Panjáb to invest any person with the powers of an Assistant Commissioner or Tahsildár) shall not be subject to revision.

10. If in any suit pending when this Act comes into operation, appears to the Court that the application of its provisions would deprive any party to a suit of a right of appeal which, but for the passing of this Act, would have belonged to him, the Court shall proceed according to the law in force immediately before this Act takes effect.

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

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 20th March 1868, and is hereby promulgated for general information:—

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

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Act No. VI. of 1868.

An Act 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, 1868."
Short title.
2. In this Act, unless there be something repugnant in the subject or context—
"Committee" means a Municipal Committee appointed under the provisions of this Act;
"Committee."

"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, by notification in the local official *Gazette*, to any town or towns in the territories under his Government.

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:

Provided that no cantonment shall, without the previous consent of the Governor General of India in Council, be deemed to be a town for the purposes of this Act.

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 shall continue in office until a Committee shall have been appointed or elected under section 6.

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 Act No. XXVI. of 1850, 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.

PART II.

APPOINTMENT OF MUNICIPAL COMMITTEES.

6. In any municipality to which this Act shall have been extended, the Lieutenant Governor may appoint or direct to be appointed by election, for such period not exceeding two years as to him may seem fit, any number of the inhabitants of such municipality, to be members of a Committee for carrying out the purposes of the Act.

The persons so appointed shall continue in office for two years or until their successors shall have been appointed, and shall be eligible for re-appointment.

In cases when the Lieutenant Governor directs the appointment to be by election, he may fix the time and manner of the election and the qualification of the electors, and generally may make such rules as he shall think fit for regulating the election.

The Lieutenant Governor may, from time to time remove any of the members of the Committee so appointed who shall desire to be discharged, or

refuse or become incapable to act, or be convicted of an offence punishable under the Indian Penal Code with imprisonment for a term of not less than six months. The Lieutenant Governor may also, if he think fit, on the recommendation of the Committee, add to their number, and fill up vacancies occurring among them.

Every member so appointed shall have the same powers and be subject to the same liabilities, and vacate his office and be eligible for re-appointment as if he had been originally appointed a member under the first clause of this section.

In addition to the members appointed as aforesaid, the Lieutenant Governor shall have power to appoint, by notification in the official *Gazette*, *ex-officio* members of the Committee for every place in which they exercise their offices and to which this Act shall have been extended:

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

7. 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.

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

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

PART III.

OFFICE AND MEETINGS OF COMMITTEES.

8. The Committee shall have an office, where they shall meet for the transaction of business at least once in every month.

9. 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.

The meetings shall be either general or special.

The president or vice-president may whenever he thinks fit, and he shall, upon a requisition made in writing by not less than one-fifth in number of the members, convene a meeting.

Notice shall be given of every such meeting, and when the meeting is to be special, at least three days' notice thereof shall be given. Every notice shall state the general nature of the business to be transacted at the meeting proposed to be called.

The quorum necessary for the transaction of business at a general meeting shall be three.

The quorum necessary for the transaction of business at a special meeting shall be one-half of the total number of members at the time of the meeting; and at least two-thirds of such quorum shall consist of non-official members.

If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if summoned by the president or vice-president, shall be dissolved.

In any other case it shall stand adjourned to the same day in the next week at the same time and place.

And if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

All business may be transacted at a general meeting which this Act does not require to be transacted at a special meeting.

All questions which may come before the Committee at any meetings shall be decided by a majority of votes. Every member shall have one vote. In case of equality of votes, the chairman shall have a casting vote.

Such decisions shall be recorded in a book kept for the purpose, and shall be published in some local newspaper, or in such other manner as the Lieutenant Governor may from time to time direct.

Correspondence between Committee and Local Government.

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

The Commissioner of the Division shall be entitled to make such suggestions for the consideration of the Committee as he may deem fit; and the Committee shall furnish him with any information he may call for connected with the duties imposed upon them by this Act.

PART IV.

POWERS OF COMMITTEES.

11. The Committee may at a special meeting define the persons or property within the municipality to be taxed for the purposes of this Act, and the amount or rate of the taxes to be imposed.

If such taxes receive the sanction of the Lieutenant Governor, but not otherwise, the Committee may at a special meeting impose them accordingly.

The Committee may, at a special meeting, with the same sanction, cancel or vary any tax so imposed.

Such taxes may be all or any of the following:—

(1.) A tax on houses, buildings, and lands according to the annual value thereof not exceeding seven and a half per cent. of such value:

(2.) A tax on professions and trades:

(3.) Taxes on carriages, horses, mules, elephants, camels, bullocks, and asses:

(4.) Tolls on carriages, carts, and animals entering the limits of the municipality:

(5.) An octroi on articles brought within the said limits for consumption or use therein: Provided that a list of such articles shall have been submitted to and approved by the Lieutenant Governor: Provided also, that the Lieutenant

Governor shall have power to exempt from the octroi any such articles intended for consumption or use by any class of persons or animals.

No other species of tax shall be imposed without the previous sanction of the Governor General of India in Council.

12. No tax shall be collected until it shall have been confirmed by such persons and in such manner as the Lieutenant Governor shall appoint.

The Lieutenant Governor may from time to time 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.

13. 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.

Rules and By-laws.

14. Every Committee may at a special meeting make rules consistent with this Act, for regulating the time and place of their meetings, the conduct of their business, the restricting of the amount or objects of expenditure under section 24, 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.

15. The Committee may appoint one or more of their number to carry out their resolutions, and to enforce the rules and by-laws made under the provisions of this Act for the protection of the public health; or they may appoint a special officer for such purposes.

16. The Committee may at special meeting 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.

The Committee may from time to time at a special meeting repeal, alter, or add to such by-laws.

17. No by-law and no alteration or repeal of, or addition to, a by-law shall have effect until it shall have been confirmed by the Lieutenant Governor.

All by-laws made under this Act and all rules made under section 14, 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 from time to time direct.

18. Every Committee may enjoin within the limits of the municipality any person not to repeat or continue a public nuisance. Every such injunction shall be deemed to have been made by a public servant.

19. Every Committee which the Lieutenant Governor shall authorize in this behalf may, so long as such authorization continues, exercise the powers of a Magistrate of a District as described in section 308 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.

20. Any Committee may at a special meeting, and with the previous sanction of the Lieutenant Governor, purchase land for the purposes of this Act, and may at a like meeting and with the like sanction sell any portion of such land which is not required for the purposes aforesaid, and convey the same in the names of the president and two of the members of the Committee.

The receipts 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 mis-application thereof, and the proceeds of any such sale shall be applied for the purposes of this Act.

21. The Lieutenant Governor may by order cancel, suspend, or limit any of the acts, proceedings, or rules of any Committee.

The Lieutenant Governor may also abolish any tax which shall have been sanctioned under the provisions hereinbefore contained, but not so as to entitle any person to a refund of monies paid in respect of such tax.

PART V.

RIGHTS, DUTIES, AND LIABILITIES OF COMMITTEES.

(a)—Municipal Fund.

22. 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.

23. 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.

No disbursement of such funds or any part thereof shall be made except under the signatures of the president, or vice-president and one other member of the committee.

24. Every Committee, subject to such rules restricting the amount or the objects of expenditure as it shall make at a special meeting, and 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.

The Committee 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 or vice president and at least two other members of the Committee, of whom one shall be an *ex-officio* member. Unless so executed, it shall not be binding on the Committee.

Municipal Police.

25. 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 town, and their numbers shall be fixed by the Committee in consultation with the Inspector General of Police, subject to the final decision of the Lieutenant Governor.

26. Every officer of Police in any municipality to which this Act shall have been extended shall have power to take into custody without a warrant any person who within his view commits any of the offences mentioned in Section 34 of Act No. V. of 1861 (*for the regulation of Police*), and 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 this Act.

Annual Reports.

27. Every Committee shall annually, or oftener if directed by the Lieutenant Governor to do so, submit statements 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.

An abstract of such estimate and proposals, shall on being so submitted be published in such manner as the Lieutenant Governor shall from time to time direct.

The Lieutenant Governor may from time to time make rules consistent with this Act, as to the cost and the class of works which the Committee may execute, and the Committee shall be legally bound to obey such rules.

Public Highways.

28. 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.

29. When any land within the limits of any municipality to which this Act is extended is 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 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.

30. 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 above provided for.

Every member of a Committee shall be liable for any misapplication 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.

31. 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.

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.

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 TAXES.

32. 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 being a shareholder in or member of any incorporated or registered Company by reason of any contract entered into between such Company and the Committee.

33. Whoever infringes 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, in the case of a continuing infringement, be liable to imprisonment for a term not exceeding one month; and in any other case, to imprisonment for a term not exceeding eight days.

34. 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.

35. All arrears of taxes imposed under this Act may be recovered as if they were fines, in the manner prescribed in Section sixty-one of the Code of Criminal Procedure.

WHITLEY STOKES,

Asst. Secy. to the Govt. of India,

Home Dept. (Legislative.)

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 13th March 1868, and is hereby promulgated for general information:—

Act No. V. of 1868.

An Act to enable the Governor of Bombay in Council to delegate to the Commissioner in Sind certain of the powers of a Local Government.

1. It shall be lawful for the Governor of Bombay in Council, by a notification published in the *Bombay Government Gazette*, to delegate to the Commissioner in Sind all or any of the powers conferred on the said Governor in Council, as the Local Government of the Province of Sind, by any of the Bombay Regulations, or by any Act of the Governor General of India in Council solely applicable to the Presidency of Bombay, or by any Act passed heretofore or hereafter by the Governor of Bombay in Council, or by any of the Acts of the Governor General of India in Council mentioned in the schedule to this Act.

2. It shall be lawful for the Governor of Bombay in Council, with the consent of the Governor General of India in Council, to delegate to the Commissioner in Sind all or any of the powers heretofore or hereafter conferred by any Act of the Governor General of India

Governor of Bombay in Council may delegate to Commissioner in Sind certain powers of Local Government.

Governor of Bombay in Council, with the consent of the Governor General of India in Council, to delegate to the Commissioner in Sind all or any of the powers heretofore or hereafter conferred by any Act of the Governor General of India

in Council on the Governor of Bombay in Council as the Local Government of the Province of Sind.

3. All acts done by the Commissioner in Sind under the authority of any Validation of acts of Commissioner. power so delegated, shall be as valid as if they had been done by the Governor of Bombay in Council.

SCHEDULE.

Act XXVI. of 1850 (to enable improvements to be made in Towns.)

Act VII. of 1854 (for the apprehension, within the territories under the Government of the East India Company, of persons charged with the commission of heinous offences beyond the limits of the said territories and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them).

Act XXV. of 1861 (for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter).

Act VI. of 1863 (to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India).

Act VII. of 1865 (to give effect to Rules for the management and preservation of Government Forests).

WHITLEY STOKES,

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