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The Gazette of India

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 6, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd December, 1882:—

No. 16 OF 1882.

A Bill to repeal the British Burma Labour Law, 1876.

WHEREAS it is expedient to repeal the British Burma Labour Law, 1876;

Preamble. It is hereby enacted as follows:—

The British Burma Labour Law, 1876, is repealed.

STATEMENT OF OBJECTS AND REASONS.

THE British Burma Labour Law was enacted in 1876, with the intention of establishing a system of State emigration, and provides, as such Acts usually do, for the licensing of recruiters, the establishment of depôts, the procedure of recruitment and the punishment of recruiters disobeying its provisions. It has, however, remained a dead-letter, while in consequence of cheapened communication between Madras and Burma "free emigration" is increasing annually. If the Madras coolies were in the habit of emigrating to Burma without assistance, the retention of the Labour Law on the Statute-book would involve no difficulty. But the emigrants as a rule receive the amount of their passage-money from a labour-contractor, who takes them to Rangoon and keeps an eye over them till they pay off the advance with interest. The results of this system have been carefully investigated in Burma, and the responsible officers there hold that it is practically free from objection. The low rate of passage money and the large wages which a Madras coolie can earn on his arrival at Rangoon enable him to clear himself from debt in no long period, and he enjoys too much freedom of action to submit to much oppression.

The High Court of Madras, however, has lately ruled that the *maistri*, or labour-contractor, is guilty of illegal recruiting, as he is not licensed under the British Burma Labour Law, and that he is consequently punishable under that Act.

The result accordingly is that the retention of the Act on the Statute-book, while it provides for the maintenance of a system which has proved a failure, renders illegal the procedure by which that system has been in practice replaced and which is found to work satisfactorily.

This being so, it seems clear that the Act should be repealed. The Madras Government, who have been consulted, accept this view, which is urgently pressed by the Chief Commissioner of British Burma; the present Bill has accordingly been prepared with a view to its repeal.

S. C. BAYLEY.

The 6th December, 1882.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th January, 1883, and was referred to a Select Committee:—

No. 1 OF 1883.

A Bill to amend the Chutiá Nágpur Encumbered Estates Act, 1876.

WHEREAS it is expedient to amend the Chutiá Nágpur Encumbered Estates Act, 1876; It is hereby enacted as follows:— Preamble.

VI of 1876.

1. Act XII of 1877 (*an Act to amend the Chutiá Nágpur Encumbered Estates Act, 1876*) is hereby repealed. Repeal of Act XII of 1877.

2. To section 4 of the Chutiá Nágpur Encumbered Estates Act, 1876, the following shall be added, namely:— Addition to Act VI of 1876, section 4.

"and also in or towards the repayment, either before or after the liquidation of such debts and liabilities, of any loan received from the Government by the manager under this Act".

3. (*1*) In section 12 of that Act, for the first clause the following shall be substituted:— Amendment of section 12 of same Act.

"When all the debts and liabilities mentioned in the schedule referred to in section eleven, and the amount of any loan received from the Government under section eighteen, together with the interest (if any) due thereon, have been paid and discharged", and

(*2*) in the second clause of the same section, for the word "six" the word "twelve" shall be substituted.

4. (*1*) In section 18 of that Act, after the words "as may appear expedient" the following shall be inserted, namely:— Amendment of section 18 of same Act.

"or by borrowing money from the Government at such rate of interest as appears reasonable to the Local Government", and

(*2*) in the last clause of the same section, for the word "six" the word "twelve" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

THE Chutiá Nágpur Encumbered Estates Act, 1876, omits to provide for the recovery by the manager, under the scheme for the management of the estate, of a loan made by the Government for the payment of the debts. It consequently would be open to the proprietor, when the scheduled debts had been paid off, to demand, under section 12 of the Act, the release of the estate, although any such loan made by the Government had not been repaid.

2. No such loan has as yet been made by the Government, but as it is possible that such loans may be made, it is proposed to amend the Act so as to secure the detention of the estate under management until the amount of any such loan that may have been made has been paid off with interest. This is provided for by certain amendments made, in sections 4, 12 and 18 of the Act, by sections 2, 3 and 4 of the present Bill.

3. The second sub-section of section 4 of the Bill merely supplies an omission, apparently the result of an oversight, in the amending Act XII of 1877.

Under section 12 of the principal Act, as it originally stood, six months from the publication of the order of management was the period within which the Commissioner was permitted to abandon the management, and as difficulties might arise if the management was abandoned after the manager had exercised his power of mortgaging, the last clause of section 18 provided that the power to mortgage should not be exercisable until after the expiration of the same period. The amending Act of 1877 altered the period fixed by section 12 to twelve months, but left that fixed by section 18 unchanged. The amendment now proposed makes the period in section 18 the same as that in section 12, namely, twelve months.

4. It is proposed, as a matter of convenience, to repeal the amending Act of 1877 and incorporate its single provision in the new one.

The 22nd December, 1882.

S. C. BAYLEY.

D. FITZPATRICK,
Secy. to the Govt. of India.

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PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th January, 1883, and was referred to a Select Committee:—

No. 1 OF 1883.

A Bill to amend the Chutiá Nágpur Encumbered Estates Act, 1876.

WHEREAS it is expedient to amend the Chutiá Nágpur Encumbered Estates Act, 1876; It is hereby enacted as follows:— (Preamble.) (VI of 1876.)

1. Act XII of 1877 (*an Act to amend the Chutiá Nágpur Encumbered Estates Act, 1876*) is hereby repealed. (Repeal of Act XII of 1877.)

2. To section 4 of the Chutiá Nágpur Encumbered Estates Act, 1876, the following shall be added, namely:— (Addition to Act VI of 1876, section 4.)

"and also in or towards the repayment, either before or after the liquidation of such debts and liabilities, of any loan received from the Government by the manager under this Act".

3. (*1*) In section 12 of that Act, for the first clause the following shall be substituted:— (Amendment of section 12 of same Act.)

"When all the debts and liabilities mentioned in the schedule referred to in section eleven, and the amount of any loan received from the Government under section eighteen, together with the interest (if any) due thereon, have been paid and discharged", and

(*2*) in the second clause of the same section, for the word "six" the word "twelve" shall be substituted.

4. (*1*) In section 18 of that Act, after the words "as may appear expedient" the following shall be inserted, namely:— (Amendment of section 18 of same Act.)

"or by borrowing money from the Government at such rate of interest as appears reasonable to the Local Government", and

(*2*) in the last clause of the same section, for the word "six" the word "twelve" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

THE Chutiá Nágpur Encumbered Estates Act, 1876, omits to provide for the recovery by the manager, under the scheme for the management of the estate, of a loan made by the Government for the payment of the debts. It consequently would be open to the proprietor, when the scheduled debts had been paid off, to demand, under section 12 of the Act, the release of the estate, although any such loan made by the Government had not been repaid.

2. No such loan has as yet been made by the Government, but as it is possible that such loans may be made, it is proposed to amend the Act so as to secure the detention of the estate under management until the amount of any such loan that may have been made has been paid off with interest. This is provided for by certain amendments made, in sections 4, 12 and 18 of the Act, by sections 2, 3 and 4 of the present Bill.

3. The second sub-section of section 4 of the Bill merely supplies an omission, apparently the result of an oversight, in the amending Act XII of 1877.

Under section 12 of the principal Act, as it originally stood, six months from the publication of the order of management was the period within which the Commissioner was permitted to abandon the management, and as difficulties might arise if the management was abandoned after the manager had exercised his power of mortgaging, the last clause of section 18 provided that the power to mortgage should not be exercisable until after the expiration of the same period. The amending Act of 1877 altered the period fixed by section 12 to twelve months, but left that fixed by section 18 unchanged. The amendment now proposed makes the period in section 18 the same as that in section 12, namely, twelve months.

4. It is proposed, as a matter of convenience, to repeal the amending Act of 1877 and incorporate its single provision in the new one.

The 22nd December, 1882.

S. C. BAYLEY.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th January, 1883, and was referred to a Select Committee on the 12th January, 1883 :—

No. 2 OF 1883.

THE INDIAN EXPLOSIVES BILL, 1883.

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A Bill to regulate the manufacture, keeping, sale, conveyance and importation of Explosives.

WHEREAS it is expedient to regulate the manufacture, keeping, sale, conveyance and importation of explosives; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Indian Explosives Act, 1883. Short title.

(*2*) It extends to the whole of British India. Local extent.

[Cf. 38 Vic., c. 17, s. 97.] **2.** Save as provided in section sixty-one, nothing in this Act shall apply to the manufacture, keeping, sale, conveyance or importation of any explosive by order of the Government, or by any person employed under the Government in the execution of this Act or as keeper of a magazine, artizan, soldier, sailor, policeman or otherwise, or enrolled as a volunteer under the Indian Volunteers' Act, 1869, in the course of his employment or duty as such. Saving for manufacture, keeping, sale, conveyance or importation by Government.

XX of 1869.

3. Nothing in this Act shall affect the provisions of the Indian Arms Act, 1878. Saving of Indian Arms Act, 1878.

XI of 1878.

4. (*1*) This Act shall come into force on such day as the Governor General in Council, by notification in the *Gazette of India*, appoints. Commencement.

(*2*) But any notification, order or rule, and any appointment to an office or grant of authority, may be made under this Act at any time after the passing thereof, but shall not take effect until the Act comes into force.

5. On and from the day on which this Act comes into force the Acts mentioned in the first column of the schedule to this Act shall be repealed to the extent mentioned in the third column thereof. Repeal of enactments.

6. Nothing in section 322 of Madras Act V of 1878, or in section 225 of Bombay Act III of 1872, shall be deemed to apply to an explosive. Limitation of application of Madras and Bombay Municipal Acts.

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

(*1*) "explosive"—

[38 Vic., c. 17, s. 3.] (*a*) means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion, or a pyrotechnic effect; and

(*b*) includes fog-signals, fireworks, fuzes, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined:

(*2*) "manufacture" includes the process of dividing into its component parts, or otherwise breaking up or unmaking, any explosive, or making fit for use any damaged explosive, and the process of re-making, altering or repairing any explosive: [38 Vic., c. 17, s. 105]

(*3*) "occupier" includes any number of persons and a body corporate, and, in the case of any manufacture or trade, includes any person carrying on that manufacture or trade: [38 Vic., c. 17 s. 108.]

(*4*) "master" includes every person (except a pilot or harbour-master) having for the time being command or charge of a ship; and, in reference to any boat belonging to a ship, means the master of the ship; and, in reference to any other boat, includes every person having for the time being command or charge of that boat: [*ib.*]

(*5*) "factory" means a place licensed under this Act for the manufacture of an explosive: [New.]

(*6*) "magazine" means a place licensed under this Act for the keeping of an explosive, and includes any ship or other vessel licensed for that purpose: [38 Vic., c. 17, s. 108.]

(*7*) "registered place" means a place registered under this Act for keeping an explosive: [New.]

(*8*) "warehouseman" includes all persons owning or managing any warehouse, store, wharf or other place in which goods are deposited: [38 Vic., c. 17, s. 108.]

(*9*) "carrier" includes all persons carrying goods or passengers for hire by land or water: [*ib.*]

(*10*) "port" means any port, or any part of a navigable river or channel, in which the Indian Ports Act, 1875, is for the time being in force: [New.]

XII of 1875.

(*11*) "railway" means any railway, whether it is used for the public conveyance of passengers or goods or not, and includes— [Cf. Act IV of 1879, s. 3.]

(*a*) a railway under construction;

(*b*) all lands within the fences or other boundary-marks prescribed under section 52 of the Indian Railway Act, 1879;

IV of 1879.

(*c*) all lines of rail, sidings or branches worked over for the purposes of, or in connection with, a railway;

(*d*) all stations, offices, warehouses, fixed machinery and other works constructed for the purposes of, or in connection with, a railway; and

(*e*) all vessels and rafts used for the purpose of carrying on the traffic of a railway:

(*12*) "railway-administration" means, in the case of a railway worked by Government or a [Cf. Act IV of 1879, s 3.]

Native State, the manager of the railway, and, in the case of a railway worked by a company or private individual, the company or individual:

[38 Vic., c. 17, s. 108.] (13) "wharf" includes any quay, landing-place, siding or other place at which goods are landed, loaded or unloaded:

[ib.] (14) "carriage" includes any carriage, waggon, cart, truck, vehicle or other means of conveying goods or passengers by land, in whatever manner the same may be propelled:

[ib.] (15) "ship" includes every description of vessel used in sea-navigation, whether propelled by oars or otherwise:

[ib.] (16) "boat" means every vessel, not a ship as above defined, which is used in navigation in any inland water or any port, whether propelled by oars or otherwise:

[New.] (17) "import" means to bring into British India by sea or land:

[X Act VIII of 1881, s. 3.] (18) "prescribed" means prescribed from time to time by notification of the Governor General in Council:

[38 Vic., c. 17, s. 108.] (19) the expression "safety-cartridges" means cartridges for small arms of which the case can be extracted from the small arm after firing, and which are so closed as to prevent any explosion in one cartridge being communicated to other cartridges:

[ib.] (20) "Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere, a Magistrate of the first class, and includes also any Magistrate whom the Governor General in Council or the Local Government may, by notification, appoint to discharge in any local area the functions of a Magistrate under this Act.

[New.]

CHAPTER II.

GENERAL LAW AS TO MANUFACTURE AND KEEPING OF EXPLOSIVES.

[38 Vic., c. 17, s. 4.] **8.** The manufacture of an explosive shall not, nor shall any process of that manufacture, be carried on except at a factory for that explosive:

Prohibition of manufacture of explosives except at factory.

Provided that nothing in this section shall apply—

(a) to the making of a small quantity of an explosive for the purpose of chemical experiment and not for practical use or for sale; or

(b) to the making of any part of an explosive where that part is not itself an explosive and no explosive is used in making it.

[38 Vic., c. 17, s. 5.] **9.** An explosive shall not be kept except—

Prohibition of keeping of explosives except in factory, magazine or registered place.

(a) in the factory in which it is manufactured, or

(b) in a magazine for that explosive, or

(c) in a place registered under this Act for keeping that explosive:

Provided that this section shall not apply—

[38 Vic., c. 17, s. 40 (4).] (a) to a person keeping for his private use, and not for sale, an explosive to an amount not exceeding in the same place the prescribed amount, or

(b) to the keeping of an explosive by a carrier or other person for the purpose of conveyance, when the explosive is being conveyed or kept in accordance with the rules under this Act with respect to the conveyance of explosives.

CHAPTER III.

FACTORIES, MAGAZINES AND REGISTERED PLACES.

(A).—*Licensing and Regulation of Factories.*

10. (1) The Local Government may make rules as to the licensing and regulation of places as factories for the manufacture of explosives. [Cf. 38 Vic., c. 17, ss. 6 to 10, & ss. 12, 13 & 26.]

Power of Local Government to make rules as to licensing and regulation of factories.

(2) Rules under this section may provide for all or any of the following among other matters, that is to say:—

(a) the authority by which licenses may be granted;

(b) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses;

(c) the manner in which applications for licenses are to be made, and the matters to be specified in such applications;

(d) the form in which, and the conditions on and subject to which, licenses are to be granted;

(e) the period for which licenses are to remain in force;

(f) the renewal of licenses and the fee to be paid for their renewal;

(g) the alteration of the terms of licenses by the grant of amending licenses, and the fee to be paid for an amending license;

(h) the devolution and determination of licenses;

(i) the situation, construction, materials and fittings of factories;

(j) the conditions on and subject to which the manufacture, or any process in, or work connected with, the manufacture, of an explosive is to be carried on in any factory;

(k) the descriptions of explosives which may be kept in a factory, and the conditions and restrictions subject to which they may be so kept;

(l) the manner of carrying out repairs in factories; and

(m) the restricting of the employment of persons under the age of sixteen years in factories or in certain parts thereof.

[38 Vic., c. 17, s. 46.] **11.** The occupier of a magazine or registered place shall not be required by this Act or the rules under this Act to take out a factory-license by reason that, in connection with the magazine or place, he fills, for sale or otherwise, any cartridge for small arms with the explosive for the keeping of which the magazine or place is licensed or registered: provided that he observes such rules as the Local Government may make in this behalf.

Provision in favour of occupiers of magazines and registered places making cartridges.

[38 Vic., c. 17, s. 47.] **12.** The occupier of a magazine shall not be required by this Act or the rules under this Act to take out a factory-license by reason that, in connection with the magazine, he, by filling cartridges, making charges, drying, sifting, fitting or otherwise, adapts or prepares the explosive for the keeping of which the magazine is licensed, for use exclusively in his mine or quarry, or in some excavation or work carried on by him or under his control: provided that he observes such rules as the Local Government may make in this behalf.

Provision in favour of occupiers of magazines adapting or preparing explosives for use in their own mines or quarries.

(B).—*Licensing and Regulation of Magazines.*

[38 Vic., c. 17, ss. 15 to 19 (relating to stores).] **13.** (1). The Local Government may make rules as to the licensing and regulation of places as magazines for the keeping of explosives.

Power of Local Government to make rules as to licensing and regulation of magazines.

(2) Rules under this section may, among other matters, provide for all or any of the matters for which rules under clauses (a) to (i), both inclusive, and clauses (k) to (m), both inclusive, of section ten may provide in the case of factories.

(C).—*Registration and Regulation of Registered Places.*

[Cf. 38 Vic., c. 17, ss. 21 and 22.] **14.** (1) The Local Government may make rules as to the registration and regulation of places for the keeping of explosives.

Power of Local Government to make rules as to registration and regulation of registered places.

(2) Rules under this section may provide for all or any of the following among other matters, that is to say:—

(a) the manner in which places may be registered, the period for which registration is to be valid, and the manner in which registration may be renewed;

(b) the fees to be paid for registration and renewal of registration;

(c) the situation and nature of places which may be registered, the manner in which an explosive is to be kept in those places, and the maximum amount of an explosive which may be so kept; and

(d) the descriptions of explosives which may be kept together in the same registered place, and the conditions and restrictions subject to which they may be so kept.

(D).—*Supplemental Provisions.*

[38 Vic., c. 17, ss. 11 and 19.] **15.** (1) Every occupier of a factory or magazine shall make special rules for the regulation of the persons managing or employed in or about his factory or magazine, with a view to secure the observance therein of this Act and the rules under this Act, and the safety and proper discipline of those persons and the safety of the public.

Duty of occupier to make special rules for regulation of workmen in his factory or magazine.

(2) The occupier may, and, if required by the Local Government, shall, make rules, repealing, altering or adding to any special rules made under this section.

(3) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with fine which may extend to twenty rupees.

(4) A rule made under this section shall not take effect until it has been confirmed by the Local Government and notified to the persons managing or employed in or about the factory or magazine in such manner as the Local Government from time to time directs.

CHAPTER IV.

SALE OF EXPLOSIVES.

[38 Vic., c. 17, s. 30.] **16.** An explosive shall not be hawked, sold or exposed for sale on any highway, street, public thoroughfare or other public place.

Sale of explosives on highways or public places prohibited.

[38 Vic., c. 17, s. 31.] **17.** An explosive shall not be sold to any child apparently under the age of thirteen years.

Sale of explosives to children prohibited.

[38 Vic., c. 17, s. 32 and s. 33 (8).] **18.** Every explosive, exceeding in amount the prescribed amount, shall, when publicly sold or exposed for sale, be in a substantial case, bag, canister or other receptacle, made and closed so as to prevent the explosive from escaping, and (except when the explosive is sold to any person employed by or on the property occupied by the vendor for immediate use in the service of the vendor or on that property) the outermost receptacle containing the explosive shall have affixed in conspicuous characters, by means of a brand or securely attached label or other mark, the name of the explosive, with the addition of the word "explosive."

Explosives to be sold in cases, closed and labelled.

CHAPTER V.

CONVEYANCE OF EXPLOSIVES.

[38 Vic., c. 17, s. 33.] **19.** The Governor General in Council may make rules to regulate the packing of explosives for conveyance, and may by those

Power of Governor General in Council to make rules as to packing of explosives.

rules provide for the nature of the packages, cases, bags, canisters or other receptacles in which an explosive is to be contained.

[38 Vic., c. 17, s. 34.]

20. (*1*) The Local Government may make rules to regulate the conveyance, loading, unloading and keeping of explosives within any port.

Power of Local Government to make rules regulating the conveyance, loading, unloading and keeping of explosives in ports.

(*2*) Rules under this section may provide for all or any of the following among other matters, that is to say :—

[Sub-section 1.] [cf. Act XII of 1875, s. 7 (*a*).] [38 Vic., c. 17, s. 34, sub-section 2.] [Sub-section 3.]

(*a*) the notice to be given in the case of ships and boats having any explosive on board within the port;

(*b*) the navigation and place of mooring of those ships and boats;

[Sub-section 4.]

(*c*) subject to the rules as to packing made under section nineteen, the mode of stowing and keeping an explosive on board any such ship or boat, and of giving notice, by brands, labels or otherwise, of the nature of the package containing the explosive;

[Sub-section 5.]

(*d*) the description, construction, fitting-up and licensing of the ships, boats or carriages to be used for the conveyance of an explosive, and the licensing and dress of the persons having charge thereof;

[Sub-section 6.]

(*e*) the prohibition of the conveyance of one explosive with another explosive or any articles or substances, or in passenger-ships, boats, trains or carriages, or the subjection of that conveyance to conditions and restrictions;

[Sub-section 7.]

(*f*) the prohibition, in cases where the loading or unloading of an explosive within the limits of the port appears to be specially dangerous to the public, of loading or unloading within those limits, and the fixing of the times and places at which an explosive is to be loaded or unloaded, and the quantity to be loaded or unloaded, or conveyed at one time or in one ship, boat or carriage;

[Sub-section 8.]

(*g*) the mode of, and the precautions to be observed in, conveying an explosive, and in the loading or unloading any ship, boat or carriage conveying an explosive, and the time during which the explosive may be kept during the conveyance, loading or unloading;

[Cf. Act XII of 1875, s. 7, cl. (*o*), ss. 28, 29, 30, 31 and 32.]

(*h*) the fixing the cases in which an explosive is to be taken out of a ship for the purpose of being deposited, the places in which the explosive so taken out is to be deposited, the appointing of an officer to receive the explosive, and the manner in which, and the conditions on and subject to which, the explosive is to be deposited in and removed from those places

(*i*) the times at which lights or fires are to be allowed or not allowed on board the ships or boats having an explosive on board, or at which a Police-officer or other person authorized in this behalf by the conservator of the port is to be on board them; [38 Vic., c. 17, s. 34, sub-section 8.]

(*j*) the publication and supply to the public of copies of these rules; [Sub-section 9.]

(*k*) the enforcing the observance of this Act and the rules under this Act both by the officers of the port and also by other persons when within the limits of the port; and [Sub-section 10.]

(*l*) generally the protection, whether by means similar to those above-mentioned or not, of persons or property from danger. [Sub-section 11.]

21. (*1*) In the event of any breach of a rule under section twenty, in the case of any ship, boat, carriage or explosive, whether there has or has not been any conviction for the breach, the conservator of the port or other officer named in the rules, or any person acting under the orders of the conservator, may cause the ship, boat, carriage or explosive, at the expense of the owner thereof, to be removed to such place or otherwise dealt with in such manner as may be in conformity with the rule.

Power on breach of rule to require ship, boat, carriage or explosive to be dealt with in conformity with rule.

(*2*) All expenses incurred in the removal may be recovered in like manner as a fine under this Act.

22. (*1*) Every railway-administration shall make rules to regulate the conveyance, loading, unloading and keeping of explosives on its railway. [Cf. 38 Vic., c. 17, s. 35.]

Duty of railway-administration to make rules regulating the conveyance, loading, unloading and keeping of explosives on its railway.

(*2*) The railway-administration may, and, if required by the Governor General in Council, shall, make rules repealing, altering or adding to any rules made under this section.

(*3*) Rules under this section may provide for all or any of the following among other matters, that is to say :—

(*a*) the notice to be given of the intention to send an explosive for conveyance on the railway; [Sub-section 1.]

(*b*) subject to the rules as to packing made under section nineteen, the mode of stowing and keeping an explosive for conveyance, and of giving notice by brand, labels or otherwise of the nature of the package containing the explosive; [Sub-section 2.]

(*c*) the description and construction of carriages, ships or boats to be used in the conveyance of an explosive; [Sub-section 3.]

(*d*) the prohibition of the conveyance of one explosive with another explosive or with any articles or substances or in passenger-trains, carriages, ships or boats, or the subjection of that conveyance to conditions and restrictions; [Sub-section 4.]

(*e*) the places and times at which an explosive is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one carriage, ship or boat; [Sub-section 5.]

(*f*) the precautions to be observed in conveying an explosive and in loading and unloading the carriages, ships or boats used in the conveyance of an explosive, and the time during which the explosive may be kept during that conveyance, loading and unloading; [Sub-section 6.]

(*g*) the enforcing the observance of this Act and the rules under this Act by its servants and agents, and also by other persons when on the railway; and [Sub-section 7.]

(*h*) generally the protection, whether by means similar to those above-mentioned or not, of persons or property from danger. [Sub-section 8.]

23. (*1*) The Governor General in Council may make rules to regulate the conveyance, loading, unloading and keeping of explosives in any case in which rules made under section twenty or section twenty-two do not apply. [Cf. 38 Vic., c. 17, s. 37.]

Power of Governor General in Council to make rules for the conveyance, loading, unloading and keeping of explosives in certain cases.

(*2*) Rules under this section may provide for all or any of the following among other matters, that is to say :—

[Sub-section 1.]

(*a*) the description and construction of the carriages to be used in the conveyance of an explosive;

[Sub-section 2.]

(*b*) the prohibition of the conveyance of one explosive with another explosive or with any articles or substances, or in passenger-carriages, or the subjection of that conveyance to conditions and restrictions;

[Sub-section 3.]

(*c*) the places and times at which an explosive is to be loaded or unloaded, and the quantity to be loaded or unloaded, or conveyed at one time and in one carriage;

[Sub-section 4.]

(*d*) the precautions to be observed in conveying an explosive and in loading and unloading the carriages used in that conveyance, and the time during which the explosive may be kept during that conveyance, loading and unloading;

[Sub-section 5.]

(*e*) the publication and supply to the public of copies of these rules; and

[Sub-section 6.]

(*f*) generally the protection, whether by means similar to those above-mentioned or not, of persons or property from danger.

(*3*) For the purpose of any mode of conveyance which is not a conveyance by land, this section shall be construed as if ship and boat were included in the term "carriage".

24. The authority making any rule under section twenty, section twenty-two or section twenty-three may annex to any breach or attempt to commit a breach of the rule the following penalties, which may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first, second or other subsequent offence, that is to say :—a fine which may extend to two hundred rupees for each breach and to one hundred rupees for each day during which the breach continues, and forfeiture of all or any part of the explosive in respect of which, or being in the carriage, ship or boat, or train of carriages, ships or boats, as the case may be, in respect of which, the breach of the rule has taken place. [Cf. 38 Vic., c. 17, ss. 34, 35 & 37.]

Penalties which may be annexed to breach of rules under sections 20, 22 and 23.

CHAPTER VI.

IMPORTATION OF EXPLOSIVES.

25. Dynamite or gun-cotton or any explosive (other than gunpowder, cartridges made with gunpowder, percussion-caps, fireworks and any prescribed explosive) shall not be imported except under a license, and in the manner and to the extent permitted by that license. [38 Vic., c. 17, s. 40 (9).]

Importation of certain explosives prohibited except under license.

26. (*1*) The Governor General in Council may make rules to regulate the grant of licenses required under section twenty-five. [38 Vic., c. 17, s. 40 (9) (*b*).]

Power of Governor General in Council to make rules as to such importation.

(*2*) Rules under this section may provide for all or any of the following among other matters, that is to say :—

(*a*) the officers by whom, the form in which and the terms and conditions as to the composition and quality of the explosive, the unloading, landing, transhipment, delivery and conveyance thereof, and the protection of the public from danger, on and subject to which licenses may be granted;

(*b*) the period for which licenses are to continue in force and the persons for whom licenses are to be available; and

(*c*) the fees to be paid for licenses.

27. The officers of sea customs at every port shall have the same power with respect to any explosive to which section twenty-five applies and the ship containing that explosive as they have for the time being with respect to any article on the importation of which restrictions are imposed by the law relating to sea customs and the ship containing the same; and the enactments for the time being in force relating to sea customs or any such article or ship shall apply accordingly. [38 Vic., c. 17, s. 40 (9) (*c*).]

Powers of Customs officers.

CHAPTER VII.

SPECIALLY DANGEROUS EXPLOSIVES.

[38 Vic., c. 17, s. 43: Cf. Act XI of 1878, s. 10.]

Power of Governor General in Council to prohibit the manufacture, keeping, importation, conveyance and sale of specially dangerous explosives.

28. (*1*) Notwithstanding anything in this Act or in the rules under this Act, the Governor General in Council may, by notification—

(*a*) regulate or prohibit, either altogether or except under a license, and to the extent and in the manner permitted by that license, the manufacture, keeping, importation, conveyance and sale, or any of them, of any explosive which is of so dangerous a character that, in the opinion of the Governor General in Council, it is expedient for the public safety to issue such a notification; and

(*b*) cancel any notification under this section.

[38 Vic., c. 17, s. 43.]

(*2*) The officers of sea customs at every port shall have the same power with respect to any explosive with regard to which a notification has been issued under this section and the ship containing the explosive as they have for the time being with respect to any article the importation of which is prohibited or regulated by the law relating to sea customs and the ship containing the same; and the enactments for the time being in force relating to sea customs or any such article or ship shall apply accordingly.

CHAPTER VIII.

GOVERNMENT SUPERVISION.

(*A*).—*Inspection.*

[38 Vic., c. 17, s. 53: Cf. Act XV of 1881, s. 3.]

Appointment and duties of Government Inspectors.

29. (*1*) The Local Government may, in its discretion, by notification appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, and suspend or remove any person so appointed.

(*2*) The persons so appointed shall, within such local area as the Local Government may from time to time direct, exercise the powers and perform the duties conferred and imposed by this Act and the rules under this Act on an Inspector.

(*3*) Every such Inspector (in this Act referred to as a Government Inspector) shall be deemed a public servant within the meaning of the Indian Penal Code, and shall be officially subordinate to such authority as the Local Government may, from time to time, indicate in this behalf.

XLV of 1860.

(*4*) The Local Government may make rules assigning and regulating the duties of Government Inspectors under this Act.

[38 Vic., c. 17, s. 55.]

Powers of Government Inspectors.

30. (*1*) A Government Inspector shall, within the local area for which he is appointed, make such examinations and enquiries as may be necessary to ascertain whether this Act and the rules under this Act are complied with, and may for that purpose—

(*a*) enter, inspect and examine any factory or magazine and every part thereof, at all times by day and night, but so as not to unnecessarily impede or obstruct the work in the factory or magazine, and make enquiries as to the observance of this Act and the rules under this Act, and as to all matters and things relating to the safety of the public or of the persons employed in or about the factory or magazine;

(*b*) enter, inspect and examine any registered place, and every part thereof, in which any explosive is kept or is reasonably supposed by him to be kept, at all reasonable times by day; and

(*c*) require the occupier of any factory, magazine or registered place which he is entitled under this section to enter, or any person employed by the occupier therein, to give him samples of any explosive or ingredients of an explosive therein, or of any substance therein, the keeping of which is restricted or regulated by or under this Act or the rules under this Act, or of any substance therein which he believes to be an explosive, or such ingredients or substance.

(*2*) The occupier of every factory, magazine or registered place referred to in this section, his agents and servants, shall furnish the means required by the Inspector as necessary for any entry, inspection, examination or inquiry under this section.

[38 Vic., c. 17, s. 56.]

Notice by Government Inspector to remedy dangerous practice.

31. (*1*) If in any matter (not provided for by any express provision of this Act or of the rules under this Act) a Government Inspector finds that any factory or magazine, or any part thereof, or any thing or practice therein or connected therewith, is unnecessarily dangerous or defective, so as in his opinion to tend to endanger the public safety or the bodily safety of any person, the Inspector may require the occupier of the factory or magazine to remedy the same.

(*2*) Where the occupier objects to comply with a requisition under this section, he may, within one month from the date of the requisition, apply to any Magistrate within the local limits of whose jurisdiction the factory or magazine is, for a decision in the matter; and the decision of the Magistrate shall be final.

(*3*) If the occupier does not apply to a Magistrate as provided by sub-section (2), he shall be bound to comply with the requisition of the Inspector.

(*4*) No person shall be precluded by any contract from doing such acts as may be necessary to comply with a requisition or decision under this section, and no person shall be liable under any contract to any penalty or forfeiture for doing any such act if he gave notice of the contract to the Inspector at or before the time at which the Inspector made the requisition, or to the Magistrate before his decision was given.

[38 Vic., c. 17, s. 58 (b).]

Inspection in ports and of ships.

32. (*1*) The Local Government may, by notification, order any person acting as an Inspector or otherwise for the purpose of the Acts relating to merchant shipping for the time being in force to inquire into the observance of this Act or the rules under this Act in any port or in the case of any ship, and generally to act in that port and with respect to ships as a Government Inspector under this Act.

(*2*) Each person so ordered shall, while the order is in force, have for that purpose the same powers and authorities as he has under the Acts in pursuance of which he was originally appointed Inspector, and also the powers and authorities of a Government Inspector under this Act and the rules for the time being in force under it.

(*3*) The Local Government may revoke any order under this section.

[38 Vic., c. 17, s. 75.]

Inspection of wharf, carriage, ship or boat with explosives in transit.

33. Any Government Inspector, or any officer who may by name or in right of his office be authorized by the Local Government in this behalf, may, if he has reasonable cause to suppose an explosive to be for the purpose of or in course of conveyance on or in the wharf, carriage, ship or boat of any carrier, or of the occupier of any factory or magazine or of the importer of any explosive, enter, inspect and examine at any time the wharf, carriage, ship or boat for the purpose of ascertaining whether the provisions of this Act or the rules under this Act with respect to the conveyance, loading, unloading and importation of an explosive are complied with, but so as not to unnecessarily obstruct the work or business of the carrier, occupier or importer.

(*B*).—*Accidents.*

[38 Vic., c. 17, s. 63: Cf. Act IV of 1879, s. 6.]

Notice to be given of accidents.

34. Whenever there occurs in or about, or in connection with, any factory, magazine or registered place, or any carriage, ship or boat, either conveying an explosive, or on or from which an explosive is being loaded or unloaded,—

(*a*) any accident by explosion or by fire attended with loss of human life or serious injury to person or property, or

(*b*) any such accident of a description usually attended with such loss or injury, or

(*c*) any accident of any other description which may be prescribed in this behalf,

the occupier of the factory, magazine or registered place, or the master of the ship or boat, or the person in charge of the carriage, as the case may be, shall forthwith give notice thereof to the nearest Magistrate.

[38 Vic., c. 17, s. 66.]

Inquiry into accidents.

35. (*1*) If in any such case an inquiry into the cause of the accident appears to the Magistrate to whom notice has been given under section thirty-four to be necessary, the Magistrate may either himself make the inquiry or direct a Government Inspector or a Magistrate subordinate to himself to make the inquiry.

(*2*) Any Magistrate or Government Inspector making an inquiry under this section shall, for the purposes of conducting the inquiry, have all the powers which he would have in holding an inquiry into an offence under the Code of Criminal Procedure.

X of 1882.

(*C*).—*Power of Search.*

[38 Vic., c. 17, s. 73.] [Cf. Act I of 1878, s. 14.]

Power of Government Inspector and certain other officers to search for explosives.

36. (*1*) Where any Government Inspector, or any officer who may by name or in right of his office be authorized by the Local Government in this behalf, has reasonable cause to believe that any offence has been or is being committed with respect to an explosive in any place (whether a building or not, or a carriage, boat or ship), or that any explosive is in that place in contravention of this Act or of the rules under this Act, or that the provisions of this Act or of those rules are not duly observed in that place, the Inspector or officer may, on producing, if demanded, in the case of an Inspector, a copy of the notification appointing him, and, in the case of any other officer, of the order authorizing him, enter at any time, and, if need be, by force, that place and every part thereof, and examine the place, and search for explosives therein, and take samples of any explosive or ingredient of any explosive therein, or of any substance reasonably supposed to be an explosive or an ingredient of an explosive which may be found therein.

[Cf. Act I of 1878, s. 16.]

(*2*) All searches under this section shall be made in accordance with the provisions of the Code of Criminal Procedure.

X of 1882.

[Cf. Act I of 1878, s. 21; 38 Vic., c. 30, s. 73, last para.]

(*3*) When any officer other than a Government Inspector enters and searches as by this section provided, he shall within forty-eight hours make a full report of all the particulars of the entry and search to his immediate official superior.

[38 Vic., c. 17, s. 35, paragraph 3.]

Power of Government Inspector and certain officers to stop, enter, inspect and examine carriages or boats in case of emergency.

37. (*1*) If any Government Inspector or any officer of any of the Departments of Excise, Police, Customs, Salt, Opium or Revenue, superior in rank to a peon or constable, has reasonable cause to suppose that any offence against this Act or the rules under this Act is being committed in respect of any carriage (not being on a railway) or any boat conveying, loading or unloading any explosive, and that the case is one of emergency, and that delay will be likely to endanger life, he may stop and enter, inspect and examine the carriage or boat, and by detention or removal thereof or otherwise take such precautions as may be reasonably necessary for removing the danger, in like

manner as if the explosive were liable to forfeiture.

[38 Vic., c. 17, s. 75, para. 4.]

(2) Every such officer shall, for the purposes of this section, have the same powers and be in the same position as if he were an officer authorized by the Local Government under section thirty-six to search for explosives.

(D).—Power of Seizure and Detention.

[38 Vic., c. 17, s. 74.]

38. Where any Government Inspector, or any officer authorized as provided by section thirty-six, has reasonable cause to believe that any explosive or ingredient of an explosive or substance found by him is liable to be forfeited under this Act or the rules under this Act, he may seize and detain the same until a Magistrate has determined whether the same is or is not liable to be forfeited.

Seizure and detention of explosives liable to forfeiture.

[38 Vic., c. 17, s. 74.]

39. The Local Government may make rules to regulate the seizure and detention of any explosive or ingredient of any explosive or substance under section thirty-eight, and may by those rules empower the Government Inspector or officer seizing the explosive or ingredient or substance—

Power of Local Government to make rules to regulate seizure and detention of explosives.

(*a*) to require the occupier of the place in which it was seized (whether a building or not, or a carriage, boat or ship) to detain it in that place or in any place under the control of the occupier; or

(*b*) to remove it in such manner and to such place as will in the opinion of the Government Inspector or officer least endanger the public safety, and there to detain it; or

(*c*) in any case which appears to the Government Inspector or officer to be urgent and fraught with serious public danger, to take a sample of it and cause the rest of it to be destroyed or otherwise rendered harmless.

(1 2).

40. The proceedings before a Magistrate for determining whether an explosive or ingredient of an explosive or substance is or is not liable to forfeiture shall be commenced as soon as practicable after the seizure.

Proceedings before Magistrate to be commenced as soon as practicable.

Cl. (3).]

41. The receptacles containing an explosive or ingredient of an explosive or substance may be seized, detained and removed in like manner as the contents thereof.

Power to seize receptacles.

Cl. (4).]

42. The Government Inspector or officer seizing an explosive or ingredient of an explosive or substance may use for the purposes of the removal and detention thereof any ship, boat or carriage in which it was seized, and any tug, tender, engine, tackle, beasts and accoutrements belonging to, or drawing or provided for drawing, that ship, boat or carriage, and shall pay to the owner a reasonable compensation for the use, to be determined in case of dispute by a Magistrate, and to be recovered in like manner as a fine under this Act.

Power to use ship, boat, carriage, &c., in which explosives are seized.

(E).—Samples.

[38 Vic., c. 17, s. 76.]

43. When a Government Inspector or other officer in pursuance of this Act or the rules under this Act takes samples of any explosive or ingredient of an explosive or substance, he shall pay for or tender payment for those samples to such amount as he considers to be the market-value thereof; and the occupier of the place in which, or the owner of the bulk from which, the sample was taken may recover any excess of the real value over the money so paid or tendered, and any amount so tendered, from the Inspector or other officer taking the sample, as a debt, in the Small Cause Court, or, if there is no Small Cause Court, in the Civil Court having jurisdiction.

Payment for samples of explosives.

CHAPTER IX.

PENALTIES AND LEGAL PROCEEDINGS.

[38 Vic., c. 17, s. 4.]

44. If an explosive is manufactured in contravention of section eight, or of a notification under section twenty-eight—

Penalty for illegal manufacture of explosives.

(*a*) the explosive and all the ingredients of the explosive, which may be found either in or about the place at which the explosive is manufactured, or in the possession, or under the control, of any person convicted under this section, shall be liable to be forfeited; and

(*b*) the person manufacturing the explosive shall be punished with fine which may extend to one thousand rupees for each day on which he so manufactures.

[38 Vic., c. 17, s. 5.]

45. If any explosive is kept in contravention of section nine, or of a notification under section twenty-eight—

Penalty for illegal keeping of explosives.

(*a*) all the explosives found in the place at which the explosive is kept shall be liable to be forfeited; and

(*b*) the occupier of that place, and also any person guilty of keeping the explosive, shall each be punished with fine which may extend to one rupee for each pound of the explosive so kept.

[38 Vic. c. 17, s. 10; but cf. s. 9 as to amount of penalty.]

46. In the event of a breach in any factory of any of the rules under section ten for the regulation of factories—

Penalty for breach of rules for regulation of factories.

(*a*) the explosive or ingredients thereof with respect to which, or being in any building or machine with respect to which, the breach is committed, shall be liable to be forfeited; and

(*b*) the occupier shall be punished with fine which may extend in the case of a first breach to five hundred rupees, and in the case of any subsequent breach to one thousand rupees, and to five hundred rupees in addition for each day during which the breach continues.

[38 Vic., c. 17, s. 17, which relates to stores.]

47. In the event of a breach in any magazine of the rules for the regulation of magazines under section thirteen, or of any rules under section eleven or section twelve—

Penalty for breach of rules for regulation of magazines.

(*a*) the explosive with respect to which, or being in the magazine when, the breach is committed, shall be liable to be forfeited; and

(*b*) the occupier shall be punished with fine which may extend in the case of a first breach to one hundred rupees, and in the case of any subsequent breach to one hundred rupees in addition for each day during which the breach continues.

[38 Vic., c. 17, s. 22.]

48. In the event of a breach in any registered place of the rules for the regulation of registered places under section fourteen, or of any rules under section eleven—

Penalty for breach of rules for regulation of registered places.

(*a*) the explosive with respect to which, or being in any house, building, place, safe or receptacle with respect to which, the breach is committed, shall be liable to be forfeited; and

(*b*) the occupier shall be punished with fine which may extend to one rupee for each pound of the explosive with respect to which, or being at the place in which, the breach was committed.

8 V ic., c. 17, 30, 32.]

49. If any explosive is hawked, sold or exposed for sale in contravention of section sixteen or section eighteen—

Penalty for illegal sale of explosives in public places.

(*a*) the explosive which is so exposed for sale, and any explosive found in the possession of any person convicted under this section, shall be liable to be forfeited; and

(*b*) the person hawking or selling the explosive, or exposing it for sale, shall be punished with fine which may extend to twenty rupees.

38 Vic., c. 17, s. 31.]

50. Whoever sells an explosive in contravention of section seventeen shall be punished with fine which may extend to fifty rupees.

Penalty for selling explosives to children.

38 Vic., c. 17, s. 40 (8).]

51. If the name of the explosive affixed to the outermost receptacle containing an explosive is materially false, the person selling the explosive or exposing it for sale shall be punished with fine which may extend to five hundred rupees.

Penalty for affixing false name to receptacle containing explosives.

38 Vic., c. 7, s. 33.]

52. In the event of a breach of any rules as to the packing of explosives under section nineteen—

Penalty for breach of rules as to packing of explosives.

(*a*) the explosive with respect to which the breach is committed shall be liable to be forfeited; and

(*b*) the person guilty of the breach shall be punished with fine which may extend to two hundred rupees.

[17 & 18 Vic., c. 7, s. 40 (2) (c): Cf. Indian Penal Code, s. 186.]

53. Whoever resists the conservator, or other officer named in the rules under section twenty, or any person acting under the orders of the conservator, when causing any ship, boat, carriage or explosive to be removed under section twenty-one, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for obstructing conservator or other person.

[38 Vic., c. 17, s. 40 (9) (d).]

54. In the event of a breach of the provisions of section twenty-five with respect to the importation of an explosive, or of the provisions of a license to import an explosive granted under section twenty-six—

Penalty for breach of provisions as to importation of an explosive or of the provisions of an importation-license.

(*a*) the explosive with respect to which, or being in any ship or boat with respect to which, the breach is committed, shall be liable to be forfeited; and

(*b*) the owner and master of the ship or boat, and the licensee or person to whom the explosive is delivered, shall each be liable to a fine which may extend in the case of a first offence to one thousand rupees, and in the case of any subsequent offence to two thousand rupees.

[38 Vic., c. 17, s. 43.]

55. If any explosive is imported or sold in contravention of a notification under section twenty-eight—

Penalty for importing or selling specially dangerous explosives in contravention of notification.

(*a*) the explosive shall be liable to be forfeited;

(*b*) the owner and master of the ship in which the explosive is imported shall each be punished with fine which may extend to five rupees for every pound of the explosive brought in the ship; and

(*c*) the person selling and the person buying the explosive shall each be punished with fine which may extend to five rupees for each pound of the explosive sold.

56. If any explosive is conveyed in contravention of a notification under section twenty-eight—

Penalty for conveying specially dangerous explosives in contravention of notification.

(*a*) the explosive shall be liable to be forfeited; and

(*b*) the master of the ship or boat or the person in charge of the carriage in which the explosive is conveyed, as the case may be, shall be punished with fine which may extend to five rupees for each pound of the explosive so conveyed.

[Cf. Act I of 1879, s. 18.]

57. Any Government Inspector or officer authorized under section thirty-three or section thirty six, or referred to in section

Penalty for vexatious entries, searches and seizures.

thirty-seven, who—

(*a*) without reasonable ground of suspicion enters or searches, or causes to be entered or searched, any building, carriage, boat or ship, or

(*b*) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any explosive or other thing liable to be forfeited under this Act or the rules under this Act,

shall for every such offence be punished with fine which may extend to five hundred rupees.

[38 Vic., c. 17, s. 77.]

58. Whoever enters without permission or otherwise trespasses on any factory or magazine, or the land immediately adjoining thereto which is occupied by the occupier of that factory or magazine, shall be punished with fine which may extend to fifty rupees, and may be forthwith removed from the factory, magazine or land by any Police-officer, or by the occupier of the factory or magazine, or by any agent or servant of, or other person authorized by, the occupier.

Penalty on, and removal of, trespassers.

[38 Vic., c. 17, s. 77, para. 2.]

59. Whoever, other than the occupier of, or a person employed in or about, a factory or magazine is found committing any act which tends to cause explosion or fire in or about factories or magazines, or fire in or about a factory or magazine shall be punished with fine which may extend to five hundred rupees.

Penalty on persons committing act tending to cause explosion or fire in or about factories or magazines.

[38 Vic., c. 17, s. 77, para. 3.]

60. The occupier of every factory or magazine shall put up in some conspicuous place or places a notice or notices warning all persons of their liability to penalties under the last two foregoing sections; but the absence of a notice or notices shall not exempt a person from punishment under those sections.

Occupier to put up notices warning persons of liability under last two sections.

[38 Vic., c. 17, s. 97, proviso.]

61. Whoever enters without permission, or otherwise trespasses on, any place in the occupation of the Government where any explosive is manufactured or stored, or the land immediately adjoining thereto in the occupation of the Government, or of the officer or person in charge of that place, and any person found committing any act tending to cause explosion or fire in or about any such place, shall be liable to the like penalty, and may be removed and arrested in like manner, as if the place were a factory or magazine to which this Act applies.

Penalty for trespass, &c., on Government manufactory or store.

[38 Vic., c. 17, s. 78.]

62. Whoever is found committing any act for which he is punishable under this Act or the rules under this Act, and which tends to cause explosion or fire in or about any factory, magazine, railway or port, or any carriage, ship or boat, may be apprehended without a warrant by a Police-officer, or by the occupier of, or the agent or servant of, or other person authorized by the occupier of, that factory or magazine, or by any agent or servant of, or other person authorized by, the railway-administration or conservator of the port, and be removed from the place where he is arrested, and conveyed as soon as conveniently may be before a Magistrate.

Power to arrest without warrant persons committing dangerous offences.

[38 Vic., c. 17, s. 82.]

63. Whoever without due authority pulls down, injures or defaces any notice, copy of rules or document when affixed in pursuance of this Act or of the rules under this Act, shall be punished with fine which may extend to twenty rupees.

Penalty for pulling down, injuring or defacing notices.

[38 Vic., c. 17, s. 87.]

64. (*1*) Where any offence under this Act or the rules under this Act, for which the occupier of any factory, magazine or registered place is liable to a penalty or forfeiture, has in fact been committed by some other person, that other person shall be punished with fine which may extend to two hundred rupees.

Exemption of occupier, &c., from penalty on proof of offence having been committed by another person.

(*2*) Where any occupier is liable under this Act or the rules under this Act to a penalty or forfeiture for an offence committed by some other person, the occupier shall be exempt from the penalty or forfeiture on proving that he had supplied proper means and issued proper orders for the observance, and used due diligence to enforce the observance, of this Act and the rules under this Act, and that the offence in question was actually committed by some other person without his connivance, and, if the actual offender is alive, that he has taken all practicable means in his power to prosecute the offender to conviction.

[38 Vic., c. 17, s. 87, para. 4.]

(*3*) The occupier or other accused, when charged in respect of any offence committed by another person, may, if he think fit, be examined as a witness in the case.

[38 Vic., c. 17, s. 87, para. 5.]

(*4*) Where any offence under this Act for which any warehouseman, or carrier, or the owner or master of any ship, boat or carriage is liable to a penalty or forfeiture, has in fact been committed by some other person, this section shall apply in like manner as if the warehouseman, carrier, owner or master were such an occupier as in this section mentioned.

[38 Vic., c. 17, s. 88.]

65. Where a carrier, or an owner or master of a ship or boat, is prevented from complying with this Act or the rules under this Act by the wilful act, neglect or default of the consignor or consignee of the explosive, or other person, or by the improper refusal of the consignee or other person to accept delivery of the explosive, the consignor, consignee or other person, who is guilty of that wilful act, neglect, default or refusal shall be liable to the same penalty to which the carrier, owner or master is liable for a breach of this Act or those rules; and his conviction shall exempt the carrier, owner or master from any penalty or forfeiture under this Act or those rules.

Exemption of carrier or owner or master of ship where consignor, &c., is in fault.

[Cf. 38 Vic., c. 17, s. 96.]

66. (*1*) In any case in which any explosive or ingredient of an explosive or any substance is liable to be forfeited under this Act or the rules under this Act, the convicting Magistrate may direct the whole or any part of the explosive, ingredient or substance, together with the receptacles containing the explosive, ingredient or substance to be forfeited.

Provisions as to forfeiture.

[38 Vic., c. 17, s. 89, para. 2.]

(*2*) Where any explosive or ingredient of an explosive or any substance is alleged to be liable under this Act or the rules under this Act to be forfeited, proceedings may be instituted in the Court of any Magistrate, within the local limits of whose jurisdiction the explosive, ingredient or substance is, against the owner of the explosive, ingredient or substance, for the purpose only of enforcing the forfeiture; and, where the owner is unknown or cannot be found, the Magistrate may cause a notice to be published in such manner as he thinks fit stating that, unless cause is shown to the contrary at the time and place named in the notice, the explosive, ingredient or substance will be forfeited; and if cause is not so shown, the Magistrate, after hearing the owner or any person on his behalf (if present), may order all or any part of the explosive, ingredient or substance to be forfeited.

[38 Vic., c. 17, s. 89, para. 1.]

(*3*) Where a Court before whom a person is convicted of an offence against this Act or the rules under this Act has power to order a forfeiture of any explosive or ingredient of an explosive or any substance owned by, or found in the possession or under the control of, that person, the Court may, if it thinks fit, in lieu of ordering a forfeiture of that explosive, ingredient or substance, sentence that person, in addition to any other punishment, to a fine which may extend to such sum as appears to the Court to be the value of the explosive, ingredient or substance.

[38 Vic., c. 17, s 95.] [Cf. Act XII of 1875, s. 66.]

67. Where the owner or master of a ship or boat is adjudged to pay a fine for an offence committed with or in relation to that ship or boat, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of the ship or boat, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Distress of ship or boat.

CHAPTER X.

SUPPLEMENTAL.

[38 Vic., c. 17, s. 72.]

68. (*1*) When any municipal committee satisfies the Local Government that the erection of a magazine by the committee either within or without the limits of the municipality would conduce to the safety of the public within the limits of the municipality, and would not be injurious to the public without those limits, the Local Government may grant to that municipal committee a license under this Act for a magazine.

Provision of magazine by municipal committee.

(*2*) The municipal committee may, for the purpose of any license under this section, acquire any land or right over land, or appropriate any land or right belonging to it, and acquire or build a magazine, and may maintain and manage the magazine, and may charge for the use by persons of the magazine such reasonable sums as it may, from time to time, with the approval of the Local Government, fix.

[Cf Act XIII of 1880, s. 23.]

(*3*) The amount of all sums charged, and the amount of all expenditure incurred, for the purposes of this section by any municipal committee shall respectively be credited to, and paid from, the municipal fund.

[Cf. Act XV of 1879, s. 13: Act XV of 1873, s. 39.]

(*4*) When any land is required by a municipal committee for the purposes of this section, if the municipal committee cannot agree with the owner for the purchase thereof, the Local Government may, on the request of the municipal committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the municipal committee of the compensation awarded under that Act, the land shall vest in it for the purposes of this section.

X of 1870.

[Cf. Act XI of 1851, s. 3.]

(*5*) In this section "municipal committee" includes a municipal corporation or a body of municipal commissioners constituted by or under the provisions of any enactment for the time being in force.

[38 Vic., c. 17, s. 50.]

69. (*1*) A person shall not be required by this Act or the rules under this Act to take out a license or to register any premises for the keeping of percussion-caps, or safety-fuzes for blasting, or fog-signals kept by any railway-administration for use on the railway of that railway-administration, or any prescribed explosive.

Provisions in favour of the keeping and conveyance of percussion-caps, safety-fuzes for blasting, fog-signals and prescribed explosives.

(*2*) It shall not be obligatory on a railway-administration making rules under section twenty-two to make any rules with respect to the conveyance, loading, unloading or keeping of any explosive to which this section applies.

(*3*) The Governor General in Council may, by notification, exempt any explosive to which this section applies, or any description thereof, from any other of the provisions of this Act or from any of the rules under this Act, or may declare that a license shall be required for the keeping of any explosive to which this section applies, or any description thereof, or that rules shall be made with respect to the loading, unloading, conveyance or keeping thereof.

[38 Vic., c. 17, s. 41.]

70. Nothing in this Act or in the rules under this Act shall apply to the filling or conveying for private use, and not for sale, of any safety-cartridges to the amount allowed by this Act or those rules to be kept for private use.

Exemption of safety-cartridges for private use.

[38 Vic., c. 17, s. 100.]

71. Nothing in this Act or the rules under this Act shall render liable to any penalty or forfeiture the owner or master of any ship or boat, or any carrier or warehouseman, or the person having charge of any carriage, for any act done in breach of this Act or those rules, if he proves that, by reason of stress of weather, inevitable accident or other emergency, the doing of that act was under the circumstances necessary and proper.

Saving for owner or master of ship, carrier and others in case of emergency.

[38 Vic., c. 17, s. 102.]

72. Nothing in this Act or the rules under this Act shall—

Saving as to liability under other law.

(*a*) exempt, save as is in this Act or those rules expressly provided, any person from any suit which might, but for the provisions of this Act or those rules, have been brought against him; or

(*b*) prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or those rules, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or those rules: provided that no person shall be punished twice for the same offence.

Act VIII of 1878, s. [illegible]
XI of 1878, s. 33.]

73. No proceeding other than a suit shall be commenced against any person for anything done in pursuance or in alleged pursuance of this Act or of the rules under this Act until at least one month's previous notice in writing of the intended proceeding and of the cause thereof has been given to him, nor after the expiration of three months from the accrual of that cause.

Notice and limitation of proceedings.

[illegible Vic., c. 17 s. 104.]

74. The Governor General in Council may, by notification, declare that any substance which appears to the Governor General in Council to be specially dangerous to life or property, by reason either of its explosive properties, or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act and of the rules under this Act; and the provisions of this Act and of those rules (subject to such exceptions, limitations and restrictions as may be specified in the notification) shall accordingly extend to that substance in like manner as if it were included in the term "explosive" in this Act.

Extension of definition of "explosive" to other explosive substances.

75. (*1*) Every authority having power to make rules under any section of this Act other than section fifteen or section twenty-nine, shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

Procedure for making, publication and confirmation of rules.

(*2*) The publication shall be made, in the case of rules made by the Governor General in Council, in such manner as may in his opinion be sufficient for giving information to persons interested, and in the case of rules made by any other authority, in the prescribed manner.

(*3*) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(*4*) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*5*) A rule made under this Act by a Local Government or railway-administration shall not take effect until it is confirmed by the Governor General in Council.

(*6*) Every rule made under this Act by a Local Government and confirmed by the Governor General in Council shall be published in the local official Gazette.

(*7*) Every rule made under this Act by a railway-administration and confirmed by the Governor General in Council, and every rule made under this Act by the Governor General in Council, shall be published in the *Gazette of India*.

(*8*) The publication in the local official Gazette, or, as the case may be, in the *Gazette of India*, of a rule purporting to be made under this Act, shall be conclusive evidence that it has been duly made, and, if it requires confirmation, that it has been duly confirmed.

(*9*) All powers to make rules conferred on any authority by this Act may be exercised from time to time as occasion requires.

76. (*1*) Save as provided in section four, all powers to issue notifications conferred by this Act on the Governor General in Council or the Local Government may be exercised from time to time as occasion requires.

Issue and publication of notifications.

(*2*) A notification issued by the Governor General in Council or the Local Government under this Act shall not take effect until it has been published in the *Gazette of India* or the local official Gazette, as the case may be.

THE SCHEDULE.

(*See section 5.*)

ENACTMENTS REPEALED.

(*a*) *Acts of the Governor General in Council.*

Number and Year.	Subject or Short Title.	Extent of Repeal.
XIII of 1856 ...	For regulating the police of the towns of Calcutta, Madras and Bombay.	Sections seventy to seventy-four (both inclusive).
XXI of 1857 ...	To make better provision for the order and good government of the station of Howrah.	Sections eighteen and nineteen.
XII of 1875 ...	The Indian Ports Act, 1875 ...	Section seven, clause (*o*), and sections twenty-eight to thirty-four (both inclusive).

(*b*) *Acts of the Governor of Fort St. George in Council.*

Number and Year.	Subject or Short Title.	Extent of Repeal.
VIII of 1867 ...	To incorporate the police of the town of Madras with the general police of the Madras Presidency, to extend the jurisdiction of the Town Police Magistrates, and to amend and consolidate the provisions of Act XIII of 1856 and of Act XLVIII of 1860.	Sections forty-five to forty-nine (both inclusive).
V of 1878 ...	The City of Madras Municipal Act, 1878.	In section three hundred and twenty-two, the words "gunpowder manufactory, manufactory of fire-works," and the words "explosive or."
I of 1880 ...	For regulating the storing, sale and packing for conveyance of gunpowder.	The whole Act.

(*c*) *Acts of the Governor of Bombay in Council.*

Number and Year.	Subject or Short Title.	Extent of Repeal.
III of 1872 ...	To provide for the management of the municipal affairs of the city of Bombay and to make better provision for the conservancy and improvement of the city and for the levying of rates, taxes and other income therein.	In section two hundred and twenty-five, the words "gunpowder manufactory, manufactory of fireworks," and the words "explosive or."
VI of 1873 ...	Bombay District Municipal Act ...	In section sixty-nine, the words "manufactory of gunpowder or fireworks" and the words "explosive substances or."

(*d*) *Acts of the Lieutenant-Governor of Bengal in Council.*

Number and Year.	Subject or Short Title.	Extent of Repeal.
II of 1866 ...	To provide for the better regulation of the police within the suburbs of the town of Calcutta.	Sections thirty-four to thirty-eight (both inclusive).
IV of 1866 ...	To amend and consolidate the provisions of Act XIII of 1856 and Act XLVIII of 1860.	Sections fifty-seven to sixty-one (both inclusive).
V of 1876 ...	Bengal Municipal Act, 1876 ...	In section two hundred and eighty-five, the words "or explosive substance."
V of 1879 ...	The Jute Warehouse and Fire-Brigade Act, 1879.	In section twenty-one, the words "or manufacture."

STATEMENT OF OBJECTS AND REASONS.

1. The object of this Bill is to provide a comprehensive law regulating the manufacture, keeping, sale, conveyance and importation of explosives throughout British India. The matter was first brought to the notice of the Government in connection with an application made by the agents of Nobel's Explosives Company, Limited, for permission to import dynamite manufactured by the Company. The Government of Bombay, to whom the application was made, referred the question to a Committee, which reported that the expediency of allowing the importation into that Presidency of dynamite and other preparations of nitro-glycerine was doubtful. The Government of Bombay forwarded a copy of this report to the Government of India with a request that the importation of preparations of nitro-glycerine might be prohibited until further notice by a notification under the Sea Customs Act. Before complying with this request the Government of India thought it well to consult the Governments of Madras and Bengal. In reply, both Governments expressed an opinion that the importation of these explosives should not be forbidden. The Government of Bengal further submitted a draft set of rules to regulate the importation, package, transport and storage of dynamite and similar substances, together with a report which had been prepared by a Committee appointed by the Lieutenant-Governor to consider the entire subject. This Committee, while recommending that the draft rules should be published as rules under the Indian Arms Act, 1878, suggested the enactment of a comprehensive Imperial Act of a similar nature to the English Explosives Act, 1875 (38 Vic., c. 17), which would in a convenient and compendious Code deal with the subject of explosives in its entirety and furnish the public, as well as Government officials, with an easy means of ascertaining their duties, responsibilities and powers respecting articles which by their inflammable, explosive or dangerous nature imperil the public safety.

2. It appears to the Government of India that it would be an abuse of the powers conferred by the Indian Arms Act, 1878, to make rules of the nature of those submitted by the Bengal Committee under that Act. There are, no doubt, powers conferred by the Indian Arms Act which might, at first sight, seem to authorise the making of such rules; but the object to which such rules are directed is altogether different from that of the Act. The object of the Arms Act was to enable the Government more effectually to prevent arms and ammunition (which term under section 4 includes gun-cotton, dynamite, lithofracteur and other fulminating substances) from getting into the hands of persons who would make a bad use of them. In other words, the main object of that Act was to *restrict* the possession of arms and ammunition. But the main object of the rules prepared by the Bengal Committee is not restrictive. Their object is to *protect* the public against the dangerous nature of the explosives to which they relate by regulating all dealings with those explosives. If they are restrictive, it is only so far as is necessary to carry out their protective object. Under these circumstances, it appears to the Government that the proposed rules could not properly be published under the Indian Arms Act, 1878.

3. Nor does it appear that there is any other enactment, as the law at present stands, under which rules of the nature of those prepared by the Bengal Committee can be issued. Under the existing law, the only enactments relating to this subject are to be found in various fragmentary provisions, dealing with gunpowder and fireworks only, which are in force in the Presidency-towns and in certain municipalities and ports. It appears to the Government that it is unsatisfactory that the law should be in this state at a time when dynamite and other compounds of nitro-glycerine are rapidly taking the place of gunpowder in all works where blasting in necessary. Already these explosives have been used to a considerable extent in connection with various works undertaken both by the Government and by private enterprize throughout India; and it is only natural to suppose that, as their superiority to gunpowder becomes more widely known, their use will increase.

4. Under these circumstances, the suggestion of the Committee that an Act drawn on the model of the English Explosives Act, 1875, and dealing comprehensively with the whole subject of explosives, should be added to the Indian Statute-book, recommends itself to the Government of India, as being the only satisfactory method of treating the subject. Accordingly the present Bill has been prepared. It embodies such of the provisions of the English Act as are in the opinion of the Government necessary in this country. In addition to the omission from the Bill of certain provisions of the English Act, the Bill further differs from that Act in that, in accordance with the well-recognized principle of Indian legislation, it confers power on the Local Governments to provide by means of rules, adapted to the varying local circumstances of the provinces under their administration, for many points for which there are specific provisions in the body of the English Act.

5. The Bill is divided into ten chapters.

Chapter I (Preliminary) contains the usual preliminary matter. Section 2 saves from the Act the manufacture, packing, sale, conveyance or importation of explosives by the Government, and section 3 saves the provisions of the Indian Arms Act, 1878. Under section 4, the Act will not come into force until after the publication of a notification by the Governor General in Council; but, in order to prevent the inconvenience which would arise if the Act were brought into force before the notifications, rules, orders and appointments necessary for its efficient working had been made, sub-section (2) gives power to make these at any time after the passing of the Act, though they are not to take effect until the Act comes into force. By section 5 and the schedule are repealed the enactments which at present deal with the subject-matter of the Bill, with the exception of the Indian Arms Act, 1878, and the provisions to be found in the Andaman and Nicobar Islands Regulation, 1876. The provisions of the former Act relating to explosives have been left unrepealed for the reasons which have led the Government of India to decide that the rules framed by the Bengal Committee cannot be passed under it, namely, because the objects of the Act and of the Bill are different. The provisions of the Andaman and Nicobar Islands Regulation, 1876, have not been repealed because, considering the peculiar nature of that settlement, it seems inconvenient to interfere with any of the rules which are at present contained in that Regulation. Though the proposed Act will extend to the Andamans, its provisions will be practically a dead-letter in those islands.

6. Chapter II lays down the general law as to the manufacture and keeping of explosives prescribing the places at which an explosive may be manufactured or kept. It is to be read subject to certain exceptions in the Supplemental Chapter (X).

7. Chapter III deals with the licensing and regulation of factories and magazines, and the registration and regulation of registered places, and confers power on the Local Government to make rules on all necessary matters. A factory under the Act is a place licensed for the manufacture of an explosive; a magazine is a place licensed for the keeping of an explosive; and a registered place is a place registered for the keeping of an explosive. Magazines differ from registered places in that the former are places devoted exclusively to the keeping of explosives and the receptacles for or tools or implements for work connected with the keeping of explosives, whilst the latter are places, *e.g.*, general stores or shops, not devoted exclusively to the keeping of explosives but in which explosives may be kept. Sections 11 and 12 enact certain provisions in favour of the occupiers of magazines and registered places; the former section enabling the occupiers of magazines and registered places to make cartridges without taking out a factory-license, and the latter enabling the occupiers of magazines to adapt or prepare explosives for use in their own mines or quarries without any such license. Section 15 imposes on the occupier of a factory or magazine the duty of making special rules for the regulation of the workmen in his factory or magazine.

8. Chapter IV relates to the sale of explosives. Section 16 prohibits explosives being hawked, sold or exposed for sale on highways or public places; section 17 prohibits the sale of an explosive to a child under 13; and section 18 prescribes the manner in which an explosive exposed for sale or sold is to be packed and labelled.

9. Chapter V treats of matters relating to the conveyance of explosives. Under section 19, the Governor General in Council may make rules as to the packing of explosives for conveyance. Under section 20, the Local Government may make rules to regulate the conveyance, loading, unloading and keeping of explosives within a port; and section 21 confers certain powers on the Conservator or other officer named in such rules in the event of their breach. Under section 22, Railway-administrations are directed to make rules for their own railways respectively. Under section 23, the Governor General in Council is empowered to make rules in any case in which rules under section 20 or section 22 do not apply. By section 24 the authority making rules under sections 20, 22 and 23 respectively is empowered to annex to a breach of any rule, or attempt to commit a breach of any rule, a penalty which may consist of a fine which may extend to two hundred rupees for each breach and to one hundred rupees for each day during which the breach continues, and of forfeiture of all or any part of the explosive in respect of which the breach is committed.

10. Chapter VI regulates the importation of explosives other than gunpowder, cartridges made with gunpowder, percussion-caps, fireworks, and any prescribed explosive, and prohibits their importation except under a license. The Governor General in Council is given power (section 26) to regulate all matters connected with the grant of such licenses, and the officers of sea-customs are given similar power (section 27) with regard to these explosives as they have with regard to any article on the importation of which restrictions are for the time being imposed by the law relating to sea customs.

11. Chapter VII confers special powers on the Governor General in Council to regulate or prohibit all dealings with any explosive which in the opinion of the Governor General in Council is specially dangerous to the public safety; and the officers of sea customs are given like powers with regard to any such explosive as they are given under section 27 with regard to the importation of the explosives referred to in section 25.

12. Chapter VIII (Government supervision) first provides for matters relating to inspection. The Local Government is empowered (section 29) to appoint Government Inspectors, and to make rules to assign and regulate their duties. Section 30 defines the general power of these officers as to entry, inspection, and examination of factories, magazines and registered places, and the taking of samples from the occupiers. Section 31 empowers the Government Inspector to require the occupier of any factory or magazine to remedy anything connected with his factory or magazine which is in the opinion of the Inspector unnecessarily dangerous or defective, and provides for a reference to the nearest Magistrate when the occupier objects to comply with the inspector's requisition. Section 32 deals with inspection in ports and of ships, and section 33 provides for the inspection of a wharf, carriage, ship or boat on or in which an explosive is reasonably supposed by a Government Inspector or other officer to be for the purpose of or in course of conveyance.

The chapter secondly provides (section 34) for the giving of notice of accidents arising from explosion or fire occurring in or about or in connection with any factory, magazine or registered place, or any carriage, ship or boat either conveying an explosive or on or from which

an explosive is being loaded or unloaded, and (section 35) for inquiry into the cause of such accidents when necessary.

Thirdly, the chapter deals with power of search. It empowers (section 36) Government Inspectors and officers authorised by the Local Government to enter and search all places where they have reason to believe that any offence has been or is being committed with respect to an explosive, or that any explosive is in contravention of the Act, or that the provisions of the Act are not duly observed. Such searches are to be made in accordance with the Code of Criminal Procedure, and when made by any officer other than a Government Inspector are to be reported by him to his official superior within 48 hours. Section 37 gives special power to Government Inspectors and other officers to stop carriages or boats in case of emergency.

Fourthly, the chapter treats of seizure and detention of explosives. Section 38 authorizes the seizure and detention of any explosive liable to forfeiture, and section 39 gives the Local Government power to make rules to regulate such seizure and detention. Section 40 declares that the proceedings before a Magistrate with regard to any such seizure shall be commenced as soon as possible. Section 41 gives power to seize the receptacle in which the explosive was found, and section 42 to use the ship, boat, carriage, &c., in which the explosive was seized.

Lastly, the chapter (section 43) provides for the payment for samples of explosives taken by Government Inspectors or other officers under the Act.

13. Chapter IX deals with the penalties and legal proceedings.

The penalties for breaches of the provisions of the Act and the rules made under it are restricted to forfeitures and fines, and the only instance in which the Act prescribes imprisonment as a punishment is (section 53) that of resistance to a public officer.

14. With regard to legal proceedings, section 64 provides for the exemption of an occupier of a factory, magazine or registered place, and of a warehouseman, carrier or owner or master of a ship, boat, or carriage from penalty on proof of another being the real offender. Under section 65, a carrier or owner or master of a ship or boat is exempted from penalty when he is prevented from complying with the law by the act or default of the consignor or consignee of the explosive or some other person and the consignor or consignee or other person is convicted (as it is provided he may be) under the Act.

Section 66 confers a general power on Magistrates to order forfeiture in all cases in which explosives are liable to be forfeited, and provides that proceedings may be taken for the purpose only of inflicting a forfeiture. The same section empowers the Court to inflict an additional fine in lieu of forfeiture of the explosive; and section 67 provides for levy of a fine imposed on the owner or master of a ship by distress of the ship.

15. Chapter X (Supplemental) provides for several miscellaneous matters. Section 68 empowers Municipal Committees to provide magazines for the use of the public; section 69 enacts certain provisions in favour of the keeping and conveyance of percussion-caps, safety-fuses for blasting, fog-signals and prescribed explosives. Section 69 exempts railway-administrations from the obligation to make rules with regard to such explosives, and empowers the Governor General in Council to exempt such explosives altogether from the Act. By section 70 the filling and conveying for private use, and not for sale, of safety-cartridges are excepted from the application of the Act. Section 71 exempts the owner or master of a ship and a carrier or warehouseman or any person in charge of a carriage from punishment when an act is done by him in breach of the provisions of the Act in a case of emergency. Section 72 contains the usual provision saving liability to civil suit or prosecution under other laws. Section 73 deals with notice and limitation of proceedings. Section 74 empowers the Governor General in Council to extend the definition of "explosive" to other explosive substances; and sections 75 and 76 treat of general matters connected with the issue and publication of notifications and rules. Under section 75, proposed rules must be published as drafts before they are finally made, and the authority that makes the rules is directed to receive and consider any criticisms or suggestions which may be made by persons interested.

CALCUTTA;
The 1st January, 1883.

C. P. ILBERT.

R. J. CROSTHWAITE,
Addl. Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th January, 1883, and was referred to a Select Committee:—

No. 1 OF 1883.

A Bill to amend the Chutiá Nágpur Encumbered Estates Act, 1876.

WHEREAS it is expedient to amend the Chutiá Nágpur Encumbered Estates Act, 1876; It is hereby enacted as follows:— Preamble.

VI of 1876.

1. Act XII of 1877 (*an Act to amend the Chutiá Nágpur Encumbered Estates Act, 1876*) is hereby repealed. Repeal of Act XII of 1877.

2. To section 4 of the Chutiá Nágpur Encumbered Estates Act, 1876, the following shall be added, namely:— Addition to Act VI of 1876, section 4.

"and also in or towards the repayment, either before or after the liquidation of such debts and liabilities, of any loan received from the Government by the manager under this Act".

3. (*1*) In section 12 of that Act, for the first clause the following shall be substituted:— Amendment of section 12 of same Act.

"When all the debts and liabilities mentioned in the schedule referred to in section eleven, and the amount of any loan received from the Government under section eighteen, together with the interest (if any) due thereon, have been paid and discharged", and

(*2*) in the second clause of the same section, for the word "six" the word "twelve" shall be substituted.

4. (*1*) In section 18 of that Act, after the words "as may appear expedient" the following shall be inserted, namely:— Amendment of section 18 of same Act.

"or by borrowing money from the Government at such rate of interest as appears reasonable to the Local Government", and

(*2*) in the last clause of the same section, for the word "six" the word "twelve" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

THE Chutiá Nágpur Encumbered Estates Act, 1876, omits to provide for the recovery by the manager, under the scheme for the management of the estate, of a loan made by the Government for the payment of the debts. It consequently would be open to the proprietor, when the scheduled debts had been paid off, to demand, under section 12 of the Act, the release of the estate, although any such loan made by the Government had not been repaid.

2. No such loan has as yet been made by the Government, but as it is possible that such loans may be made, it is proposed to amend the Act so as to secure the detention of the estate under management until the amount of any such loan that may have been made has been paid off with interest. This is provided for by certain amendments made, in sections 4, 12 and 18 of the Act, by sections 2, 3 and 4 of the present Bill.

3. The second sub-section of section 4 of the Bill merely supplies an omission, apparently the result of an oversight, in the amending Act XII of 1877.

Under section 12 of the principal Act, as it originally stood, six months from the publication of the order of management was the period within which the Commissioner was permitted to abandon the management, and as difficulties might arise if the management was abandoned after the manager had exercised his power of mortgaging, the last clause of section 18 provided that the power to mortgage should not be exercisable until after the expiration of the same period. The amending Act of 1877 altered the period fixed by section 12 to twelve months, but left that fixed by section 18 unchanged. The amendment now proposed makes the period in section 18 the same as that in section 12, namely, twelve months.

4. It is proposed, as a matter of convenience, to repeal the amending Act of 1877 and incorporate its single provision in the new one.

The 22nd December, 1882.

S. C. BAYLEY.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th January, 1883, and was referred to a Select Committee on the 12th January, 1883 :—

No. 2 OF 1883.

THE INDIAN EXPLOSIVES BILL, 1883.

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SCHEDULE.

ENACTMENTS REPEALED.

A Bill to regulate the manufacture, keeping, sale, conveyance and importation of Explosives.

WHEREAS it is expedient to regulate the manufacture, keeping, sale, conveyance and importation of explosives; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

Short title.

1. (*1*) This Act may be called the Indian Explosives Act, 1883.

Local extent.

(*2*) It extends to the whole of British India.

[Cf. 38 Vic., c. 17, s. 97.]

Saving for manufacture, keeping, sale, conveyance or importation by Government.

2. Save as provided in section sixty-one, nothing in this Act shall apply to the manufacture, keeping, sale, conveyance or importation of any explosive by order of the Government, or by any person employed under the Government in the execution of this Act or as keeper of a magazine, artizan, soldier, sailor, policeman or otherwise, or enrolled as a volunteer under the Indian Volunteers' Act, 1869, in the course of his employment or duty as such.

XXof1869.

XI of 1878.

Saving of Indian Arms Act, 1878.

3. Nothing in this Act shall affect the provisions of the Indian Arms Act, 1878.

Commencement.

4. (*1*) This Act shall come into force on such day as the Governor General in Council, by notification in the *Gazette of India*, appoints.

(*2*) But any notification, order or rule, and any appointment to an office or grant of authority, may be made under this Act at any time after the passing thereof, but shall not take effect until the Act comes into force.

Repeal of enactments.

5. On and from the day on which this Act comes into force the Acts mentioned in the first column of the schedule to this Act shall be repealed to the extent mentioned in the third column thereof.

Limitation of application of Madras and Bombay Municipal Acts.

6. Nothing in section 322 of Madras Act V of 1878, or in section 225 of Bombay Act III of 1872, shall be deemed to apply to an explosive.

Definitions.

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

(*1*) "explosive"—

[38 Vic., c. 17, s. 3.]

(*a*) means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion, or a pyrotechnic effect; and

(*b*) includes fog-signals, fireworks, fuzes, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined:

[38 Vic., c. 17, s. 105.]

(*2*) "manufacture" includes the process of dividing into its component parts, or otherwise breaking up or unmaking, any explosive, or making fit for use any damaged explosive, and the process of re-making, altering or repairing any explosive:

[38 Vic., c. 17, s. 108.]

(*3*) "occupier" includes any number of persons and a body corporate, and, in the case of any manufacture or trade, includes any person carrying on that manufacture or trade:

[*ib.*]

(*4*) "master" includes every person (except a pilot or harbour-master) having for the time being command or charge of a ship; and, in reference to any boat belonging to a ship, means the master of the ship; and, in reference to any other boat, includes every person having for the time being command or charge of that boat:

[New.]

(*5*) "factory" means a place licensed under this Act for the manufacture of an explosive:

[38 Vic., c. 17, s. 108.]

(*6*) "magazine" means a place licensed under this Act for the keeping of an explosive, and includes any ship or other vessel licensed for that purpose:

[New.]

(*7*) "registered place" means a place registered under this Act for keeping an explosive:

[38 Vic., c. 17, s. 108.]

(*8*) "warehouseman" includes all persons owning or managing any warehouse, store, wharf or other place in which goods are deposited:

[*ib.*]

(*9*) "carrier" includes all persons carrying goods or passengers for hire by land or water:

[New.]

(*10*) "port" means any port, or any part of a navigable river or channel, in which the Indian Ports Act, 1875, is for the time being in force:

XII of 1875.

[Cf. Act IV of 1879, s. 3.]

(*11*) "railway" means any railway, whether it is used for the public conveyance of passengers or goods or not, and includes—

(*a*) a railway under construction;

(*b*) all lands within the fences or other boundary-marks prescribed under section 52 of the Indian Railway Act, 1879;

IV of 1879.

(*c*) all lines of rail, sidings or branches worked over for the purposes of, or in connection with, a railway;

(*d*) all stations, offices, warehouses, fixed machinery and other works constructed for the purposes of, or in connection with, a railway; and

(*e*) all vessels and rafts used for the purpose of carrying on the traffic of a railway:

[Cf. Act IV of 1879, s. 3.]

(*12*) "railway-administration" means, in the case of a railway worked by Government or a

Native State, the manager of the railway, and, in the case of a railway worked by a company or private individual, the company or individual:

[38 Vic., c. 17, s. 108.] (13) "wharf" includes any quay, landing-place, siding or other place at which goods are landed, loaded or unloaded:

[ib.] (14) "carriage" includes any carriage, waggon, cart, truck, vehicle or other means of conveying goods or passengers by land, in whatever manner the same may be propelled:

[ib.] (15) "ship" includes every description of vessel used in sea-navigation, whether propelled by oars or otherwise:

[ib.] (16) "boat" means every vessel, not a ship as above defined, which is used in navigation in any inland water or any port, whether propelled by oars or otherwise:

[New.] (17) "import" means to bring into British India by sea or land:

Cf. Act VIII of 1881, s. 3.] (18) "prescribed" means prescribed from time

[38 Vic., c. 17, s. 108.] to time by notification of the Governor General in Council:

[ib.] (19) the expression "safety-cartridges" means cartridges for small arms of which the case can be extracted from the small arm after firing, and which are so closed as to prevent any explosion in one cartridge being communicated to other cartridges:

[New.] (20) "Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere, a Magistrate of the first class, and includes also any Magistrate whom the Governor General in Council or the Local Government may, by notification, appoint to discharge in any local area the functions of a Magistrate under this Act.

CHAPTER II.

GENERAL LAW AS TO MANUFACTURE AND KEEPING OF EXPLOSIVES.

[38 Vic., c. 17, s. 4.] **8.** The manufacture of an explosive shall not, nor shall any process of that manufacture, be carried on except at a factory for that explosive:

Prohibition of manufacture of explosives except at factory.

Provided that nothing in this section shall apply—

(*a*) to the making of a small quantity of an explosive for the purpose of chemical experiment and not for practical use or for sale; or

(*b*) to the making of any part of an explosive where that part is not itself an explosive and no explosive is used in making it.

[38 Vic., c. 17, s. 5.] **9.** An explosive shall not be kept except—

Prohibition of keeping of explosives except in factory, magazine or registered place.

(*a*) in the factory in which it is manufactured, or

(*b*) in a magazine for that explosive, or

(*c*) in a place registered under this Act for keeping that explosive:

Provided that this section shall not apply—

[38 Vic., c. 17, s. 40 (4).] (*a*) to a person keeping for his private use, and not for sale, an explosive to an amount not exceeding in the same place the prescribed amount, or

(*b*) to the keeping of an explosive by a carrier or other person for the purpose of conveyance, when the explosive is being conveyed or kept in accordance with the rules under this Act with respect to the conveyance of explosives.

CHAPTER III.

FACTORIES, MAGAZINES AND REGISTERED PLACES.

(A).—Licensing and Regulation of Factories.

10. (*1*) The Local Government may make rules as to the licensing and regulation of places as factories for the manufacture of explosives.

[Cf. 38 Vic., c. 17, ss. 6 to 10, & ss. 12, 13 & 26.]

Power of Local Government to make rules as to licensing and regulation of factories.

(*2*) Rules under this section may provide for all or any of the following among other matters, that is to say:—

(*a*) the authority by which licenses may be granted;

(*b*) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses;

(*c*) the manner in which applications for licenses are to be made, and the matters to be specified in such applications;

(*d*) the form in which, and the conditions on and subject to which, licenses are to be granted;

(*e*) the period for which licenses are to remain in force;

(*f*) the renewal of licenses and the fee to be paid for their renewal;

(*g*) the alteration of the terms of licenses by the grant of amending licenses, and the fee to be paid for an amending license;

(*h*) the devolution and determination of licenses;

(*i*) the situation, construction, materials and fittings of factories;

(*j*) the conditions on and subject to which the manufacture, or any process in, or work connected with, the manufacture, of an explosive is to be carried on in any factory;

(*k*) the descriptions of explosives which may be kept in a factory, and the conditions and restrictions subject to which they may be so kept;

(*l*) the manner of carrying out repairs in factories; and

(*m*) the restricting of the employment of persons under the age of sixteen years in factories or in certain parts thereof.

[38 Vic., c. 17, s. 46.] **11.** The occupier of a magazine or registered place shall not be required by this Act or the rules under this Act to take out a factory-license by reason that, in connection with the magazine or place, he fills, for sale or otherwise, any cartridge for small arms with the explosive for the keeping of which the magazine or place is licensed or registered: provided that he observes such rules as the Local Government may make in this behalf.

Provision in favour of occupiers of magazines and registered places making cartridges.

[38 Vic., c. 17, s. 47.] **12.** The occupier of a magazine shall not be required by this Act or the rules under this Act to take out a factory-license by reason that, in connection with the magazine, he, by filling cartridges, making charges, drying, sifting, fitting or otherwise, adapts or prepares the explosive for the keeping of which the magazine is licensed, for use exclusively in his mine or quarry, or in some excavation or work carried on by him or under his control: provided that he observes such rules as the Local Government may make in this behalf.

Provision in favour of occupiers of magazines adapting or preparing explosives for use in their own mines or quarries.

(B).—Licensing and Regulation of Magazines.

[38 Vic., c. 17, ss. 15 to 19 (relating to stores).] **13.** (*1*). The Local Government may make rules as to the licensing and regulation of places as magazines for the keeping of explosives.

Power of Local Government to make rules as to licensing and regulation of magazines.

(*2*) Rules under this section may, among other matters, provide for all or any of the matters for which rules under clauses (*a*) to (*i*), both inclusive, and clauses (*k*) to (*m*), both inclusive, of section ten may provide in the case of factories.

(C).—Registration and Regulation of Registered Places.

[Cf. 38 Vic., c. 17, ss. 21 and 22.] **14.** (*1*) The Local Government may make rules as to the registration and regulation of places for the keeping of explosives.

Power of Local Government to make rules as to registration and regulation of registered places.

(*2*) Rules under this section may provide for all or any of the following among other matters, that is to say:—

(*a*) the manner in which places may be registered, the period for which registration is to be valid, and the manner in which registration may be renewed;

(*b*) the fees to be paid for registration and renewal of registration;

(*c*) the situation and nature of places which may be registered, the manner in which an explosive is to be kept in those places, and the maximum amount of an explosive which may be so kept; and

(*d*) the descriptions of explosives which may be kept together in the same registered place, and the conditions and restrictions subject to which they may be so kept.

(D).—Supplemental Provisions.

[38 Vic., c. 17, ss. 11 and 19.] **15.** (*1*) Every occupier of a factory or magazine shall make special rules for the regulation of the persons managing or employed in or about his factory or magazine, with a view to secure the observance therein of this Act and the rules under this Act, and the safety and proper discipline of those persons and the safety of the public.

Duty of occupier to make special rules for regulation of workmen in his factory or magazine.

(*2*) The occupier may, and, if required by the Local Government, shall, make rules, repealing, altering or adding to any special rules made under this section.

(*3*) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with fine which may extend to twenty rupees.

(*4*) A rule made under this section shall not take effect until it has been confirmed by the Local Government and notified to the persons managing or employed in or about the factory or magazine in such manner as the Local Government from time to time directs.

CHAPTER IV.

SALE OF EXPLOSIVES.

[38 Vic., c. 17, s. 30.] **16.** An explosive shall not be hawked, sold or exposed for sale on any highway, street, public thoroughfare or other public place.

Sale of explosives on highways or public places prohibited.

[38 Vic., c. 17, s. 31.] **17.** An explosive shall not be sold to any child apparently under the age of thirteen years.

Sale of explosives to children prohibited.

[38 Vic., c. 17, s. 32 and s. 40 (6).] **18.** Every explosive, exceeding in amount the prescribed amount, shall, when publicly sold or exposed for sale, be in a substantial case, bag, canister or other receptacle, made and closed so as to prevent the explosive from escaping, and (except when the explosive is sold to any person employed by or on the property occupied by the vendor for immediate use in the service of the vendor or on that property) the outermost receptacle containing the explosive shall have affixed in conspicuous characters, by means of a brand or securely attached label or other mark, the name of the explosive, with the addition of the word "explosive."

Explosives to be sold in cases, closed and labelled.

CHAPTER V.

CONVEYANCE OF EXPLOSIVES.

[38 Vic., c. 17, s. 33.] **19.** The Governor General in Council may make rules to regulate the packing of explosives for conveyance, and may by those

Power of Governor General in Council to make rules as to packing of explosives.

rules provide for the nature of the packages, cases, bags, canisters or other receptacles in which an explosive is to be contained.

[38 Vic., c. 17, s. 34.]

20. (*1*) The Local Government may make rules to regulate the conveyance, loading, unloading and keeping of explosives within any port.

Power of Local Government to make rules regulating the conveyance, loading, unloading and keeping of explosives in ports.

(*2*) Rules under this section may provide for all or any of the following among other matters, that is to say :—

[Sub-section 1.] [cf. Act XII of 1875, s. 7 (*a*).] [38 Vic., c. 17, s. 34, sub-section 2.] [Sub-section 3.]

(*a*) the notice to be given in the case of ships and boats having any explosive on board within the port ;

(*b*) the navigation and place of mooring of those ships and boats ;

(*c*) subject to the rules as to packing made under section nineteen, the mode of stowing and keeping an explosive on board any such ship or boat, and of giving notice, by brands, labels or otherwise, of the nature of the package containing the explosive ;

[Sub-section 4.]

(*d*) the description, construction, fitting-up and licensing of the ships, boats or carriages to be used for the conveyance of an explosive, and the licensing and dress of the persons having charge thereof ;

[Sub-section 5.]

(*e*) the prohibition of the conveyance of one explosive with another explosive or any articles or substances, or in passenger-ships, boats, trains or carriages, or the subjection of that conveyance to conditions and restrictions ;

[Sub-section 6.]

(*f*) the prohibition, in cases where the loading or unloading of an explosive within the limits of the port appears to be specially dangerous to the public, of loading or unloading within those limits, and the fixing of the times and places at which an explosive is to be loaded or unloaded, and the quantity to be loaded or unloaded, or conveyed at one time or in one ship, boat or carriage ;

[Sub-section 7.]

(*g*) the mode of, and the precautions to be observed in, conveying an explosive, and in the loading or unloading any ship, boat or carriage conveying an explosive, and the time during which the explosive may be kept during the conveyance, loading or unloading ;

[Cf. Act XII of 1875, s. 7, cls. (*c*), ss. 28, 29, 30, 31 and 32.]

(*h*) the fixing the cases in which an explosive is to be taken out of a ship for the purpose of being deposited, the places in which the explosive so taken out is to be deposited, the appointing of an officer to receive the explosive, and the manner in which, and the conditions on and subject to which, the explosive is to be deposited in and removed from those places

(*i*) the times at which lights or fires are to be allowed or not allowed on board the ships or boats having an explosive on board, or at which a Police-officer or other person authorized in this behalf by the conservator of the port is to be on board them ; [38 Vic., c. 17, s. 34, sub-section 8.]

(*j*) the publication and supply to the public of copies of these rules ; [Sub-section 9.]

(*k*) the enforcing the observance of this Act and the rules under this Act both by the officers of the port and also by other persons when within the limits of the port ; and [Sub-section 10.]

(*l*) generally the protection, whether by means similar to those above-mentioned or not, of persons or property from danger. [Sub-section 11.]

21. (*1*) In the event of any breach of a rule under section twenty, in the case of any ship, boat, carriage or explosive, whether there has or has not been any conviction for the breach, the conservator of the port or other officer named in the rules, or any person acting under the orders of the conservator, may cause the ship, boat, carriage or explosive, at the expense of the owner thereof, to be removed to such place or otherwise dealt with in such manner as may be in conformity with the rule.

Power on breach of rule to require ship, boat, carriage or explosive to be dealt with in conformity with rule.

(*2*) All expenses incurred in the removal may be recovered in like manner as a fine under this Act.

22. (*1*) Every railway-administration shall make rules to regulate the conveyance, loading, unloading and keeping of explosives on its railway. [Cf. 38 Vic., c. 17, s. 35.]

Duty of railway-administration to make rules regulating the conveyance, loading, unloading and keeping of explosives on its railway.

(*2*) The railway-administration may, and, if required by the Governor General in Council, shall, make rules repealing, altering or adding to any rules made under this section.

(*3*) Rules under this section may provide for all or any of the following among other matters, that is to say :—

(*a*) the notice to be given of the intention to send an explosive for conveyance on the railway ; [Sub-section 1.]

(*b*) subject to the rules as to packing made under section nineteen, the mode of stowing and keeping an explosive for conveyance, and of giving notice by brand, labels or otherwise of the nature of the package containing the explosive ; [Sub-section 2.]

(*c*) the description and construction of carriages, ships or boats to be used in the conveyance of an explosive ; [Sub-section 3.]

(*d*) the prohibition of the conveyance of one explosive with another explosive or with any articles or substances or in passenger-trains, carriages, ships or boats, or the subjection of that conveyance to conditions and restrictions ; [Sub-section 4.]

(*e*) the places and times at which an explosive is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one carriage, ship or boat ; [Sub-section 5.]

(*f*) the precautions to be observed in conveying an explosive and in loading and unloading the carriages, ships or boats used in the conveyance of an explosive, and the time during which the explosive may be kept during that conveyance, loading and unloading ; [Sub-section 6.]

(*g*) the enforcing the observance of this Act and the rules under this Act by its servants and agents, and also by other persons when on the railway ; and [Sub-section 8.]

(*h*) generally the protection, whether by means similar to those above-mentioned or not, of persons or property from danger. [Sub-section 9.]

23. (*1*) The Governor General in Council may make rules to regulate the conveyance, loading, unloading and keeping of explosives in any case in which rules made under section twenty or section twenty-two do not apply. [Cf. 3 8Vic., c. 7, s. 37.]

Power of Governor General in Council to make rules for the conveyance, loading, unloading and keeping of explosives in certain cases.

(*2*) Rules under this section may provide for all or any of the following among other matters, that is to say :—

[Sub-section 1.]

(*a*) the description and construction of the carriages to be used in the conveyance of an explosive ;

[Sub-section 2.]

(*b*) the prohibition of the conveyance of one explosive with another explosive or with any articles or substances, or in passenger-carriages, or the subjection of that conveyance to conditions and restrictions ;

[Sub-section 3.]

(*c*) the places and times at which an explosive is to be loaded or unloaded, and the quantity to be loaded or unloaded, or conveyed at one time and in one carriage ;

[Sub-section 4.]

(*d*) the precautions to be observed in conveying an explosive and in loading and unloading the carriages used in that conveyance, and the time during which the explosive may be kept during that conveyance, loading and unloading ;

[Sub-section 5.]

(*e*) the publication and supply to the public of copies of these rules ; and

[Sub-section 6.]

(*f*) generally the protection, whether by means similar to those above-mentioned or not, of persons or property from danger.

(*3*) For the purpose of any mode of conveyance which is not a conveyance by land, this section shall be construed as if ship and boat were included in the term "carriage".

24. The authority making any rule under section twenty, section twenty-two or section twenty-three may annex to any breach or attempt to commit a breach of the rule the following penalties, which may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first, second or other subsequent offence, that is to say :—a fine which may extend to two hundred rupees for each breach and to one hundred rupees for each day during which the breach continues, and forfeiture of all or any part of the explosive in respect of which, or being in the carriage, ship or boat, or train of carriages, ships or boats, as the case may be, in respect of which, the breach of the rule has taken place. [Cf. 38 Vic., c. 17, ss. 34, 35 & 37.]

Penalties which may be annexed to breach of rules under sections 20, 22 and 23.

CHAPTER VI.

IMPORTATION OF EXPLOSIVES.

25. Dynamite or gun-cotton or any explosive (other than gunpowder, cartridges made with gunpowder, percussion-caps, fireworks and any prescribed explosive) shall not be imported except under a license, and in the manner and to the extent permitted by that license. [38 Vic., c. 17, s. 40 (9).]

Importation of certain explosives prohibited except under license.

26. (*1*) The Governor General in Council may make rules to regulate the grant of licenses required under section twenty-five. [38 Vic., c. 17, s. 40 (9) (*b*).]

Power of Governor General in Council to make rules as to such importation.

(*2*) Rules under this section may provide for all or any of the following among other matters, that is to say :—

(*a*) the officers by whom, the form in which, and the terms and conditions as to the composition and quality of the explosive, the unloading, landing, transhipment, delivery and conveyance thereof, and the protection of the public from danger, on and subject to which licenses may be granted ;

(*b*) the period for which licenses are to continue in force and the persons for whom licenses are to be available ; and

(*c*) the fees to be paid for licenses.

27. The officers of sea customs at every port shall have the same power with respect to any explosive to which section twenty-five applies and the ship containing that explosive as they have for the time being with respect to any article on the importation of which restrictions are imposed by the law relating to sea customs and the ship containing the same ; and the enactments for the time being in force relating to sea customs or any such article or ship shall apply accordingly. [38 Vic., c. 17, s. 40 (9) (*c*).]

Powers of Customs officers.

CHAPTER VII.

SPECIALLY DANGEROUS EXPLOSIVES.

[38 Vic., c. 17, s. 43: Cf. Act XI of 1878, s. 10.]

Power of Governor General in Council to prohibit the manufacture, keeping, importation, conveyance and sale of specially dangerous explosives.

28. (*1*) Notwithstanding anything in this Act or in the rules under this Act, the Governor General in Council may, by notification—

(*a*) regulate or prohibit, either altogether or except under a license, and to the extent and in the manner permitted by that license, the manufacture, keeping, importation, conveyance and sale, or any of them, of any explosive which is of so dangerous a character that, in the opinion of the Governor General in Council, it is expedient for the public safety to issue such a notification; and

(*b*) cancel any notification under this section.

[38 Vic., c. 17, s. 43.] (*2*) The officers of sea customs at every port shall have the same power with respect to any explosive with regard to which a notification has been issued under this section and the ship containing the explosive as they have for the time being with respect to any article the importation of which is prohibited or regulated by the law relating to sea customs and the ship containing the same; and the enactments for the time being in force relating to sea customs or any such article or ship shall apply accordingly.

CHAPTER VIII.

GOVERNMENT SUPERVISION.

(*A*).—*Inspection.*

[38 Vic., c. 17, s. 53: Cf. Act XV of 1881, s. 3.]

Appointment and duties of Government Inspectors.

29. (*1*) The Local Government may, in its discretion, by notification appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, and suspend or remove any person so appointed.

(*2*) The persons so appointed shall, within such local area as the Local Government may from time to time direct, exercise the powers and perform the duties conferred and imposed by this Act and the rules under this Act on an Inspector.

(*3*) Every such Inspector (in this Act referred to as a Government Inspector) shall be deemed a public servant within the meaning of the Indian Penal Code, and shall be officially subordinate to such authority as the Local Government may, from time to time, indicate in this behalf. XLV of 1860.

(*4*) The Local Government may make rules assigning and regulating the duties of Government Inspectors under this Act.

[38 Vic., c. 17, s. 55.]

Powers of Government Inspectors.

30. (*1*) A Government Inspector shall, within the local area for which he is appointed, make such examinations and enquiries as may be necessary to ascertain whether this Act and the rules under this Act are complied with, and may for that purpose—

(*a*) enter, inspect and examine any factory or magazine and every part thereof, at all times by day and night, but so as not to unnecessarily impede or obstruct the work in the factory or magazine, and make enquiries as to the observance of this Act and the rules under this Act, and as to all matters and things relating to the safety of the public or of the persons employed in or about the factory or magazine;

(*b*) enter, inspect and examine any registered place, and every part thereof, in which any explosive is kept or is reasonably supposed by him to be kept, at all reasonable times by day; and

(*c*) require the occupier of any factory, magazine or registered place which he is entitled under this section to enter, or any person employed by the occupier therein, to give him samples of any explosive or ingredients of an explosive therein, or of any substance therein, the keeping of which is restricted or regulated by or under this Act or the rules under this Act, or of any substance therein which he believes to be an explosive, or such ingredients or substance.

(*2*) The occupier of every factory, magazine or registered place referred to in this section, his agents and servants, shall furnish the means required by the Inspector as necessary for any entry, inspection, examination or inquiry under this section.

[38 Vic., c. 17, s. 56.]

Notice by Government Inspector to remedy dangerous practice.

31. (*1*) If in any matter (not provided for by any express provision of this Act or of the rules under this Act) a Government Inspector finds that any factory or magazine, or any part thereof, or any thing or practice therein or connected therewith, is unnecessarily dangerous or defective, so as in his opinion to tend to endanger the public safety or the bodily safety of any person, the Inspector may require the occupier of the factory or magazine to remedy the same.

(*2*) Where the occupier objects to comply with a requisition under this section, he may, within one month from the date of the requisition, apply to any Magistrate within the local limits of whose jurisdiction the factory or magazine is, for a decision in the matter; and the decision of the Magistrate shall be final.

(*3*) If the occupier does not apply to a Magistrate as provided by sub-section (*2*), he shall be bound to comply with the requisition of the Inspector.

(*4*) No person shall be precluded by any contract from doing such acts as may be necessary to comply with a requisition or decision under this section, and no person shall be liable under any contract to any penalty or forfeiture for doing any such act if he gave notice of the contract to the Inspector at or before the time at which the Inspector made the requisition, or to the Magistrate before his decision was given.

[38 Vic., c. 58 (*b*).]

Inspection in ports and of ships.

32. (*1*) The Local Government may, by notification, order any person acting as an Inspector or otherwise for the purpose of the Acts relating to merchant shipping for the time being in force to inquire into the observance of this Act or the rules under this Act in any port or in the case of any ship, and generally to act in that port and with respect to ships as a Government Inspector under this Act.

(*2*) Each person so ordered shall, while the order is in force, have for that purpose the same powers and authorities as he has under the Acts in pursuance of which he was originally appointed Inspector, and also the powers and authorities of a Government Inspector under this Act and the rules for the time being in force under it.

(*3*) The Local Government may revoke any order under this section.

[38 Vic., c. 17, s. 75.]

Inspection of wharf, carriage, ship or boat with explosives in transit.

33. Any Government Inspector, or any officer who may by name or in right of his office be authorized by the Local Government in this behalf, may, if he has reasonable cause to suppose an explosive to be for the purpose of or in course of conveyance on or in the wharf, carriage, ship or boat of any carrier, or of the occupier of any factory or magazine or of the importer of any explosive, enter, inspect and examine at any time the wharf, carriage, ship or boat for the purpose of ascertaining whether the provisions of this Act or the rules under this Act with respect to the conveyance, loading, unloading and importation of an explosive are complied with, but so as not to unnecessarily obstruct the work or business of the carrier, occupier or importer.

(*B*).—*Accidents.*

[38 Vic., c. 17, s. 63: Cf. Act IV of 1879, s. 6.]

Notice to be given of accidents.

34. Whenever there occurs in or about, or in connection with, any factory, magazine or registered place, or any carriage, ship or boat, either conveying an explosive, or on or from which an explosive is being loaded or unloaded,—

(*a*) any accident by explosion or by fire attended with loss of human life or serious injury to person or property, or

(*b*) any such accident of a description usually attended with such loss or injury, or

(*c*) any accident of any other description which may be prescribed in this behalf,

the occupier of the factory, magazine or registered place, or the master of the ship or boat, or the person in charge of the carriage, as the case may be, shall forthwith give notice thereof to the nearest Magistrate.

[38 Vic., c. 17, s. 66.]

Inquiry into accidents.

35. (*1*) If in any such case an inquiry into the cause of the accident appears to the Magistrate to whom notice has been given under section thirty-four to be necessary, the Magistrate may either himself make the inquiry or direct a Government Inspector or a Magistrate subordinate to himself to make the inquiry.

(*2*) Any Magistrate or Government Inspector making an inquiry under this section shall, for the purposes of conducting the inquiry, have all the powers which he would have in holding an inquiry into an offence under the Code of Criminal Procedure. X of 1862.

(*C*).—*Power of Search.*

[38 Vic., c. 17, s. 73.] [Cf. Act I of 1878, s. 14.]

Power of Government Inspector and certain other officers to search for explosives.

36. (*1*) Where any Government Inspector, or any officer who may by name or in right of his office be authorized by the Local Government in this behalf, has reasonable cause to believe that any offence has been or is being committed with respect to an explosive in any place (whether a building or not, or a carriage, boat or ship), or that any explosive is in that place in contravention of this Act or of the rules under this Act, or that the provisions of this Act or of those rules are not duly observed in that place, the Inspector or officer may, on producing, if demanded, in the case of an Inspector, a copy of the notification appointing him, and, in the case of any other officer, of the order authorizing him, enter at any time, and, if need be, by force, that place and every part thereof, and examine the place, and search for explosives therein, and take samples of any explosive or ingredient of any explosive therein, or of any substance reasonably supposed to be an explosive or an ingredient of an explosive which may be found therein.

[Cf. Act I of 1878, s. 16.]

(*2*) All searches under this section shall be made in accordance with the provisions of the Code of Criminal Procedure. X of 1882.

[Cf. Act I of 1878, s. 21: 38 Vic., c. 38, s. 73, last para.]

(*3*) When any officer other than a Government Inspector enters and searches as by this section provided, he shall within forty-eight hours make a full report of all the particulars of the entry and search to his immediate official superior.

[38 Vic., c. 17, s. 35, paragraph 3.]

Power of Government Inspector and certain officers to stop, enter, inspect and examine carriages or boats in case of emergency.

37. (*1*) If any Government Inspector or any officer of any of the Departments of Excise, Police, Customs, Salt, Opium or Revenue, superior in rank to a peon or constable, has reasonable cause to suppose that any offence against this Act or the rules under this Act is being committed in respect of any carriage (not being on a railway) or any boat conveying, loading or unloading any explosive, and that the case is one of emergency, and that delay will be likely to endanger life, he may stop and enter, inspect and examine the carriage or boat, and by detention or removal thereof or otherwise take such precautions as may be reasonably necessary for removing the danger, in like

manner as if the explosive were liable to forfeiture.

[38 Vic., c. 17, s. 75, para 4.] (2) Every such officer shall, for the purposes of this section, have the same powers and be in the same position as if he were an officer authorized by the Local Government under section thirty-six to search for explosives.

(D).—*Power of Seizure and Detention.*

[38 Vic., c. 17, s. 74.] **38.** Where any Government Inspector, or any officer authorized as provided by section thirty-six, has reasonable cause to believe that any explosive or ingredient of an explosive or substance found by him is liable to be forfeited under this Act or the rules under this Act, he may seize and detain the same until a Magistrate has determined whether the same is or is not liable to be forfeited.

Seizure and detention of explosives liable to forfeiture.

[38 Vic., c. 17, s. 74.] **39.** The Local Government may make rules to regulate the seizure and detention of any explosive or ingredient of any explosive or substance under section thirty-eight, and may by those rules empower the Government Inspector or officer seizing the explosive or ingredient or substance—

Power of Local Government to make rules to regulate seizure and detention of explosives.

(*a*) to require the occupier of the place in which it was seized (whether a building or not, or a carriage, boat or ship) to detain it in that place or in any place under the control of the occupier; or

(*b*) to remove it in such manner and to such place as will in the opinion of the Government Inspector or officer least endanger the public safety, and there to detain it; or

(*c*) in any case which appears to the Government Inspector or officer to be urgent and fraught with serious public danger, to take a sample of it and cause the rest of it to be destroyed or otherwise rendered harmless.

Cl. (2). **40.** The proceedings before a Magistrate for determining whether an explosive or ingredient of an explosive or substance is or is not liable to forfeiture shall be commenced as soon as practicable after the seizure.

Proceedings before Magistrate to be commenced as soon as practicable.

Cl. (3).] **41.** The receptacles containing an explosive or ingredient of an explosive or substance may be seized, detained and removed in like manner as the contents thereof.

Power to seize receptacles.

Cl. (4).] **42.** The Government Inspector or officer seizing an explosive or ingredient of an explosive or substance may use for the purposes of the removal and detention thereof any ship, boat or carriage in which it was seized, and any tug, tender, engine, tackle, beasts and accoutrements belonging to, or drawing or provided for drawing, that ship, boat or carriage, and shall pay to the owner a reasonable compensation for the use, to be determined in case of dispute by a Magistrate, and to be recovered in like manner as a fine under this Act.

Power to use ship, boat, carriage, &c., in which explosives are seized.

(*E*).—*Samples.*

[38 Vic., c. 17, s. 76.] **43.** When a Government Inspector or other officer in pursuance of this Act or the rules under this Act takes samples of any explosive or ingredient of an explosive or substance, he shall pay for or tender payment for those samples to such amount as he considers to be the market-value thereof; and the occupier of the place in which, or the owner of the bulk from which, the sample was taken may recover any excess of the real value over the money so paid or tendered, and any amount so tendered, from the Inspector or other officer taking the sample, as a debt, in the Small Cause Court, or, if there is no Small Cause Court, in the Civil Court having jurisdiction.

Payment for samples of explosives.

CHAPTER IX.

PENALTIES AND LEGAL PROCEEDINGS.

[38 Vic., c. 17, s. 4.] **44.** If an explosive is manufactured in contravention of section eight, or of a notification under section twenty-eight—

Penalty for illegal manufacture of explosives.

(*a*) the explosive and all the ingredients of the explosive, which may be found either in or about the place at which the explosive is manufactured, or in the possession, or under the control, of any person convicted under this section, shall be liable to be forfeited; and

(*b*) the person manufacturing the explosive shall be punished with fine which may extend to one thousand rupees for each day on which he so manufactures.

[38 Vic., c. 17, s. 5.] **45.** If any explosive is kept in contravention of section nine, or of a notification under section twenty-eight—

Penalty for illegal keeping of explosives.

(*a*) all the explosives found in the place at which the explosive is kept shall be liable to be forfeited; and

(*b*) the occupier of that place, and also any person guilty of keeping the explosive, shall each be punished with fine which may extend to one rupee for each pound of the explosive so kept.

[38 Vic. c. 17 s. 10; but cf. s. 9 as to amount of penalty.] **46.** In the event of a breach in any factory of any of the rules under section ten for the regulation of factories—

Penalty for breach of rules for regulation of factories.

(*a*) the explosive or ingredients thereof with respect to which, or being in any building or machine with respect to which, the breach is committed, shall be liable to be forfeited; and

(*b*) the occupier shall be punished with fine which may extend in the case of a first breach to five hundred rupees, and in the case of any subsequent breach to one thousand rupees, and to five hundred rupees in addition for each day during which the breach continues.

[38 Vic., c. 17, s. 17, which relates to magazines.] **47.** In the event of a breach in any magazine of the rules for the regulation of magazines under section thirteen, or of any rules under section eleven or section twelve—

Penalty for breach of rules for regulation of magazines.

(*a*) the explosive with respect to which, or being in the magazine when, the breach is committed, shall be liable to be forfeited; and

(*b*) the occupier shall be punished with fine which may extend in the case of a first breach to one hundred rupees, and in the case of any subsequent breach to one hundred rupees in addition for each day during which the breach continues.

[38 Vic., c. 17, s. 22.] **48.** In the event of a breach in any registered place of the rules for the regulation of registered places under section fourteen, or of any rules under section eleven—

Penalty for breach of rules for regulation of registered places.

(*a*) the explosive with respect to which, or being in any house, building, place, safe or receptacle with respect to which, the breach is committed, shall be liable to be forfeited; and

(*b*) the occupier shall be punished with fine which may extend to one rupee for each pound of the explosive with respect to which, or being at the place in which, the breach was committed.

[38 Vic., c. 17, ss. 30, 32.] **49.** If any explosive is hawked, sold or exposed for sale in contravention of section sixteen or section eighteen—

Penalty for illegal sale of explosives in public places.

(*a*) the explosive which is so exposed for sale, and any explosive found in the possession of any person convicted under this section, shall be liable to be forfeited; and

(*b*) the person hawking or selling the explosive, or exposing it for sale, shall be punished with fine which may extend to twenty rupees.

[38 Vic., c. 17, s. 31.] **50.** Whoever sells an explosive in contravention of section seventeen shall be punished with fine which may extend to fifty rupees.

Penalty for selling explosives to children.

[38 Vic., c. 17, s. 40 (8).] **51.** If the name of the explosive affixed to the outermost receptacle containing an explosive is materially false, the person selling the explosive or exposing it for sale shall be punished with fine which may extend to five hundred rupees.

Penalty for affixing false name to receptacle containing explosives.

38 Vic., c. 17, s. **52.** In the event of a breach of any rules as to the packing of explosives under section nineteen—

Penalty for breach of rules as to packing of explosives.

(*a*) the explosive with respect to which the breach is committed shall be liable to be forfeited; and

(*b*) the person guilty of the breach shall be punished with fine which may extend to two hundred rupees.

[17 & 18 Vic., c. 7, s. 40 (9), (e): Cf. Indian Penal Code, s. 186.] **53.** Whoever resists the conservator, or other officer named in the rules under section twenty, or any person acting under the orders of the conservator, when causing any ship, boat, carriage or explosive to be removed under section twenty-one, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for obstructing conservator or other person.

[38 Vic., c. 17, s. 40 (9), (d).] **54.** In the event of a breach of the provisions of section twenty-five with respect to the importation of an explosive, or of the provisions of a license to import an explosive granted under section twenty-six—

Penalty for breach of provisions as to importation of an explosive or of the provisions of an importation-license.

(*a*) the explosive with respect to which, or being in any ship or boat with respect to which, the breach is committed, shall be liable to be forfeited; and

(*b*) the owner and master of the ship or boat, and the licensee or person to whom the explosive is delivered, shall each be liable to a fine which may extend in the case of a first offence to one thousand rupees, and in the case of any subsequent offence to two thousand rupees.

[38 Vic., c. 17, s. 43. **55.** If any explosive is imported or sold in contravention of a notification under section twenty-eight—

Penalty for importing or selling specially dangerous explosives in contravention of notification.

(*a*) the explosive shall be liable to be forfeited;

(*b*) the owner and master of the ship in which the explosive is imported shall each be punished with fine which may extend to five rupees for every pound of the explosive brought in the ship; and

(*c*) the person selling and the person buying the explosive shall each be punished with fine which may extend to five rupees for each pound of the explosive sold.

56. If any explosive is conveyed in contravention of a notification under section twenty-eight—

Penalty for conveying specially dangerous explosives in contravention of notification.

(*a*) the explosive shall be liable to be forfeited; and

(*b*) the master of the ship or boat or the person in charge of the carriage in which the explosive is conveyed, as the case may be, shall be punished with fine which may extend to five rupees for each pound of the explosive so conveyed.

[Cf. Act I of 1878, s. 18.] **57.** Any Government Inspector or officer authorized under section thirty-three or section thirty six, or referred to in section

Penalty for vexatious entries, searches and seizures.

thirty-seven, who—

(*a*) without reasonable ground of suspicion enters or searches, or causes to be entered or searched, any building, carriage, boat or ship, or

(*b*) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any explosive or other thing liable to be forfeited under this Act or the rules under this Act,

shall for every such offence be punished with fine which may extend to five hundred rupees.

[38 Vic., c. 17, s. 77.]

Penalty on, and removal of, trespassers.

58. Whoever enters without permission or otherwise trespasses on any factory or magazine, or the land immediately adjoining thereto which is occupied by the occupier of that factory or magazine, shall be punished with fine which may extend to fifty rupees, and may be forthwith removed from the factory, magazine or land by any Police-officer, or by the occupier of the factory or magazine, or by any agent or servant of, or other person authorized by, the occupier.

[38 Vic., c. 17, s. 77, para. 2.]

Penalty on persons committing act tending to cause explosion or fire in or about factories or magazines.

59. Whoever, other than the occupier of, or a person employed in or about, a factory or magazine is found committing any act which tends to cause explosion or fire in or about a factory or magazine shall be punished with fine which may extend to five hundred rupees.

[38 Vic., c. 17, s. 77, para. 3.]

Occupier to put up notices warning persons of liability under last two sections.

60. The occupier of every factory or magazine shall put up in some conspicuous place or places a notice or notices warning all persons of their liability to penalties under the last two foregoing sections; but the absence of a notice or notices shall not exempt a person from punishment under those sections.

[38 Vic., c. 17 s. 97, proviso.]

Penalty for trespass, &c., on Government manufactory or store.

61. Whoever enters without permission, or otherwise trespasses on, any place in the occupation of the Government where any explosive is manufactured or stored, or the land immediately adjoining thereto in the occupation of the Government, or of the officer or person in charge of that place, and any person found committing any act tending to cause explosion or fire in or about any such place, shall be liable to the like penalty, and may be removed and arrested in like manner, as if the place were a factory or magazine to which this Act applies.

[38 Vic., c. 17, s. 78.]

Power to arrest without warrant persons committing dangerous offences.

62. Whoever is found committing any act for which he is punishable under this Act or the rules under this Act, and which tends to cause explosion or fire in or about any factory, magazine, railway or port, or any carriage, ship or boat, may be apprehended without a warrant by a Police-officer, or by the occupier of, or the agent or servant of, or other person authorized by the occupier of, that factory or magazine, or by any agent or servant of, or other person authorized by, the railway-administration or conservator of the port, and be removed from the place where he is arrested, and conveyed as soon as conveniently may be before a Magistrate.

[38 Vic., c. 17, s. 82.]

Penalty for pulling down, injuring or defacing notices.

63. Whoever without due authority pulls down, injures or defaces any notice, copy of rules or document when affixed in pursuance of this Act or of the rules under this Act, shall be punished with fine which may extend to twenty rupees.

[38 Vic., c. 17, s. 87.]

Exemption of occupier, &c., from penalty on proof of offence having been committed by another person.

64. (*1*) Where any offence under this Act or the rules under this Act for which the occupier of any factory, magazine or registered place is liable to a penalty or forfeiture, has in fact been committed by some other person, that other person shall be punished with fine which may extend to two hundred rupees.

(*2*) Where any occupier is liable under this Act or the rules under this Act to a penalty or forfeiture for an offence committed by some other person, the occupier shall be exempt from the penalty or forfeiture on proving that he had supplied proper means and issued proper orders for the observance, and used due diligence to enforce the observance, of this Act and the rules under this Act, and that the offence in question was actually committed by some other person without his connivance, and, if the actual offender is alive, that he has taken all practicable means in his power to prosecute the offender to conviction.

[38 Vic., c. 17, s. 87, para. 4.]

(*3*) The occupier or other accused, when charged in respect of any offence committed by another person, may, if he think fit, be examined as a witness in the case.

[38 Vic., c. 17, s. 87, para. 5.]

(*4*) Where any offence under this Act for which any warehouseman, or carrier, or the owner or master of any ship, boat or carriage is liable to a penalty or forfeiture, has in fact been committed by some other person, this section shall apply in like manner as if the warehouseman, carrier, owner or master were such an occupier as in this section mentioned.

[38 Vic., c. 17, s. 88.]

Exemption of carrier or owner or master of ship where consignor, &c., is in fault.

65. Where a carrier, or an owner or master of a ship or boat, is prevented from complying with this Act or the rules under this Act by the wilful act, neglect or default of the consignor or consignee of the explosive, or other person, or by the improper refusal of the consignee or other person to accept delivery of the explosive, the consignor, consignee or other person, who is guilty of that wilful act, neglect, default or refusal shall be liable to the same penalty to which the carrier, owner or master is liable for a breach of this Act or those rules; and his conviction shall exempt the carrier, owner or master from any penalty or forfeiture under this Act or those rules.

[Cf. 38 Vic., c. 17, s. 96]

Provisions as to forfeiture.

66. (*1*) In any case in which any explosive or ingredient of an explosive or any substance is liable to be forfeited under this Act or the rules under this Act, the convicting Magistrate may direct the whole or any part of the explosive, ingredient or substance, together with the receptacles containing the explosive, ingredient or substance to be forfeited.

[38 Vic., c. 17, s. 89, para. 2.]

(*2*) Where any explosive or ingredient of an explosive or any substance is alleged to be liable under this Act or the rules under this Act to be forfeited, proceedings may be instituted in the Court of any Magistrate, within the local limits of whose jurisdiction the explosive, ingredient or substance is, against the owner of the explosive, ingredient or substance, for the purpose only of enforcing the forfeiture; and, where the owner is unknown or cannot be found, the Magistrate may cause a notice to be published in such manner as he thinks fit stating that, unless cause is shown to the contrary at the time and place named in the notice, the explosive, ingredient or substance will be forfeited; and if cause is not so shown, the Magistrate, after hearing the owner or any person on his behalf (if present), may order all or any part of the explosive, ingredient or substance to be forfeited.

[38 Vic., c. 17, s. 89, para. 1.]

(*3*) Where a Court before whom a person is convicted of an offence against this Act or the rules under this Act has power to order a forfeiture of any explosive or ingredient of an explosive or any substance owned by, or found in the possession or under the control of, that person, the Court may, if it thinks fit, in lieu of ordering a forfeiture of that explosive, ingredient or substance, sentence that person, in addition to any other punishment, to a fine which may extend to such sum as appears to the Court to be the value of the explosive, ingredient or substance.

[38 Vic., c. 17, s. 95.] [Cf. Act X of 1875, s. 66.]

Distress of ship or boat.

67. Where the owner or master of a ship or boat is adjudged to pay a fine for an offence committed with or in relation to that ship or boat, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of the ship or boat, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

CHAPTER X.

SUPPLEMENTAL.

[38 Vic., c. 17, s. 72.]

Provision of magazine by municipal committee.

68. (*1*) When any municipal committee satisfies the Local Government that the erection of a magazine by the committee either within or without the limits of the municipality would conduce to the safety of the public within the limits of the municipality, and would not be injurious to the public without those limits, the Local Government may grant to that municipal committee a license under this Act for a magazine.

(*2*) The municipal committee may, for the purpose of any license under this section, acquire any land or right over land, or appropriate any land or right belonging to it, and acquire or build a magazine, and may maintain and manage the magazine, and may charge for the use by persons of the magazine such reasonable sums as it may, from time to time, with the approval of the Local Government, fix.

[Cf. Act XIII of 1880, s. 23.]

(*3*) The amount of all sums charged, and the amount of all expenditure incurred, for the purposes of this section by any municipal committee shall respectively be credited to, and paid from, the municipal fund.

[Cf. Act XV of 1879, s. 13: Act XV of 1873, s. 39.]

(*4*) When any land is required by a municipal committee for the purposes of this section, if the municipal committee cannot agree with the owner for the purchase thereof, the Local Government may, on the request of the municipal committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the municipal committee of the compensation awarded under that Act, the land shall vest in it for the purposes of this section.

X of 1870.

[Cf. Act XI of 1881, s. 2.]

(*5*) In this section "municipal committee" includes a municipal corporation or a body of municipal commissioners constituted by or under the provisions of any enactment for the time being in force.

[38 Vic., c. 17, s. 50.]

Provisions in favour of the keeping and conveyance of percussion-caps, safety-fuzes for blasting, fog-signals and prescribed explosives.

69. (*1*) A person shall not be required by this Act or the rules under this Act to take out a license or to register any premises for the keeping of percussion-caps, or safety-fuzes for blasting, or fog-signals kept by any railway-administration for use on the railway of that railway-administration, or any prescribed explosive.

(*2*) It shall not be obligatory on a railway-administration making rules under section twenty-two to make any rules with respect to the conveyance, loading, unloading or keeping of any explosive to which this section applies.

(*3*) The Governor General in Council may, by notification, exempt any explosive to which this section applies, or any description thereof, from any other of the provisions of this Act or from any of the rules under this Act, or may declare that a license shall be required for the keeping of any explosive to which this section applies, or any description thereof, or that rules shall be made with respect to the loading, unloading, conveyance or keeping thereof.

[38 Vic., c. 17, s. 41.]

Exemption of safety-cartridges for private use.

70. Nothing in this Act or in the rules under this Act shall apply to the filling or conveying for private use, and not for sale, of any safety-cartridges to the amount all e this Act or those rules to be kept for private use.

[38 Vic., c. 17, s. 100.]

Saving for owner or master of ship, carrier and others in case of emergency.

71. Nothing in this Act or the rules under this Act shall render liable to any penalty or forfeiture the owner or master of any ship or boat, or any carrier or warehouseman, or the person having charge of any carriage, for any act done in breach of this Act or those rules, if he proves that, by reason of stress of weather, inevitable accident or other emergency, the doing of that act was under the circumstances necessary and proper.

[38 Vic., c. 17, s. 102.]

Saving as to liability under other law.

72. Nothing in this Act or the rules under this Act shall—

(*a*) exempt, save as is in this Act or those rules expressly provided, any person from any suit which might, but for the provisions of this Act or those rules, have been brought against him; or

(*b*) prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or those rules, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or those rules: provided that no person shall be punished twice for the same offence.

[New: Cf. Act VIII of 1878, s. 198: Act XI of 1878, s. 33.]

Notice and limitation of proceedings.

73. No proceeding other than a suit shall be commenced against any person for anything done in pursuance or in alleged pursuance of this Act or of the rules under this Act until at least one month's previous notice in writing of the intended proceeding and of the cause thereof has been given to him, nor after the expiration of three months from the accrual of that cause.

[38 Vic., c. 17 s. 104.]

Extension of definition of "explosive" to other explosive substances.

74. The Governor General in Council may, by notification, declare that any substance which appears to the Governor General in Council to be specially dangerous to life or property, by reason either of its explosive properties, or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act and of the rules under this Act; and the provisions of this Act and of those rules (subject to such exceptions, limitations and restrictions as may be specified in the notification) shall accordingly extend to that substance in like manner as if it were included in the term "explosive" in this Act.

Procedure for making, publication and confirmation of rules.

75. (*1*) Every authority having power to make rules under any section of this Act other than section fifteen or section twenty-nine, shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(*2*) The publication shall be made, in the case of rules made by the Governor General in Council, in such manner as may in his opinion be sufficient for giving information to persons interested, and in the case of rules made by any other authority, in the prescribed manner.

(*3*) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(*4*) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*5*) A rule made under this Act by a Local Government or railway-administration shall not take effect until it is confirmed by the Governor General in Council.

(*6*) Every rule made under this Act by a Local Government and confirmed by the Governor General in Council shall be published in the local official Gazette.

(*7*) Every rule made under this Act by a railway-administration and confirmed by the Governor General in Council, and every rule made under this Act by the Governor General in Council, shall be published in the *Gazette of India*.

(*8*) The publication in the local official Gazette, or, as the case may be, in the *Gazette of India*, of a rule purporting to be made under this Act, shall be conclusive evidence that it has been duly made, and, if it requires confirmation, that it has been duly confirmed.

(*9*) All powers to make rules conferred on any authority by this Act may be exercised from time to time as occasion requires.

Issue and publication of notifications.

76. (*1*) Save as provided in section four, all powers to issue notifications conferred by this Act on the Governor General in Council or the Local Government may be exercised from time to time as occasion requires.

(*2*) A notification issued by the Governor General in Council or the Local Government under this Act shall not take effect until it has been published in the *Gazette of India* or the local official Gazette, as the case may be.

THE SCHEDULE.

(*See section 5.*)

ENACTMENTS REPEALED.

(*a*) *Acts of the Governor General in Council.*

Number and Year.	Subject or Short Title.	Extent of Repeal.
XIII of 1856 ...	For regulating the police of the towns of Calcutta, Madras and Bombay.	Sections seventy to seventy-four (both inclusive).
XXI of 1857 ...	To make better provision for the order and good government of the station of Howrah.	Sections eighteen and nineteen.
XII of 1875 ...	The Indian Ports Act, 1875 ...	Section seven, clause (*o*), and sections twenty-eight to thirty-four (both inclusive).

(*b*) *Acts of the Governor of Fort St. George in Council.*

Number and Year.	Subject or Short Title.	Extent of Repeal.
VIII of 1867 ...	To incorporate the police of the town of Madras with the general police of the Madras Presidency, to extend the jurisdiction of the Town Police Magistrates, and to amend and consolidate the provisions of Act XIII of 1856 and of Act XLVIII of 1860.	Sections forty-five to forty-nine (both inclusive).
V of 1878 ...	The City of Madras Municipal Act, 1878.	In section three hundred and twenty-two, the words "gunpowder manufactory, manufactory of fire-works," and the words "explosive or."
I of 1880 ...	For regulating the storing, sale and packing for conveyance of gunpowder.	The whole Act.

(*c*) *Acts of the Governor of Bombay in Council.*

Number and Year.	Subject or Short Title.	Extent of Repeal.
III of 1872 ...	To provide for the management of the municipal affairs of the city of Bombay and to make better provision for the conservancy and improvement of the city and for the levying of rates, taxes and other income therein.	In section two hundred and twenty-five, the words "gunpowder manufactory, manufactory of fireworks," and the words "explosive or."
VI of 1873 ...	Bombay District Municipal Act ...	In section sixty-nine, the words "manufactory of gunpowder or fireworks" and the words "explosive substances or."

(*d*) *Acts of the Lieutenant-Governor of Bengal in Council.*

Number and Year.	Subject or Short Title.	Extent of Repeal.
II of 1866 ...	To provide for the better regulation of the police within the suburbs of the town of Calcutta.	Sections thirty-four to thirty-eight (both inclusive).
IV of 1866 ...	To amend and consolidate the provisions of Act XIII of 1856 and Act XLVIII of 1860.	Sections fifty-seven to sixty-one (both inclusive).
V of 1876 ...	Bengal Municipal Act, 1876 ...	In section two hundred and eighty-five, the words "or explosive substance."
V of 1879 ...	The Jute Warehouse and Fire-Brigade Act, 1879.	In section twenty-one, the words "or manufacture."

STATEMENT OF OBJECTS AND REASONS.

1. The object of this Bill is to provide a comprehensive law regulating the manufacture, keeping, sale, conveyance and importation of explosives throughout British India. The matter was first brought to the notice of the Government in connection with an application made by the agents of Nobel's Explosives Company, Limited, for permission to import dynamite manufactured by the Company. The Government of Bombay, to whom the application was made, referred the question to a Committee, which reported that the expediency of allowing the importation into that Presidency of dynamite and other preparations of nitro-glycerine was doubtful. The Government of Bombay forwarded a copy of this report to the Government of India with a request that the importation of preparations of nitro-glycerine might be prohibited until further notice by a notification under the Sea Customs Act. Before complying with this request the Government of India thought it well to consult the Governments of Madras and Bengal. In reply, both Governments expressed an opinion that the importation of these explosives should not be forbidden. The Government of Bengal further submitted a draft set of rules to regulate the importation, package, transport and storage of dynamite and similar substances, together with a report which had been prepared by a Committee appointed by the Lieutenant-Governor to consider the entire subject. This Committee, while recommending that the draft rules should be published as rules under the Indian Arms Act, 1878, suggested the enactment of a comprehensive Imperial Act of a similar nature to the English Explosives Act, 1875 (38 Vic., c. 17), which would in a convenient and compendious Code deal with the subject of explosives in its entirety and furnish the public, as well as Government officials, with an easy means of ascertaining their duties, responsibilities and powers respecting articles which by their inflammable, explosive or dangerous nature imperil the public safety.

2. It appears to the Government of India that it would be an abuse of the powers conferred by the Indian Arms Act, 1878, to make rules of the nature of those submitted by the Bengal Committee under that Act. There are, no doubt, powers conferred by the Indian Arms Act which might, at first sight, seem to authorise the making of such rules; but the object to which such rules are directed is altogether different from that of the Act. The object of the Arms Act was to enable the Government more effectually to prevent arms and ammunition (which term under section 4 includes gun-cotton, dynamite, lithofracteur and other fulminating substances) from getting into the hands of persons who would make a bad use of them. In other words, the main object of that Act was to *restrict* the possession of arms and ammunition. But the main object of the rules prepared by the Bengal Committee is not restrictive. Their object is to *protect* the public against the dangerous nature of the explosives to which they relate by regulating all dealings with those explosives. If they are restrictive, it is only so far as is necessary to carry out their protective object. Under these circumstances, it appears to the Government that the proposed rules could not properly be published under the Indian Arms Act, 1878.

3. Nor does it appear that there is any other enactment, as the law at present stands, under which rules of the nature of those prepared by the Bengal Committee can be issued. Under the existing law, the only enactments relating to this subject are to be found in various fragmentary provisions, dealing with gunpowder and fireworks only, which are in force in the Presidency-towns and in certain municipalities and ports. It appears to the Government that it is unsatisfactory that the law should be in this state at a time when dynamite and other compounds of nitro-glycerine are rapidly taking the place of gunpowder in all works where blasting in necessary. Already these explosives have been used to a considerable extent in connection with various works undertaken both by the Government and by private enterprize throughout India; and it is only natural to suppose that, as their superiority to gunpowder becomes more widely known, their use will increase.

4. Under these circumstances, the suggestion of the Committee that an Act drawn on the model of the English Explosives Act, 1875, and dealing comprehensively with the whole subject of explosives, should be added to the Indian Statute-book, recommends itself to the Government of India, as being the only satisfactory method of treating the subject. Accordingly the present Bill has been prepared. It embodies such of the provisions of the English Act as are in the opinion of the Government necessary in this country. In addition to the omission from the Bill of certain provisions of the English Act, the Bill further differs from that Act in that, in accordance with the well-recognized principle of Indian legislation, it confers power on the Local Governments to provide by means of rules, adapted to the varying local circumstances of the provinces under their administration, for many points for which there are specific provisions in the body of the English Act.

5. The Bill is divided into ten chapters.

Chapter I (Preliminary) contains the usual preliminary matter. Section 2 saves from the Act the manufacture, packing, sale, conveyance or importation of explosives by the Government, and section 3 saves the provisions of the Indian Arms Act, 1878. Under section 4, the Act will not come into force until after the publication of a notification by the Governor General in Council; but, in order to prevent the inconvenience which would arise if the Act were brought into force before the notifications, rules, orders and appointments necessary for its efficient working had been made, sub-section (2) gives power to make these at any time after the passing of the Act, though they are not to take effect until the Act comes into force. By section 5 and the schedule are repealed the enactments which at present deal with the subject-matter of the Bill, with the exception of the Indian Arms Act, 1878, and the provisions to be found in the Andaman and Nicobar Islands Regulation, 1876. The provisions of the former Act relating to explosives have been left unrepealed for the reasons which have led the Government of India to decide that the rules framed by the Bengal Committee cannot be passed under it, namely, because the objects of the Act and of the Bill are different. The provisions of the Andaman and Nicobar Islands Regulation, 1876, have not been repealed because, considering the peculiar nature of that settlement, it seems inconvenient to interfere with any of the rules which are at present contained in that Regulation. Though the proposed Act will extend to the Andamans, its provisions will be practically a dead-letter in those islands.

6. Chapter II lays down the general law as to the manufacture and keeping of explosives prescribing the places at which an explosive may be manufactured or kept. It is to be read subject to certain exceptions in the Supplemental Chapter (X).

7. Chapter III deals with the licensing and regulation of factories and magazines, and the registration and regulation of registered places, and confers power on the Local Government to make rules on all necessary matters. A factory under the Act is a place licensed for the manufacture of an explosive; a magazine is a place licensed for the keeping of an explosive; and a registered place is a place registered for the keeping of an explosive. Magazines differ from registered places in that the former are places devoted exclusively to the keeping of explosives and the receptacles for or tools or implements for work connected with the keeping of explosives, whilst the latter are places, *e.g.*, general stores or shops, not devoted exclusively to the keeping of explosives but in which explosives may be kept. Sections 11 and 12 enact certain provisions in favour of the occupiers of magazines and registered places; the former section enabling the occupiers of magazines and registered places to make cartridges without taking out a factory-license, and the latter enabling the occupiers of magazines to adapt or prepare explosives for use in their own mines or quarries without any such license. Section 15 imposes on the occupier of a factory or magazine the duty of making special rules for the regulation of the workmen in his factory or magazine.

8. Chapter IV relates to the sale of explosives. Seetion 16 prohibits explosives being hawked, sold or exposed for sale on highways or public places; section 17 prohibits the sale of an explosive to a child under 13; and section 18 prescribes the manner in which an explosive exposed for sale or sold is to be packed and labelled.

9. Chapter V treats of matters relating to the conveyance of explosives. Under section 19, the Governor General in Council may make rules as to the packing of explosives for conveyance. Under section 20, the Local Government may make rules to regulate the conveyance, loading, unloading and keeping of explosives within a port; and section 21 confers certain powers on the Conservator or other officer named in such rules in the event of their breach. Under section 22, Railway-administrations are directed to make rules for their own railways respectively. Under section 23, the Governor General in Council is empowered to make rules in any case in which rules under section 20 or section 22 do not apply. By section 24 the authority making rules under sections 20, 22 and 23 respectively is empowered to annex to a breach of any rule, or attempt to commit a breach of any rule, a penalty which may consist of a fine which may extend to two hundred rupees for each breach and to one hundred rupees for each day during which the breach continues, and of forfeiture of all or any part of the explosive in respect of which the breach is committed.

10. Chapter VI regulates the importation of explosives other than gunpowder, cartridges made with gunpowder, percussion-caps, fireworks, and any prescribed explosive, and prohibits their importation except under a license. The Governor General in Council is given power (section 26) to regulate all matters connected with the grant of such licenses, and the officers of sea-customs are given similar power (section 27) with regard to these explosives as they have with regard to any article on the importation of which restrictions are for the time being imposed by the law relating to sea customs.

11. Chapter VII confers special powers on the Governor General in Council to regulate or prohibit all dealings with any explosive which in the opinion of the Governor General in Council is specially dangerous to the public safety; and the officers of sea customs are given like powers with regard to any such explosive as they are given under section 27 with regard to the importation of the explosives referred to in section 25.

12. Chapter VIII (Government supervision) first provides for matters relating to inspection. The Local Government is empowered (section 29) to appoint Government Inspectors, and to make rules to assign and regulate their duties. Section 30 defines the general power of these officers as to entry, inspection, and examination of factories, magazines and registered places, and the taking of samples from the occupiers. Section 31 empowers the Government Inspector to require the occupier of any factory or magazine to remedy anything connected with his factory or magazine which is in the opinion of the Inspector unnecessarily dangerous or defective, and provides for a reference to the nearest Magistrate when the occupier objects to comply with the inspector's requisition. Section 32 deals with inspection in ports and of ships, and section 33 provides for the inspection of a wharf, carriage, ship or boat on or in which an explosive is reasonably supposed by a Government Inspector or other officer to be for the purpose of or in course of conveyance.

The chapter secondly provides (section 34) for the giving of notice of accidents arising from explosion or fire occurring in or about or in connection with any factory, magazine or registered place, or any carriage, ship or boat either conveying an explosive or on or from which

an explosive is being loaded or unloaded, and (section 35) for inquiry into the cause of such accidents when necessary.

Thirdly, the chapter deals with power of search. It empowers (section 36) Government Inspectors and officers authorised by the Local Government to enter and search all places where they have reason to believe that any offence has been or is being committed with respect to an explosive, or that any explosive is in contravention of the Act, or that the provisions of the Act are not duly observed. Such searches are to be made in accordance with the Code of Criminal Procedure, and when made by any officer other than a Government Inspector are to be reported by him to his official superior within 48 hours. Section 37 gives special power to Government Inspectors and other officers to stop carriages or boats in case of emergency.

Fourthly, the chapter treats of seizure and detention of explosives. Section 38 authorizes the seizure and detention of any explosive liable to forfeiture, and section 39 gives the Local Government power to make rules to regulate such seizure and detention. Section 40 declares that the proceedings before a Magistrate with regard to any such seizure shall be commenced as soon as possible. Section 41 gives power to seize the receptacle in which the explosive was found, and section 42 to use the ship, boat, carriage, &c., in which the explosive was seized.

Lastly, the chapter (section 43) provides for the payment for samples of explosives taken by Government Inspectors or other officers under the Act.

13. Chapter IX deals with the penalties and legal proceedings.

The penalties for breaches of the provisions of the Act and the rules made under it are restricted to forfeitures and fines, and the only instance in which the Act prescribes imprisonment as a punishment is (section 53) that of resistance to a public officer.

14. With regard to legal proceedings, section 64 provides for the exemption of an occupier of a factory, magazine or registered place, and of a warehouseman, carrier or owner or master of a ship, boat, or carriage from penalty on proof of another being the real offender. Under section 65, a carrier or owner or master of a ship or boat is exempted from penalty when he is prevented from complying with the law by the act or default of the consignor or consignee of the explosive or some other person and the consignor or consignee or other person is convicted (as it is provided he may be) under the Act.

Section 66 confers a general power on Magistrates to order forfeiture in all cases in which explosives are liable to be forfeited, and provides that proceedings may be taken for the purpose only of inflicting a forfeiture. The same section empowers the Court to inflict an additional fine in lieu of forfeiture of the explosive; and section 67 provides for levy of a fine imposed on the owner or master of a ship by distress of the ship.

15. Chapter X (Supplemental) provides for several miscellaneous matters. Section 68 empowers Municipal Committees to provide magazines for the use of the public; section 69 enacts certain provisions in favour of the keeping and conveyance of percussion-caps, safety-fuses for blasting, fog-signals and prescribed explosives. Section 69 exempts railway-administrations from the obligation to make rules with regard to such explosives, and empowers the Governor General in Council to exempt such explosives altogether from the Act. By section 70 the filling and conveying for private use, and not for sale, of safety-cartridges are excepted from the application of the Act. Section 71 exempts the owner or master of a ship and a carrier or warehouseman or any person in charge of a carriage from punishment when an act is done by him in breach of the provisions of the Act in a case of emergency. Section 72 contains the usual provision saving liability to civil suit or prosecution under other laws. Section 73 deals with notice and limitation of proceedings. Section 74 empowers the Governor General in Council to extend the definition of "explosive" to other explosive substances; and sections 75 and 76 treat of general matters connected with the issue and publication of notifications and rules. Under section 75, proposed rules must be published as drafts before they are finally made, and the authority that makes the rules is directed to receive and consider any criticisms or suggestions which may be made by persons interested.

CALCUTTA;
The 1st January, 1883.

C. P. ILBERT.

R. J. CROSTHWAITE,
Addl. Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 27, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th January, 1883, and was referred to a Select Committee on the 12th January, 1883 :—

No. 2 OF 1883.

THE INDIAN EXPLOSIVES BILL, 1883.

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SCHEDULE.

ENACTMENTS REPEALED.

A Bill to regulate the manufacture, keeping, sale, conveyance and importation of Explosives.

WHEREAS it is expedient to regulate the manufacture, keeping, sale, conveyance and importation of explosives; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

Short title. 1. (*1*) This Act may be called the Indian Explosives Act, 1883.

Local extent. (*2*) It extends to the whole of British India.

[Cf. 38 Vic., c. 17, s. 97.] Saving for manufacture, keeping, sale, conveyance or importation by Government. 2. Save as provided in section sixty-one, nothing in this Act shall apply to the manufacture, keeping, sale, conveyance or importation of any explosive by order of the Government, or by any person employed under the Government in the execution of this Act or as keeper of a magazine, artizan, soldier, sailor, policeman or otherwise, or enrolled as a volunteer under the Indian Volunteers' Act, 1869, in the course of his employment or duty as such. XX of 1869.

Saving of Indian Arms Act, 1878. XI of 1878. 3. Nothing in this Act shall affect the provisions of the Indian Arms Act, 1878.

Commencement. 4. (*1*) This Act shall come into force on such day as the Governor General in Council, by notification in the *Gazette of India*, appoints.

(*2*) But any notification, order or rule, and any appointment to an office or grant of authority, may be made under this Act at any time after the passing thereof, but shall not take effect until the Act comes into force.

Repeal of enactments. 5. On and from the day on which this Act comes into force the Acts mentioned in the first column of the schedule to this Act shall be repealed to the extent mentioned in the third column thereof.

Limitation of application of Madras and Bombay Municipal Acts. 6. Nothing in section 322 of Madras Act V of 1878, or in section 225 of Bombay Act III of 1872, shall be deemed to apply to an explosive.

Definitions. 7. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "explosive"—

[9 Vic., c. 17, s.] (*a*) means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion, or a pyrotechnic effect; and

(*b*) includes fog-signals, fireworks, fuzes, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined:

[38 Vic., s. 105] (*2*) "manufacture" includes the process of dividing into its component parts, or otherwise breaking up or unmaking, any explosive, or making fit for use any damaged explosive, and the process of re-making, altering or repairing any explosive:

[38 Vic., c. s. 108.] (*3*) "occupier" includes any number of persons and a body corporate, and, in the case of any manufacture or trade, includes any person carrying on that manufacture or trade:

[*ib.*] (*4*) "master" includes every person (except a pilot or harbour-master) having for the time being command or charge of a ship; and, in reference to any boat belonging to a ship, means the master of the ship; and, in reference to any other boat, includes every person having for the time being command or charge of that boat:

[New.] (*5*) "factory" means a place licensed under this Act for the manufacture of an explosive:

[38 Vic., s. 108.] (*6*) "magazine" means a place licensed under this Act for the keeping of an explosive, and includes any ship or other vessel licensed for that purpose:

[New.] (*7*) "registered place" means a place registered under this Act for keeping an explosive:

[38 Vic., s. 108.] (*8*) "warehouseman" includes all persons owning or managing any warehouse, store, wharf or other place in which goods are deposited:

[*ib.*] (*9*) "carrier" includes all persons carrying goods or passengers for hire by land or water:

[New.] (*10*) "port" means any port, or any part of a navigable river or channel, in which the Indian Ports Act, 1875, is for the time being in force: XII of 1875.

[Cf. Act I of 1879, s.] (*11*) "railway" means any railway, whether it is used for the public conveyance of passengers or goods or not, and includes—

(*a*) a railway under construction;

(*b*) all lands within the fences or other boundary-marks [illegible] under section 52 of the Indian [illegible] Act, 1879;

(*c*) all [illegible] branches worked [illegible] or in connection [illegible]

(*d*) [illegible] houses, fixed machinery [illegible] constructed for the purposes of, or in connection with, a railway; and

(*e*) all vessels and rafts used for the purpose of carrying on the traffic of a railway;

[Cf. Act I of] (*12*) "railway-administration" means, in the case of a railway worked by Government or a [illegible]

Native State, the manager of the railway, and, in the case of a railway worked by a company or private individual, the company or individual:

[38 Vic., c. 17, s. 108.] (*13*) "wharf" includes any quay, landing-place, siding or other place at which goods are landed, loaded or unloaded:

[*ib.*] (*14*) "carriage" includes any carriage, waggon, cart, truck, vehicle or other means of conveying goods or passengers by land, in whatever manner the same may be propelled:

[*ib.*] (*15*) "ship" includes every description of vessel used in sea-navigation, whether propelled by oars or otherwise:

[*ib.*] (*16*) "boat" means every vessel, not a ship as above defined, which is used in navigation in any inland water or any port, whether propelled by oars or otherwise:

[New.] (*17*) "import" means to bring into British India by sea or land:

Cf. Act VIII of 1881, s. 3.] (*18*) "prescribed" means prescribed from time to time by notification of the Governor General in Council:

[38 Vic., c 17, s. 108.]

[*ib.*] (*19*) the expression "safety-cartridges" means cartridges for small arms of which the case can be extracted from the small arm after firing, and which are so closed as to prevent any explosion in one cartridge being communicated to other cartridges:

[New.] (*20*) "Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere, a Magistrate of the first class, and includes also any Magistrate whom the Governor General in Council or the Local Government may, by notification, appoint to discharge in any local area the functions of a Magistrate under this Act.

CHAPTER II.

GENERAL LAW AS TO MANUFACTURE AND KEEPING OF EXPLOSIVES.

Vic., c. 17, 4.] **8.** The manufacture of an explosive shall not, nor shall any process of that manufacture, be carried on except at a factory for that explosive:

Prohibition of manufacture of explosives except at factory.

Provided that nothing in this section shall apply—

(*a*) to the making of a small quantity of an explosive for the purpose of chemical experiment and not for practical use or for sale; or

(*b*) to the making of any part of an explosive where that part is not itself an explosive and no explosive is used in making it.

Vic., c. 17, Prohibition of keeping of explosives except in factory, magazine or registered place. **9.** An explosive shall not be kept except—

(*a*) in the factory in which it is manufactured, or

(*b*) in a magazine for that explosive, or

(*c*) in a place registered under this Act for keeping that explosive:

Vic., c. 17, (4).] Provided that this section shall not apply—

(*a*) to a person keeping for his private use, and not for sale, an explosive to an amount not exceeding in the same place the prescribed amount, or

(*b*) to the keeping of an explosive by a carrier or other person for the purpose of conveyance, when the explosive is being conveyed or kept in accordance with the rules under this Act with respect to the conveyance of explosives.

CHAPTER III.

FACTORIES, MAGAZINES AND REGISTERED PLACES.

(*A*).—*Licensing and Regulation of Factories.*

10. (*1*) The Local Government may make rules as to the licensing and regulation of places as factories for the manufacture of explosives. [Cf. 38 Vic., c. 17, ss. 6 to 10, & ss 12, 13 & 26.]

Power of Local Government to make rules as to licensing and regulation of factories.

(*2*) Rules under this section may provide for all or any of the following among other matters, that is to say:—

(*a*) the authority by which licenses may be granted;

(*b*) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses;

(*c*) the manner in which applications for licenses are to be made, and the matters to be specified in such applications;

(*d*) the form in which, and the conditions on and subject to which, licenses are to be granted;

(*e*) the period for which licenses are to remain in force;

(*f*) the renewal of licenses and the fee to be paid for their renewal;

(*g*) the alteration of the terms of licenses by the grant of amending licenses, and the fee to be paid for an amending license;

(*h*) the devolution and determination of licenses;

(*i*) the situation, construction, materials and fittings of factories;

(*j*) the conditions on and subject to which the manufacture, or any process in, or work connected with, the manufacture, of an explosive is to be carried on in any factory;

(*k*) the descriptions of explosives which may be kept in a factory, and the conditions and restrictions subject to which they may be so kept;

(*l*) the manner of carrying out repairs in factories; and

(*m*) the restricting of the employment of persons under the age of sixteen years in factories or in certain parts thereof.

[38 Vic., c. 17, s. 46.] **11.** The occupier of a magazine or registered place shall not be required by this Act or the rules under this Act to take out a factory-license by reason that, in connection with the magazine or place, he fills, for sale or otherwise, any cartridge for small arms with the explosive for the keeping of which the magazine or place is licensed or registered: provided that he observes such rules as the Local Government may make in this behalf.

Provision in favour of occupiers of magazines and registered places making cartridges.

[38 Vic., c. 17, s. 47.] **12.** The occupier of a magazine shall not be required by this Act or the rules under this Act to take out a factory-license by reason that, in connection with the magazine, he, by filling cartridges, making charges, drying, sifting, fitting or otherwise, adapts or prepares the explosive for the keeping of which the magazine is licensed, for use exclusively in his mine or quarry, or in some excavation or work carried on by him or under his control: provided that he observes such rules as the Local Government may make in this behalf.

Provision in favour of occupiers of magazines adapting or preparing explosives for use in their own mines or quarries.

(*B*).—*Licensing and Regulation of Magazines.*

[38 Vic., c. 17, ss. 15 to 19 (relating to stores).] **13.** (*1*). The Local Government may make rules as to the licensing and regulation of places as magazines for the keeping of explosives.

Power of Local Government to make rules as to licensing and regulation of magazines.

(*2*) Rules under this section may, among other matters, provide for all or any of the matters for which rules under clauses (*a*) to (*i*), both inclusive, and clauses (*k*) to (*m*), both inclusive, of section ten may provide in the case of factories.

(*C*).—*Registration and Regulation of Registered Places.*

[Cf. 38 Vic., c. 17, ss. 21 and 22.] **14.** (*1*) The Local Government may make rules as to the registration and regulation of places for the keeping of explosives.

Power of Local Government to make rules as to registration and regulation of registered places.

(*2*) Rules under this section may provide for all or any of the following among other matters, that is to say:—

(*a*) the manner in which places may be registered, the period for which registration is to be valid, and the manner in which registration may be renewed;

(*b*) the fees to be paid for registration and renewal of registration;

(*c*) the situation and nature of places which may be registered, the manner in which an explosive is to be kept in those places, and the maximum amount of an explosive which may be so kept; and

(*d*) the descriptions of explosives which may be kept together in the same registered place, and the conditions and restrictions subject to which they may be so kept.

(*D*).—*Supplemental Provisions.*

15. (*1*) Every occupier of a factory or magazine shall make special rules for the regulation of the persons managing or employed in or about his factory or magazine, with a view to secure the observance therein of this Act and the rules under this Act, and the safety and proper discipline of those persons and the safety of the public. [38 Vic., c. 17, ss. 11 and 19.]

Duty of occupier to make special rules for regulation of workmen in his factory or magazine.

(*2*) The occupier may, and, if required by the Local Government, shall, make rules, repealing, altering or adding to any special rules made under this section.

(*3*) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with fine which may extend to twenty rupees.

(*4*) A rule made under this section shall not take effect until it has been confirmed by the Local Government and notified to the persons managing or employed in or about the factory or magazine in such manner as the Local Government from time to time directs.

CHAPTER IV.

SALE OF EXPLOSIVES.

16. An explosive shall not be hawked, sold or exposed for sale on any highway, street, public thoroughfare or other public place. [38 Vic., c. 17, s. 30.]

Sale of explosives on highways or public places prohibited.

17. An explosive shall not be sold to any child apparently under the age of thirteen years. [38 Vic., c. 17, s. 31.]

Sale of explosives to children prohibited.

18. Every explosive, exceeding in amount the prescribed amount, shall, when publicly sold or exposed for sale, be in a substantial case, bag, canister or other receptacle, made and closed so as to prevent the explosive from escaping, and (except when the explosive is sold to any person employed by or on the property occupied by the vendor for immediate use in the service of the vendor or on that property) the outermost receptacle containing the explosive shall have affixed in conspicuous characters, by means of a brand or securely attached label or other mark, the name of the explosive, with the addition of the word "explosive." [38 Vic., c. 17, ss. 32 and s. (8).]

Explosives to be sold in cases, closed and labelled.

CHAPTER V.

CONVEYANCE OF EXPLOSIVES.

19. The Governor General in Council may make rules to regulate the packing of explosives for conveyance, and may by those [38 Vic., c. 17, s. 33.]

Power of Governor General in Council to make rules as to packing of explosives.

rules provide for the nature of the packages, cases, bags, canisters or other receptacles in which an explosive is to be contained.

[38 Vic., c. 17, s. 34.]

20. (*1*) The Local Government may make rules to regulate the conveyance, loading, unloading and keeping of explosives within any port.

Power of Local Government to make rules regulating the conveyance, loading, unloading and keeping of explosives in ports.

(*2*) Rules under this section may provide for all or any of the following among other matters, that is to say :—

[Sub-section 1. Act XII of 1875, s. 7 (1).] [38 Vic., c. 17, s. 34, sub-section 2.] [Sub-section

(*a*) the notice to be given in the case of ships and boats having any explosive on board within the port ;

(*b*) the navigation and place of mooring of those ships and boats ;

(*c*) subject to the rules as to packing made under section nineteen, the mode of stowing and keeping an explosive on board any such ship or boat, and of giving notice, by brands, labels or otherwise, of the nature of the package containing the explosive ;

[Sub-section

(*d*) the description, construction, fitting-up and licensing of the ships, boats or carriages to be used for the conveyance of an explosive, and the licensing and dress of the persons having charge thereof ;

[Sub-section

(*e*) the prohibition of the conveyance of one explosive with another explosive or any articles or substances, or in passenger-ships, boats, trains or carriages, or the subjection of that conveyance to conditions and restrictions ;

[Sub-section

(*f*) the prohibition, in cases where the loading or unloading of an explosive within the limits of the port appears to be specially dangerous to the public, of loading or unloading within those limits, and the fixing of the times and places at which an explosive is to be loaded or unloaded, and the quantity to be loaded or unloaded, or conveyed at one time or in one ship, boat or carriage ;

[Sub-section

(*g*) the mode of, and the precautions to be observed in, conveying an explosive, and in the loading or unloading any ship, boat or carriage conveying an explosive, and the time during which the explosive may be kept during the conveyance, loading or unloading ;

[Act XII of 1875, s. 7, ss. 28, 30, 31 and

(*h*) the fixing the cases in which an explosive is to be taken out of a ship for the purpose of being deposited, the places in which the explosive so taken out is to be deposited, the appointing of an officer to receive the explosive, and the manner in which, and the conditions on and subject to which, the explosive is to be deposited in and removed from those places

(*i*) the times at which lights or fires are to be allowed or not allowed on board the ships or boats having an explosive on board, or at which a Police-officer or other person authorized in this behalf by the conservator of the port is to be on board them ; [38 Vic., c. 17, s. 31, sub-section 8.]

(*j*) the publication and supply to the public of copies of these rules ; [Sub-section 9.]

(*k*) the enforcing the observance of this Act and the rules under this Act both by the officers of the port and also by other persons when within the limits of the port ; and [Sub-section 10.]

(*l*) generally the protection, whether by means similar to those above-mentioned or not, of persons or property from danger. [Sub-section 11.]

21. (*1*) In the event of any breach of a rule under section twenty, in the case of any ship, boat, carriage or explosive, whether there has or has not been any conviction for the breach, the conservator of the port or other officer named in the rules, or any person acting under the orders of the conservator, may cause the ship, boat, carriage or explosive, at the expense of the owner thereof, to be removed to such place or otherwise dealt with in such manner as may be in conformity with the rule.

Power on breach of rule to require ship, boat, carriage or explosive to be dealt with in conformity with rule.

(*2*) All expenses incurred in the removal may be recovered in like manner as a fine under this Act.

22. (*1*) Every railway-administration shall make rules to regulate the conveyance, loading, unloading and keeping of explosives on its railway. [Cf. 38 Vic., c. 17, s. 35.]

Duty of railway-administration to make rules regulating the conveyance, loading, unloading and keeping of explosives on its railway.

(*2*) The railway-administration may, and, if required by the Governor General in Council, shall, make rules repealing, altering or adding to any rules made under this section.

(*3*) Rules under this section may provide for all or any of the following among other matters, that is to say :—

(*a*) the notice to be given of the intention to send an explosive for conveyance on the railway ; [Sub section 1.]

(*b*) subject to the rules as to packing made under section nineteen, the mode of stowing and keeping an explosive for conveyance, and of giving notice by brand, labels or otherwise of the nature of the package containing the explosive ; [Sub-section 2.]

(*c*) the description and construction of carriages, ships or boats to be used in the conveyance of an explosive ; [Sub-section 3.]

(*d*) the prohibition of the conveyance of one explosive with another explosive or with any articles or substances or in passenger-trains, carriages, ships or boats, or the subjection of that conveyance to conditions and restrictions ; [Sub-section 4.]

[Sub-section 5.]

(*e*) the places and times at which an explosive is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one carriage, ship or boat ;

[Sub-section 6.]

(*f*) the precautions to be observed in conveying an explosive and in loading and unloading the carriages, ships or boats used in the conveyance of an explosive, and the time during which the explosive may be kept during that conveyance, loading and unloading ;

[Sub-section 8.]

(*g*) the enforcing the observance of this Act and the rules under this Act by its servants and agents, and also by other persons when on the railway ; and

[Sub-section 9.]

(*h*) generally the protection, whether by means similar to those above-mentioned or not, of persons or property from danger.

[Cf. 3 8Vic., c. 7, s. 37.]

23. (*1*) The Governor General in Council may make rules to regulate the conveyance, loading, unloading and keeping of explosives in any case in which rules made under section twenty or section twenty-two do not apply.

Power of Governor General in Council to make rules for the conveyance, loading, unloading and keeping of explosives in certain cases.

(*2*) Rules under this section may provide for all or any of the following among other matters, that is to say :—

[Sub-section 1.]

(*a*) the description and construction of the carriages to be used in the conveyance of an explosive ;

[Sub-section 2.]

(*b*) the prohibition of the conveyance of one explosive with another explosive of with any articles or substances, or in passenger-carriages, or the subjection of that conveyance to conditions and restrictions ;

[Sub-section 3.]

(*c*) the places and times at which an explosive is to be loaded or unloaded, and the quantity to be loaded or unloaded, or conveyed at one time and in one carriage ;

[Sub-section 4.]

(*d*) the precautions to be observed in conveying an explosive and in loading and unloading the carriages used in that conveyance, and the time during which the explosive may be kept during that conveyance, loading and unloading ;

[Sub-section 5.]

(*e*) the publication and supply to the public of copies of these rules ; and

[Sub-section 6.]

(*f*) generally the protection, whether by means similar to those above-mentioned or not, of persons or property from danger.

(*3*) For the purpose of any mode of conveyance which is not a conveyance by land, this section shall be construed as if ship and boat were included in the term "carriage".

24. The authority making any rule under section twenty, section twenty-two or section twenty-three may annex to any breach or attempt to commit a breach of the rule the following penalties, which may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first, second or other subsequent offence, that is to say :—a fine which may extend to two hundred rupees for each breach and to one hundred rupees for each day during which the breach continues, and forfeiture of all or any part of the explosive in respect of which, or being in the carriage, ship or boat, or train of carriages, ships or boats, as the case may be, in respect of which, the breach of the rule has taken place.

[Cf. 38 Vic., c. 17, ss. 34, 35 & 37.]

Penalties which may be annexed to breach of rules under sections 20, 22 and 23.

CHAPTER VI.

IMPORTATION OF EXPLOSIVES.

25. Dynamite or gun-cotton or any explosive (other than gunpowder, cartridges made with gunpowder, percussion-caps, fireworks and any prescribed explosive) shall not be imported except under a license, and in the manner and to the extent permitted by that license.

[38 Vic., c. 17, s. 40 (9).]

Importation of certain explosives prohibited except under license.

26. (*1*) The Governor General in Council may make rules to regulate the grant of licenses required under section twenty-five.

[38 Vic., c. 17, s. 40 (9) (*b*).]

Power of Governor General in Council to make rules as to such importation.

(*2*) Rules under this section may provide for all or any of the following among other matters, that is to say :—

(*a*) the officers by whom, the form in which, and the terms and conditions as to the composition and quality of the explosive, the unloading, landing, transhipment, delivery and conveyance thereof, and the protection of the public from danger, on and subject to which licenses may be granted ;

(*b*) the period for which licenses are to continue in force and the persons for whom licenses are to be available ; and

(*c*) the fees to be paid for licenses.

27. The officers of sea customs at every port shall have the same power with respect to any explosive to which section twenty-five applies and the ship containing that explosive as they have for the time being with respect to any article on the importation of which restrictions are imposed by the law relating to sea customs and the ship containing the same ; and the enactments for the time being in force relating to sea customs or any such article or ship shall apply accordingly.

[38 Vic., c. 17, s. 40 (9) (*c*).]

Powers of Customs officers.

CHAPTER VII.

SPECIALLY DANGEROUS EXPLOSIVES.

[38 Vic., c. 17, s. 43: Cf. Act XI of 1878, s. 10.]

Power of Governor General in Council to prohibit the manufacture, keeping, importation, conveyance and sale of specially dangerous explosives.

28. (*1*) Notwithstanding anything in this Act or in the rules under this Act, the Governor General in Council may, by notification—

(*a*) regulate or prohibit, either altogether or except under a license, and to the extent and in the manner permitted by that license, the manufacture, keeping, importation, conveyance and sale, or any of them, of any explosive which is of so dangerous a character that, in the opinion of the Governor General in Council, it is expedient for the public safety to issue such a notification; and

(*b*) cancel any notification under this section.

[38 Vic., c. 17, s. 43.] (*2*) The officers of sea customs at every port shall have the same power with respect to any explosive with regard to which a notification has been issued under this section and the ship containing the explosive as they have for the time being with respect to any article the importation of which is prohibited or regulated by the law relating to sea customs and the ship containing the same; and the enactments for the time being in force relating to sea customs or any such article or ship shall apply accordingly.

CHAPTER VIII.

GOVERNMENT SUPERVISION.

(*A*).—*Inspection.*

[38 Vic., c. 17, s. 53: Cf. Act XV of 1881, s. 3.]

Appointment and duties of Government Inspectors.

29. (*1*) The Local Government may, in its discretion, by notification appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, and suspend or remove any person so appointed.

(*2*) The persons so appointed shall, within such local area as the Local Government may from time to time direct, exercise the powers and perform the duties conferred and imposed by this Act and the rules under this Act on an Inspector.

(*3*) Every such Inspector (in this Act referred to as a Government Inspector) shall be deemed a public servant within the meaning of the Indian Penal Code, and shall be officially subordinate to such authority as the Local Government may, from time to time, indicate in this behalf. **XLV of 1860.**

(*4*) The Local Government may make rules assigning and regulating the duties of Government Inspectors under this Act.

[38 Vic., c. 17, s. 55.]

Powers of Government Inspectors.

30. (*1*) A Government Inspector shall, within the local area for which he is appointed, make such examinations and enquiries as may be necessary to ascertain whether this Act and the rules under this Act are complied with, and may for that purpose—

(*a*) enter, inspect and examine any factory or magazine and every part thereof, at all times by day and night, but so as not to unnecessarily impede or obstruct the work in the factory or magazine, and make enquiries as to the observance of this Act and the rules under this Act, and as to all matters and things relating to the safety of the public or of the persons employed in or about the factory or magazine;

(*b*) enter, inspect and examine any registered place, and every part thereof, in which any explosive is kept or is reasonably supposed by him to be kept, at all reasonable times by day; and

(*c*) require the occupier of any factory, magazine or registered place which he is entitled under this section to enter, or any person employed by the occupier therein, to give him samples of any explosive or ingredients of an explosive therein, or of any substance therein, the keeping of which is restricted or regulated by or under this Act or the rules under this Act, or of any substance therein which he believes to be an explosive, or such ingredients or substance.

(*2*) The occupier of every factory, magazine or registered place referred to in this section, his agents and servants, shall furnish the means required by the Inspector as necessary for any entry, inspection, examination or inquiry under this section.

[38 Vic., c. 17, s. 56.]

Notice by Government Inspector to remedy dangerous practice.

31. (*1*) If in any matter (not provided for by any express provision of this Act or of the rules under this Act) a Government Inspector finds that any factory or magazine, or any part thereof, or any thing or practice therein or connected therewith, is unnecessarily dangerous or defective, so as in his opinion to tend to endanger the public safety or the bodily safety of any person, the Inspector may require the occupier of the factory or magazine to remedy the same.

(*2*) Where the occupier objects to comply with a requisition under this section, he may, within one month from the date of the requisition, apply to any Magistrate within the local limits of whose jurisdiction the factory or magazine is, for a decision in the matter; and the decision of the Magistrate shall be final.

(*3*) If the occupier does not apply to a Magistrate as provided by sub-section (2), he shall be bound to comply with the requisition of the Inspector.

(*4*) No person shall be precluded by any contract from doing such acts as may be necessary to comply with a requisition or decision under this section, and no person shall be liable under any contract to any penalty or forfeiture for doing any such act if he gave notice of the contract to the Inspector at or before the time at which the Inspector made the requisition, or to the Magistrate before his decision was given.

[38 Vic., c. 17, s. 58 (*b*).]

Inspection in ports and of ships.

32. (*1*) The Local Government may, by notification, order any person acting as an Inspector or otherwise for the purpose of the Acts relating to merchant shipping for the time being in force to inquire into the observance of this Act or the rules under this Act in any port or in the case of any ship, and generally to act in that port and with respect to ships as a Government Inspector under this Act.

(*2*) Each person so ordered shall, while the order is in force, have for that purpose the same powers and authorities as he has under the Acts in pursuance of which he was originally appointed Inspector, and also the powers and authorities of a Government Inspector under this Act and the rules for the time being in force under it.

(*3*) The Local Government may revoke any order under this section.

[38 Vic., c. 17, s. 75.]

Inspection of wharf, carriage, ship or boat with explosives in transit.

33. Any Government Inspector, or any officer who may by name or in right of his office be authorized by the Local Government in this behalf, may, if he has reasonable cause to suppose an explosive to be for the purpose of or in course of conveyance on or in the wharf, carriage, ship or boat of any carrier, or of the occupier of any factory or magazine or of the importer of any explosive, enter, inspect and examine at any time the wharf, carriage, ship or boat for the purpose of ascertaining whether the provisions of this Act or the rules under this Act with respect to the conveyance, loading, unloading and importation of an explosive are complied with, but so as not to unnecessarily obstruct the work or business of the carrier, occupier or importer.

(*B*).—*Accidents.*

[38 Vic., c. 17, s. 63: Cf. Act IV of 1879, s. 6.]

Notice to be given of accidents.

34. Whenever there occurs in or about, or in connection with, any factory, magazine or registered place, or any carriage, ship or boat, either conveying an explosive, or on or from which an explosive is being loaded or unloaded,—

(*a*) any accident by explosion or by fire attended with loss of human life or serious injury to person or property, or

(*b*) any such accident of a description usually attended with such loss or injury, or

(*c*) any accident of any other description which may be prescribed in this behalf,

the occupier of the factory, magazine or registered place, or the master of the ship or boat, or the person in charge of the carriage, as the case may be, shall forthwith give notice thereof to the nearest Magistrate.

[38 Vic., c. 17, s. 66.]

Inquiry into accidents.

35. (*1*) If in any such case an inquiry into the cause of the accident appears to the Magistrate to whom notice has been given under section thirty-four to be necessary, the Magistrate may either himself make the inquiry or direct a Government Inspector or a Magistrate subordinate to himself to make the inquiry.

(*2*) Any Magistrate or Government Inspector making an inquiry under this section shall, for the purposes of conducting the inquiry, have all the powers which he would have in holding an inquiry into an offence under the Code of Criminal Procedure. **X of 1882.**

(*C*).—*Power of Search.*

[38 Vic., c. 17, s. 73.] [Cf. Act I of 1878, s. 14.]

Power of Government Inspector and certain other officers to search for explosives.

36. (*1*) Where any Government Inspector, or any officer who may by name or in right of his office be authorized by the Local Government in this behalf, has reasonable cause to believe that any offence has been or is being committed with respect to an explosive in any place (whether a building or not, or a carriage, boat or ship), or that any explosive is in that place in contravention of this Act or of the rules under this Act, or that the provisions of this Act or of those rules are not duly observed in that place, the Inspector or officer may, on producing, if demanded, in the case of an Inspector, a copy of the notification appointing him, and, in the case of any other officer, of the order authorizing him, enter at any time, and, if need be, by force, that place and every part thereof, and examine the place, and search for explosives therein, and take samples of any explosive or ingredient of any explosive therein, or of any substance reasonably supposed to be an explosive or an ingredient of an explosive which may be found therein.

[Cf. Act I of 1878, s. 16.]

(*2*) All searches under this section shall be made in accordance with the provisions of the Code of Criminal Procedure. **X of 1882.**

[Cf. Act I of 1878, s. 21: 38 Vic., c. 38, s. 73, last para.]

(*3*) When any officer other than a Government Inspector enters and searches as by this section provided, he shall within forty-eight hours make a full report of all the particulars of the entry and search to his immediate official superior.

[38 Vic., c. 17, s. 35, paragraph 3.]

Power of Government Inspector and certain officers to stop, enter, inspect and examine carriages or boats in case of emergency.

37. (*1*) If any Government Inspector or any officer of any of the Departments of Excise, Police, Customs, Salt, Opium or Revenue, superior in rank to a peon or constable, has reasonable cause to suppose that any offence against this Act or the rules under this Act is being committed in respect of any carriage (not being on a railway) or any boat conveying, loading or unloading any explosive, and that the case is one of emergency, and that delay will be likely to endanger life, he may stop and enter, inspect and examine the carriage or boat, and by detention or removal thereof or otherwise take such precautions as may be reasonably necessary for removing the danger, in like

manner as if the explosive were liable to forfeiture.

[38 Vic., c. 17, s. 75, para. 4.]

(2) Every such officer shall, for the purposes of this section, have the same powers and be in the same position as if he were an officer authorized by the Local Government under section thirty-six to search for explosives.

(D).—*Power of Seizure and Detention.*

[38 Vic., c. 17, s. 74.]

38. Where any Government Inspector, or any officer authorized as provided by section thirty-six, has reasonable cause to believe that any explosive or ingredient of an explosive or substance found by him is liable to be forfeited under this Act or the rules under this Act, he may seize and detain the same until a Magistrate has determined whether the same is or is not liable to be forfeited.

Seizure and detention of explosives liable to forfeiture.

[38 Vic., c. 17, s. 74.]

39. The Local Government may make rules to regulate the seizure and detention of any explosive or ingredient of any explosive or substance under section thirty-eight, and may by those rules empower the Government Inspector or officer seizing the explosive or ingredient or substance—

Power of Local Government to make rules to regulate seizure and detention of explosives.

(a) to require the occupier of the place in which it was seized (whether a building or not, or a carriage, boat or ship) to detain it in that place or in any place under the control of the occupier; or

(b) to remove it in such manner and to such place as will in the opinion of the Government Inspector or officer least endanger the public safety, and there to detain it; or

(c) in any case which appears to the Government Inspector or officer to be urgent and fraught with serious public danger, to take a sample of it and cause the rest of it to be destroyed or otherwise rendered harmless.

Cl. (2).

40. The proceedings before a Magistrate for determining whether an explosive or ingredient of an explosive or substance is or is not liable to forfeiture shall be commenced as soon as practicable after the seizure.

Proceedings before Magistrate to be commenced as soon as practicable.

Cl. (3).]

41. The receptacles containing an explosive or ingredient of an explosive or substance may be seized, detained and removed in like manner as the contents thereof.

Power to seize receptacles.

Cl. (4).]

42. The Government Inspector or officer seizing an explosive or ingredient of an explosive or substance may use for the purposes of the removal and detention thereof any ship, boat or carriage in which it was seized, and any tug, tender, engine, tackle, beasts and accoutrements belonging to, or drawing or provided for drawing, that ship, boat or carriage, and shall pay to the owner a reasonable compensation for the use, to be determined in case of dispute by a Magistrate, and to be recovered in like manner as a fine under this Act.

Power to use ship, boat, carriage, &c., in which explosives are seized.

(E).—*Samples.*

[38 Vic., c. 17, s. 76.]

43. When a Government Inspector or other officer in pursuance of this Act or the rules under this Act takes samples of any explosive or ingredient of an explosive or substance, he shall pay for or tender payment for those samples to such amount as he considers to be the market-value thereof; and the occupier of the place in which, or the owner of the bulk from which, the sample was taken may recover any excess of the real value over the money so paid or tendered, and any amount so tendered, from the Inspector or other officer taking the sample, as a debt, in the Small Cause Court, or, if there is no Small Cause Court, in the Civil Court having jurisdiction.

Payment for samples of explosives.

CHAPTER IX.

PENALTIES AND LEGAL PROCEEDINGS.

[38 Vic., c. 17, s. 4.]

44. If an explosive is manufactured in contravention of section eight, or of a notification under section twenty-eight—

Penalty for illegal manufacture of explosives.

(a) the explosive and all the ingredients of the explosive, which may be found either in or about the place at which the explosive is manufactured, or in the possession, or under the control, of any person convicted under this section, shall be liable to be forfeited; and

(b) the person manufacturing the explosive shall be punished with fine which may extend to one thousand rupees for each day on which he so manufactures.

[38 Vic., c. 17, s. 5.]

45. If any explosive is kept in contravention of section nine, or of a notification under section twenty-eight—

Penalty for illegal keeping of explosives.

(a) all the explosives found in the place at which the explosive is kept shall be liable to be forfeited; and

(b) the occupier of that place, and also any person guilty of keeping the explosive, shall each be punished with fine which may extend to one rupee for each pound of the explosive so kept.

[38 Vic. c. 17 s. 10; but cf. s. 9 as to amount of penalty.]

46. In the event of a breach in any factory of any of the rules under section ten for the regulation of factories—

Penalty for breach of rules for regulation of factories.

(a) the explosive or ingredients thereof with respect to which, or being in any building or machine with respect to which, the breach is committed, shall be liable to be forfeited; and

(b) the occupier shall be punished with fine which may extend in the case of a first breach to five hundred rupees, and in the case of any subsequent breach to one thousand rupees, and to five hundred rupees in addition for each day during which the breach continues.

[38 Vic., c. 17, s. 17, which relates to stores.]

47. In the event of a breach in any magazine of the rules for the regulation of magazines under section thirteen, or of any rules under section eleven or section twelve—

Penalty for breach of rules for regulation of magazines.

(a) the explosive with respect to which, or being in the magazine when, the breach is committed, shall be liable to be forfeited; and

(b) the occupier shall be punished with fine which may extend in the case of a first breach to one hundred rupees, and in the case of any subsequent breach to one hundred rupees in addition for each day during which the breach continues.

[38 Vic., c. 17, s. 22.]

48. In the event of a breach in any registered place of the rules for the regulation of registered places under section fourteen, or of any rules under section eleven—

Penalty for breach of rules for regulation of registered places.

(a) the explosive with respect to which, or being in any house, building, place, safe or receptacle with respect to which, the breach is committed, shall be liable to be forfeited; and

(b) the occupier shall be punished with fine which may extend to one rupee for each pound of the explosive with respect to which, or being at the place in which, the breach was committed.

[38 Vic., c. 17, ss. 30, 32.]

49. If any explosive is hawked, sold or exposed for sale in contravention of section sixteen or section eighteen—

Penalty for illegal sale of explosives in public places.

(a) the explosive which is so exposed for sale, and any explosive found in the possession of any person convicted under this section, shall be liable to be forfeited; and

(b) the person hawking or selling the explosive, or exposing it for sale, shall be punished with fine which may extend to twenty rupees.

[38 Vic., c. 17, s. 31.]

50. Whoever sells an explosive in contravention of section seventeen shall be punished with fine which may extend to fifty rupees.

Penalty for selling explosives to children.

[38 Vic., c. 17, s. 40 (8).]

51. If the name of the explosive affixed to the outermost receptacle containing an explosive is materially false, the person selling the explosive or exposing it for sale shall be punished with fine which may extend to five hundred rupees.

Penalty for affixing false name to receptacle containing explosives.

[38 Vic., c. 17, s.

52. In the event of a breach of any rules as to the packing of explosives under section nineteen—

Penalty for breach of rules as to packing of explosives.

(a) the explosive with respect to which the breach is committed shall be liable to be forfeited; and

(b) the person guilty of the breach shall be punished with fine which may extend to two hundred rupees.

[17 & 18 Vic., c. 7, s. 40 (9), (e); Cf. Indian Penal Code, s. 186.]

53. Whoever resists the conservator, or other officer named in the rules under section twenty, or any person acting under the orders of the conservator, when causing any ship, boat, carriage or explosive to be removed under section twenty-one, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for obstructing conservator or other person.

[38 Vic., c. 17, s. 40 (9) (d).]

54. In the event of a breach of the provisions of section twenty-five with respect to the importation of an explosive, or of the provisions of a license to import an explosive granted under section twenty-six—

Penalty for breach of provisions as to importation of an explosive or of the provisions of an importation-license.

(a) the explosive with respect to which, or being in any ship or boat with respect to which, the breach is committed, shall be liable to be forfeited; and

(b) the owner and master of the ship or boat, and the licensee or person to whom the explosive is delivered, shall each be liable to a fine which may extend in the case of a first offence to one thousand rupees, and in the case of any subsequent offence to two thousand rupees.

[38 Vic., c. 17, s. 43.]

55. If any explosive is imported or sold in contravention of a notification under section twenty-eight—

Penalty for importing or selling specially dangerous explosives in contravention of notification.

(a) the explosive shall be liable to be forfeited;

(b) the owner and master of the ship in which the explosive is imported shall each be punished with fine which may extend to five rupees for every pound of the explosive brought in the ship; and

(c) the person selling and the person buying the explosive shall each be punished with fine which may extend to five rupees for each pound of the explosive sold.

56. If any explosive is conveyed in contravention of a notification under section twenty-eight—

Penalty for conveying specially dangerous explosives in contravention of notification.

(a) the explosive shall be liable to be forfeited; and

(b) the master of the ship or boat or the person in charge of the carriage in which the explosive is conveyed, as the case may be, shall be punished with fine which may extend to five rupees for each pound of the explosive so conveyed.

[Cf. Act I 1878, s. 1

57. Any Government Inspector or officer authorized under section thirty-three or section thirty six, or referred to in section

Penalty for vexatious entries, searches and seizures.

thirty-seven, who—

(*a*) without reasonable ground of suspicion enters or searches, or causes to be entered or searched, any building, carriage, boat or ship, or

(*b*) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any explosive or other thing liable to be forfeited under this Act or the rules under this Act,

shall for every such offence be punished with fine which may extend to five hundred rupees.

[38 Vic., c. 17, s. 77.]

58. Whoever enters without permission or otherwise trespasses on any factory or magazine, or the land immediately adjoining thereto which is occupied by the occupier of that factory or magazine, shall be punished with fine which may extend to fifty rupees, and may be forthwith removed from the factory, magazine or land by any Police-officer, or by the occupier of the factory or magazine, or by any agent or servant of, or other person authorized by, the occupier.

Penalty on, and removal of, trespassers.

[38 Vic., c. 17, s. 77, para. 2.]

59. Whoever, other than the occupier of, or a person employed in or about, a factory or magazine is found committing any act which tends to cause explosion or fire in or about a factory or magazine shall be punished with fine which may extend to five hundred rupees.

Penalty on persons committing act tending to cause explosion or fire in or about factories or magazines.

[38 Vic., c. 17, s. 77, para. 3.]

60. The occupier of every factory or magazine shall put up in some conspicuous place or places a notice or notices warning all persons of their liability to penalties under the last two foregoing sections; but the absence of a notice or notices shall not exempt a person from punishment under those sections.

Occupier to put up notices warning persons of liability under last two sections.

[38 Vic., c. 17 s. 97, proviso.]

61. Whoever enters without permission, or otherwise trespasses on, any place in the occupation of the Government where any explosive is manufactured or stored, or the land immediately adjoining thereto in the occupation of the Government, or of the officer or person in charge of that place, and any person found committing any act tending to cause explosion or fire in or about any such place, shall be liable to the like penalty, and may be removed and arrested in like manner, as if the place were a factory or magazine to which this Act applies.

Penalty for trespass, &c., on Government manufactory or store.

[38 Vic., c. 17, s. 78.]

62. Whoever is found committing any act for which he is punishable under this Act or the rules under this Act, and which tends to cause explosion or fire in or about any factory, magazine, railway or port, or any carriage, ship or boat, may be apprehended without a warrant by a Police-officer, or by the occupier of, or the agent or servant of, or other person authorized by the occupier of, that factory or magazine, or by any agent or servant of, or other person authorized by, the railway-administration or conservator of the port, and be removed from the place where he is arrested, and conveyed as soon as conveniently may be before a Magistrate.

Power to arrest without warrant persons committing dangerous offences.

[38 Vic., c. 17, s. 83.]

63. Whoever without due authority pulls down, injures or defaces any notice, copy of rules or document when affixed in pursuance of this Act or of the rules under this Act, shall be punished with fine which may extend to twenty rupees.

Penalty for pulling down, injuring or defacing notices.

[38 Vic., c. 17, s. 87.]

64. (*1*) Where any offence under this Act or the rules under this Act, for which the occupier of any factory, magazine or registered place is liable to a penalty or forfeiture, has in fact been committed by some other person, that other person shall be punished with fine which may extend to two hundred rupees.

Exemption of occupier, &c., from penalty on proof of offence having been committed by another person.

(*2*) Where any occupier is liable under this Act or the rules under this Act to a penalty or forfeiture for an offence committed by some other person, the occupier shall be exempt from the penalty or forfeiture on proving that he had supplied proper means and issued proper orders for the observance, and used due diligence to enforce the observance, of this Act and the rules under this Act, and that the offence in question was actually committed by some other person without his connivance, and, if the actual offender is alive, that he has taken all practicable means in his power to prosecute the offender to conviction.

[38 Vic., c. 17, s. 87, para. 4.]

(*3*) The occupier or other accused, when charged in respect of any offence committed by another person, may, if he think fit, be examined as a witness in the case.

[38 Vic., c. 17, s. 87, para. 5.]

(*4*) Where any offence under this Act for which any warehouseman, or carrier, or the owner or master of any ship, boat or carriage is liable to a penalty or forfeiture, has in fact been committed by some other person, this section shall apply in like manner as if the warehouseman, carrier, owner or master were such an occupier as in this section mentioned.

[38 Vic., c. 17, s. 88.]

65. Where a carrier, or an owner or master of a ship or boat, is prevented from complying with this Act or the rules under this Act by the wilful act, neglect or default of the consignor or consignee of the explosive, or other person, or by the improper refusal of the consignee or other person to accept delivery of the explosive, the consignor, consignee or other person, who is guilty of that wilful act, neglect, default or refusal shall be liable to the same penalty to which the carrier, owner or master is

Exemption of carrier or owner or master of ship where consignor, &c., is in fault.

liable for a breach of this Act or those rules; and his conviction shall exempt the carrier, owner or master from any penalty or forfeiture under this Act or those rules.

[Cf. 38 Vic., c. 17, s. 96]

66. (*1*) In any case in which any explosive or ingredient of an explosive or any substance is liable to be forfeited under this Act or the rules under this Act, the convicting Magistrate may direct the whole or any part of the explosive, ingredient or substance, together with the receptacles containing the explosive, ingredient or substance to be forfeited.

Provisions as to forfeiture.

[38 Vic., c. 17, s. 89, para. 2.]

(*2*) Where any explosive or ingredient of an explosive or any substance is alleged to be liable under this Act or the rules under this Act to be forfeited, proceedings may be instituted in the Court of any Magistrate, within the local limits of whose jurisdiction the explosive, ingredient or substance is, against the owner of the explosive, ingredient or substance, for the purpose only of enforcing the forfeiture; and, where the owner is unknown or cannot be found, the Magistrate may cause a notice to be published in such manner as he thinks fit stating that, unless cause is shown to the contrary at the time and place named in the notice, the explosive, ingredient or substance will be forfeited; and if cause is not so shown, the Magistrate, after hearing the owner or any person on his behalf (if present), may order all or any part of the explosive, ingredient or substance to be forfeited.

[38 Vic., c. 17, s. 89, para. 1.]

(*3*) Where a Court before whom a person is convicted of an offence against this Act or the rules under this Act has power to order a forfeiture of any explosive or ingredient of an explosive or any substance owned by, or found in the possession or under the control of, that person, the Court may, if it thinks fit, in lieu of ordering a forfeiture of that explosive, ingredient or substance, sentence that person, in addition to any other punishment, to a fine which may extend to such sum as appears to the Court to be the value of the explosive, ingredient or substance.

[33 Vic., c. 17, s. 95.] [Cf. Act XII of 1875, s. 66.

67. Where the owner or master of a ship or boat is adjudged to pay a fine for an offence committed with or in relation to that ship or boat, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of the ship or boat, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Distress of ship or boat.

CHAPTER X.

SUPPLEMENTAL.

[38 Vic., c. 17, s. 72.]

68. (*1*) When any municipal committee satisfies the Local Government that the erection of a magazine by the committee either within or without the limits of the municipality would conduce to the safety of the public within the limits of the municipality, and would not be injurious to the public without those limits, the Local Government may grant to that municipal committee a license under this Act for a magazine.

Provision of magazine by municipal committee.

(*2*) The municipal committee may, for the purpose of any license under this section, acquire any land or right over land, or appropriate any land or right belonging to it, and acquire or build a magazine, and may maintain and manage the magazine, and may charge for the use by persons of the magazine such reasonable sums as it may, from time to time, with the approval of the Local Government, fix.

[Cf. Act XIII of 1880, s. 23.]

(*3*) The amount of all sums charged, and the amount of all expenditure incurred, for the purposes of this section by any municipal committee shall respectively be credited to, and paid from, the municipal fund.

[Cf. Act XV of 1879, s. 13: Act XV of 1873, s. 39.]

(*4*) When any land is required by a municipal committee for the purposes of this section, if the municipal committee cannot agree with the owner for the purchase thereof, the Local Government may, on the request of the municipal committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the municipal committee of the compensation awarded under that Act, the land shall vest in it for the purposes of this section.

X of 1870.

[Cf. Act XI of 1881, s. 2.]

(*5*) In this section "municipal committee" includes a municipal corporation or a body of municipal commissioners constituted by or under the provisions of any enactment for the time being in force.

[38 Vic., c. 17, s. 50.]

69. (*1*) A person shall not be required by this Act or the rules under this Act to take out a license or to register any premises for the keeping of percussion-caps, or safety-fuzes for blasting, or fog-signals kept by any railway-administration for use on the railway of that railway-administration, or any prescribed explosive.

Provisions in favour of the keeping and conveyance of percussion-caps, safety-fuzes for blasting, fog-signals and prescribed explosives.

(*2*) It shall not be obligatory on a railway-administration making rules under section twenty-two to make any rules with respect to the conveyance, loading, unloading or keeping of any explosive to which this section applies.

(*3*) The Governor General in Council may, by notification, exempt any explosive to which this section applies, or any description thereof, from any other of the provisions of this Act or from any of the rules under this Act, or may declare that a license shall be required for the keeping of any explosive to which this section applies, or any description thereof, or that rules shall be made with respect to the loading, unloading, conveyance or keeping thereof.

[38 Vic., c. 17, s. 41.]

70. Nothing in this Act or in the rules under this Act shall apply to the filling or conveying for private use, and not for sale, of any safety-cartridges to the amount allowed by this Act or those rules to be kept for private use.

Exemption of safety-cartridges for private use.

[38 Vic., c. 17, s. 100.]

Saving for owner or master of ship, carrier and others in case of emergency.

71. Nothing in this Act or the rules under this Act shall render liable to any penalty or forfeiture the owner or master of any ship or boat, or any carrier or warehouseman, or the person having charge of any carriage, for any act done in breach of this Act or those rules, if he proves that, by reason of stress of weather, inevitable accident or other emergency, the doing of that act was under the circumstances necessary and proper.

[38 Vic., c. 17, s. 102.]

Saving as to liability under other law.

72. Nothing in this Act or the rules under this Act shall—

(*a*) exempt, save as is in this Act or those rules expressly provided, any person from any suit which might, but for the provisions of this Act or those rules, have been brought against him; or

(*b*) prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or those rules, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or those rules: provided that no person shall be punished twice for the same offence.

New: Act VIII of 1878, s. 198: Act XI of 1878, s. 33.]

Notice and limitation of proceedings.

73. No proceeding other than a suit shall be commenced against any person for anything done in pursuance or in alleged pursuance of this Act or of the rules under this Act until at least one month's previous notice in writing of the intended proceeding and of the cause thereof has been given to him, nor after the expiration of three months from the accrual of that cause.

[38 Vic., c. 17, s. 104.]

Extension of definition of "explosive" to other explosive substances.

74. The Governor General in Council may, by notification, declare that any substance which appears to the Governor General in Council to be specially dangerous to life or property, by reason either of its explosive properties, or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act and of the rules under this Act; and the provisions of this Act and of those rules (subject to such exceptions, limitations and restrictions as may be specified in the notification) shall accordingly extend to that substance in like manner as if it were included in the term "explosive" in this Act.

Procedure for making, publication and confirmation of rules.

75. (*1*) Every authority having power to make rules under any section of this Act other than section fifteen or section twenty-nine, shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(*2*) The publication shall be made, in the case of rules made by the Governor General in Council, in such manner as may in his opinion be sufficient for giving information to persons interested, and in the case of rules made by any other authority, in the prescribed manner.

(*3*) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(*4*) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*5*) A rule made under this Act by a Local Government or railway-administration shall not take effect until it is confirmed by the Governor General in Council.

(*6*) Every rule made under this Act by a Local Government and confirmed by the Governor General in Council shall be published in the local official Gazette.

(*7*) Every rule made under this Act by a railway-administration and confirmed by the Governor General in Council, and every rule made under this Act by the Governor General in Council, shall be published in the *Gazette of India*.

(*8*) The publication in the local official Gazette, or, as the case may be, in the *Gazette of India*, of a rule purporting to be made under this Act, shall be conclusive evidence that it has been duly made, and, if it requires confirmation, that it has been duly confirmed.

(*9*) All powers to make rules conferred on any authority by this Act may be exercised from time to time as occasion requires.

Issue and publication of notifications.

76. (*1*) Save as provided in section four, all powers to issue notifications conferred by this Act on the Governor General in Council or the Local Government may be exercised from time to time as occasion requires.

(*2*) A notification issued by the Governor General in Council or the Local Government under this Act shall not take effect until it has been published in the *Gazette of India* or the local official Gazette, as the case may be.

THE SCHEDULE.

(*See section 5.*)

ENACTMENTS REPEALED.

(*a*) *Acts of the Governor General in Council.*

Number and Year.	Subject or Short Title.	Extent of Repeal.
XIII of 1856 ...	For regulating the police of the towns of Calcutta, Madras and Bombay.	Sections seventy to seventy-four (both inclusive).
XXI of 1857 ...	To make better provision for the order and good government of the station of Howrah.	Sections eighteen and nineteen.
XII of 1875 ...	The Indian Ports Act, 1875 ...	Section seven, clause (*o*), and sections twenty-eight to thirty-four (both inclusive).

(*b*) *Acts of the Governor of Fort St. George in Council.*

Number and Year.	Subject or Short Title.	Extent of Repeal.
VIII of 1867 ...	To incorporate the police of the town of Madras with the general police of the Madras Presidency, to extend the jurisdiction of the Town Police Magistrates, and to amend and consolidate the provisions of Act XIII of 1856 and of Act XLVIII of 1860.	Sections forty-five to forty-nine (both inclusive).
V of 1878 ...	The City of Madras Municipal Act, 1878.	In section three hundred and twenty-two, the words "gunpowder manufactory, manufactory of fire-works," and the words "explosive or."
I of 1880 ...	For regulating the storing, sale and packing for conveyance of gunpowder.	The whole Act.

(*c*) *Acts of the Governor of Bombay in Council.*

Number and Year.	Subject or Short Title.	Extent of Repeal.
III of 1872 ...	To provide for the management of the municipal affairs of the city of Bombay and to make better provision for the conservancy and improvement of the city and for the levying of rates, taxes and other income therein.	In section two hundred and twenty-five, the words "gunpowder manufactory, manufactory of fireworks," and the words "explosive or."
VI of 1873 ...	Bombay District Municipal Act ...	In section sixty-nine, the words "manufactory of gunpowder or fireworks" and the words "explosive substances or."

(*d*) *Acts of the Lieutenant-Governor of Bengal in Council.*

Number and Year.	Subject or Short Title.	Extent of Repeal.
II of 1866 ...	To provide for the better regulation of the police within the suburbs of the town of Calcutta.	Sections thirty-four to thirty-eight (both inclusive).
IV of 1866 ...	To amend and consolidate the provisions of Act XIII of 1856 and Act XLVIII of 1860.	Sections fifty-seven to sixty-one (both inclusive).
V of 1876 ...	Bengal Municipal Act, 1876 ...	In section two hundred and eighty-five, the words "or explosive substance."
V of 1879 ...	The Jute Warehouse and Fire-Brigade Act, 1879.	In section twenty-one, the words "or manufacture."

STATEMENT OF OBJECTS AND REASONS.

1. The object of this Bill is to provide a comprehensive law regulating the manufacture, keeping, sale, conveyance and importation of explosives throughout British India. The matter was first brought to the notice of the Government in connection with an application made by the agents of Nobel's Explosives Company, Limited, for permission to import dynamite manufactured by the Company. The Government of Bombay, to whom the application was made, referred the question to a Committee, which reported that the expediency of allowing the importation into that Presidency of dynamite and other preparations of nitro-glycerine was doubtful. The Government of Bombay forwarded a copy of this report to the Government of India with a request that the importation of preparations of nitro-glycerine might be prohibited until further notice by a notification under the Sea Customs Act. Before complying with this request the Government of India thought it well to consult the Governments of Madras and Bengal. In reply, both Governments expressed an opinion that the importation of these explosives should not be forbidden. The Government of Bengal further submitted a draft set of rules to regulate the importation, package, transport and storage of dynamite and similar substances, together with a report which had been prepared by a Committee appointed by the Lieutenant-Governor to consider the entire subject. This Committee, while recommending that the draft rules should be published as rules under the Indian Arms Act, 1878, suggested the enactment of a comprehensive Imperial Act of a similar nature to the English Explosives Act, 1875 (38 Vic., c. 17), which would in a convenient and compendious Code deal with the subject of explosives in its entirety and furnish the public, as well as Government officials, with an easy means of ascertaining their duties, responsibilities and powers respecting articles which by their inflammable, explosive or dangerous nature imperil the public safety.

2. It appears to the Government of India that it would be an abuse of the powers conferred by the Indian Arms Act, 1878, to make rules of the nature of those submitted by the Bengal Committee under that Act. There are, no doubt, powers conferred by the Indian Arms Act which might, at first sight, seem to authorise the making of such rules; but the object to which such rules are directed is altogether different from that of the Act. The object of the Arms Act was to enable the Government more effectually to prevent arms and ammunition (which term under section 4 includes gun-cotton, dynamite, lithofracteur and other fulminating substances) from getting into the hands of persons who would make a bad use of them. In other words, the main object of that Act was to *restrict* the possession of arms and ammunition. But the main object of the rules prepared by the Bengal Committee is not restrictive. Their object is to *protect* the public against the dangerous nature of the explosives to which they relate by regulating all dealings with those explosives. If they are restrictive, it is only so far as is necessary to carry out their protective object. Under these circumstances, it appears to the Government that the proposed rules could not properly be published under the Indian Arms Act, 1878.

3. Nor does it appear that there is any other enactment, as the law at present stands, under which rules of the nature of those prepared by the Bengal Committee can be issued. Under the existing law, the only enactments relating to this subject are to be found in various fragmentary provisions, dealing with gunpowder and fireworks only, which are in force in the Presidency-towns and in certain municipalities and ports. It appears to the Government that it is unsatisfactory that the law should be in this state at a time when dynamite and other compounds of nitro-glycerine are rapidly taking the place of gunpowder in all works where blasting in necessary. Already these explosives have been used to a considerable extent in connection with various works undertaken both by the Government and by private enterprize throughout India; and it is only natural to suppose that, as their superiority to gunpowder becomes more widely known, their use will increase.

4. Under these circumstances, the suggestion of the Committee that an Act drawn on the model of the English Explosives Act, 1875, and dealing comprehensively with the whole subject of explosives, should be added to the Indian Statute-book, recommends itself to the Government of India, as being the only satisfactory method of treating the subject. Accordingly the present Bill has been prepared. It embodies such of the provisions of the English Act as are in the opinion of the Government necessary in this country. In addition to the omission from the Bill of certain provisions of the English Act, the Bill further differs from that Act in that, in accordance with the well-recognized principle of Indian legislation, it confers power on the Local Governments to provide by means of rules, adapted to the varying local circumstances of the provinces under their administration, for many points for which there are specific provisions in the body of the English Act.

5. The Bill is divided into ten chapters.

Chapter I (Preliminary) contains the usual preliminary matter. Section 2 saves from the Act the manufacture, packing, sale, conveyance or importation of explosives by the Government, and section 3 saves the provisions of the Indian Arms Act, 1878. Under section 4, the Act will not come into force until after the publication of a notification by the Governor General in Council; but, in order to prevent the inconvenience which would arise if the Act were brought into force before the notifications, rules, orders and appointments necessary for its efficient working had been made, sub-section (2) gives power to make these at any time after the passing of the Act, though they are not to take effect until the Act comes into force. By section 5 and the schedule are repealed the enactments which at present deal with the subject-matter of

the Bill, with the exception of the Indian Arms Act, 1878, and the provisions to be found in the Andaman and Nicobar Islands Regulation, 1876. The provisions of the former Act relating to explosives have been left unrepealed for the reasons which have led the Government of India to decide that the rules framed by the Bengal Committee cannot be passed under it, namely, because the objects of the Act and of the Bill are different. The provisions of the Andaman and Nicobar Islands Regulation, 1876, have not been repealed because, considering the peculiar nature of that settlement, it seems inconvenient to interfere with any of the rules which are at present contained in that Regulation. Though the proposed Act will extend to the Andamans, its provisions will be practically a dead-letter in those islands.

6. Chapter II lays down the general law as to the manufacture and keeping of explosives prescribing the places at which an explosive may be manufactured or kept. It is to be read subject to certain exceptions in the Supplemental Chapter (X).

7. Chapter III deals with the licensing and regulation of factories and magazines, and the registration and regulation of registered places, and confers power on the Local Government to make rules on all necessary matters. A factory under the Act is a place licensed for the manufacture of an explosive; a magazine is a place licensed for the keeping of an explosive; and a registered place is a place registered for the keeping of an explosive. Magazines differ from registered places in that the former are places devoted exclusively to the keeping of explosives and the receptacles for or tools or implements for work connected with the keeping of explosives, whilst the latter are places, *e.g.*, general stores or shops, not devoted exclusively to the keeping of explosives but in which explosives may be kept. Sections 11 and 12 enact certain provisions in favour of the occupiers of magazines and registered places; the former section enabling the occupiers of magazines and registered places to make cartridges without taking out a factory-license, and the latter enabling the occupiers of magazines to adapt or prepare explosives for use in their own mines or quarries without any such license. Section 15 imposes on the occupier of a factory or magazine the duty of making special rules for the regulation of the workmen in his factory or magazine.

8. Chapter IV relates to the sale of explosives. Section 16 prohibits explosives being hawked, sold or exposed for sale on highways or public places; section 17 prohibits the sale of an explosive to a child under 13; and section 18 prescribes the manner in which an explosive exposed for sale or sold is to be packed and labelled.

9. Chapter V treats of matters relating to the conveyance of explosives. Under section 19, the Governor General in Council may make rules as to the packing of explosives for conveyance. Under section 20, the Local Government may make rules to regulate the conveyance, loading, unloading and keeping of explosives within a port; and section 21 confers certain powers on the Conservator or other officer named in such rules in the event of their breach. Under section 22, Railway-administrations are directed to make rules for their own railways respectively. Under section 23, the Governor General in Council is empowered to make rules in any case in which rules under section 20 or section 22 do not apply. By section 24 the authority making rules under sections 20, 22 and 23 respectively is empowered to annex to a breach of any rule, or attempt to commit a breach of any rule, a penalty which may consist of a fine which may extend to two hundred rupees for each breach and to one hundred rupees for each day during which the breach continues, and of forfeiture of all or any part of the explosive in respect of which the breach is committed.

10. Chapter VI regulates the importation of explosives other than gunpowder, cartridges made with gunpowder, percussion-caps, fireworks, and any prescribed explosive, and prohibits their importation except under a license. The Governor General in Council is given power (section 26) to regulate all matters connected with the grant of such licenses, and the officers of sea-customs are given similar power (section 27) with regard to these explosives as they have with regard to any article on the importation of which restrictions are for the time being imposed by the law relating to sea customs.

11. Chapter VII confers special powers on the Governor General in Council to regulate or prohibit all dealings with any explosive which in the opinion of the Governor General in Council is specially dangerous to the public safety; and the officers of sea customs are given like powers with regard to any such explosive as they are given under section 27 with regard to the importation of the explosives referred to in section 25.

12. Chapter VIII (Government supervision) first provides for matters relating to inspection. The Local Government is empowered (section 29) to appoint Government Inspectors, and to make rules to assign and regulate their duties. Section 30 defines the general power of these officers as to entry, inspection, and examination of factories, magazines and registered places, and the taking of samples from the occupiers. Section 31 empowers the Government Inspector to require the occupier of any factory or magazine to remedy anything connected with his factory or magazine which is in the opinion of the Inspector unnecessarily dangerous or defective, and provides for a reference to the nearest Magistrate when the occupier objects to comply with the inspector's requisition. Section 32 deals with inspection in ports and of ships, and section 33 provides for the inspection of a wharf, carriage, ship or boat on or in which an explosive is reasonably supposed by a Government Inspector or other officer to be for the purpose of or in course of conveyance.

The chapter secondly provides (section 34) for the giving of notice of accidents arising from explosion or fire occurring in or about or in connection with any factory, magazine or registered place, or any carriage, ship or boat either conveying an explosive or on or from which

an explosive is being loaded or unloaded, and (section 35) for inquiry into the cause of such accidents when necessary.

Thirdly, the chapter deals with power of search. It empowers (section 36) Government Inspectors and officers authorised by the Local Government to enter and search all places where they have reason to believe that any offence has been or is being committed with respect to an explosive, or that any explosive is in contravention of the Act, or that the provisions of the Act are not duly observed. Such searches are to be made in accordance with the Code of Criminal Procedure, and when made by any officer other than a Government Inspector are to be reported by him to his official superior within 48 hours. Section 37 gives special power to Government Inspectors and other officers to stop carriages or boats in case of emergency.

Fourthly, the chapter treats of seizure and detention of explosives. Section 38 authorizes the seizure and detention of any explosive liable to forfeiture, and section 39 gives the Local Government power to make rules to regulate such seizure and detention. Section 40 declares that the proceedings before a Magistrate with regard to any such seizure shall be commenced as soon as possible. Section 41 gives power to seize the receptacle in which the explosive was found, and section 42 to use the ship, boat, carriage, &c., in which the explosive was seized.

Lastly, the chapter (section 43) provides for the payment for samples of explosives taken by Government Inspectors or other officers under the Act.

13. Chapter IX deals with the penalties and legal proceedings.

The penalties for breaches of the provisions of the Act and the rules made under it are restricted to forfeitures and fines, and the only instance in which the Act prescribes imprisonment as a punishment is (section 53) that of resistance to a public officer.

14. With regard to legal proceedings, section 64 provides for the exemption of an occupier of a factory, magazine or registered place, and of a warehouseman, carrier or owner or master of a ship, boat, or carriage from penalty on proof of another being the real offender. Under section 65, a carrier or owner or master of a ship or boat is exempted from penalty when he is prevented from complying with the law by the act or default of the consignor or consignee of the explosive or some other person and the consignor or consignee or other person is convicted (as it is provided he may be) under the Act.

Section 66 confers a general power on Magistrates to order forfeiture in all cases in which explosives are liable to be forfeited, and provides that proceedings may be taken for the purpose only of inflicting a forfeiture. The same section empowers the Court to inflict an additional fine in lieu of forfeiture of the explosive; and section 67 provides for levy of a fine imposed on the owner or master of a ship by distress of the ship.

15. Chapter X (Supplemental) provides for several miscellaneous matters. Section 68 empowers Municipal Committees to provide magazines for the use of the public; section 69 enacts certain provisions in favour of the keeping and conveyance of percussion-caps, safety-fuses for blasting, fog-signals and prescribed explosives. Section 69 exempts railway-administrations from the obligation to make rules with regard to such explosives, and empowers the Governor General in Council to exempt such explosives altogether from the Act. By section 70 the filling and conveying for private use, and not for sale, of safety-cartridges are excepted from the application of the Act. Section 71 exempts the owner or master of a ship and a carrier or warehouseman or any person in charge of a carriage from punishment when an act is done by him in breach of the provisions of the Act in a case of emergency. Section 72 contains the usual provision saving liability to civil suit or prosecution under other laws. Section 73 deals with notice and limitation of proceedings. Section 74 empowers the Governor General in Council to extend the definition of "explosive" to other explosive substances; and sections 75 and 76 treat of general matters connected with the issue and publication of notifications and rules. Under section 75, proposed rules must be published as drafts before they are finally made, and the authority that makes the rules is directed to receive and consider any criticisms or suggestions which may be made by persons interested.

CALCUTTA;
The 1st January, 1883.

C. P. ILBERT.

R. J. CROSTHWAITE,
Addl. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 26th January, 1883:—

WE, the undersigned Members of the Select Committee to which the Bill to amend the Indian Railway Act, 1879, was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Agent, South Indian Railway, Negapatam, No. 1879-238, dated 24th February, 1882, and enclosures [Papers No. 1].
„ Agent, South Indian Railway, Negapatam, No. 2005-252, dated 27th February, 1882, and enclosure [Papers No. 2].
„ Officiating Secretary to Government, North-Western Provinces and Oudh, No. 1160, dated 4th April, 1882 [Paper No. 3].
„ Resident, Haidarábád, No. 161, dated 17th April, 1882 [Paper No. 4].
„ Secretary to Chief Commissioner, British Burma, No. 445-13L., dated 19th April, 1882 [Paper No. 5].
„ Secretary to Government, Panjáb, No. 374, dated 27th April, 1882 [Papers No. 6].
„ Officiating Chief Commissioner, Ajmer-Merwára, No. 279, dated 3rd May, 1882, and enclosures [Papers No. 7].
„ Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 1345-60, dated 21st April, 1882 [Papers No. 8].
„ Acting Under Secretary to Government, Bombay, No. 3013, dated 15th May, 1882, and enclosures [Papers No. 9].
„ Acting Chief Secretary to Government, Madras, No. 311, dated 29th April, 1882, and enclosures [Papers No. 10].
„ Secretary to Chief Commissioner, Coorg, No. 226-2, dated 2nd May, 1882, and enclosures [Papers No. 11].
„ Government Advocate, Panjáb, No. 996D.A., dated 5th April, 1882 [Paper No. 12].
„ Her Majesty's Secretary of State for India, No. 23, dated 15th June, 1882, and enclosure [Papers No. 13].
„ Secretary to Government, Bengal, Public Works Department, No. 2365R., dated 19th July, 1882, and enclosures [Papers No. 14].
„ Deputy Secretary to Government of India, Public Works Department, No. 801R.T., dated 10th August, 1882, and enclosures [Papers No. 15].
„ Under Secretary to Government of India, Public Works Department, No. 706R.T., dated 14th July, 1882, and enclosures [Papers No. 16].
„ Consulting Engineer to Government of India for Guaranteed Railways, No. 3303, dated 15th September, 1882 [Paper No. 17].

2. Since the Bill was circulated, several valuable suggestions have been made to us as to points in which the Indian Railway Act, IV of 1879, might be amended. We think, however, that, as the extension of Railways in this country will probably necessitate before long a general revision of that Act and the preparation of a Bill calculated to meet the growing wants of the country, it is expedient to confine ourselves to the matters with which the Bill before us is concerned, and to leave suggestions on other points to be considered when the whole of the law relating to Indian Railways is dealt with.

3. With this view we have made only such amendments in the Bill as we deemed necessary or desirable in order the better to give effect to the present intentions of the legislature. These amendments are briefly as follows:—

(1) In section 5 A (present numbering) we have enabled the Governor General in Council to appoint officers either by name or by virtue of their office to be inspecting officers under the Act.

We have drawn section 5B so as to render it unnecessary for the Governor General in Council specially to appoint an officer to inspect any particular Railway, and as it may, in some cases, be desirable that sanction should be obtained at once to the opening of a Railway, and that the inspecting officer's report should be communicated by telegraph, we have omitted the provision requiring that officer's report to be in writing.

(2) In sub-section (2) of the same section we have given the Governor General in Council power to confer, in any particular case or class of cases, on the inspecting officer the power to sanction the opening of a Railway or portion of a Railway. As the Bill was drafted, this power had to be conferred in each particular case, and we considered that it would be more convenient to enable a general power to be conferred on the inspecting officer for dealing with any particular class of cases, such as minor additions to, or extensions of, a Railway.

(3) In sub-section (3) we have reserved to the Governor General in Council a power to review any sanction given by an inspecting officer, and to cancel or modify it.

(4) To meet a case when it is desirable to sanction the opening of a line subject to conditions which are to be complied with by a Railway Administration, we have, in sub-section (4),

expressly declared that the sanction may be absolute or subject to conditions. We have accordingly provided in sub-section (5) that, when a conditional sanction is granted for the opening of a Railway and the conditions are not complied with, the sanction shall at once be deemed to be void, and that the Railway shall not be used until sanction is again obtained.

(5) To provide for the case where, after sanction has been given for the opening of a Railway, an alteration is made in it by the Administration, we have in section 5C (present numbering) prohibited the use of any portion of a Railway, so altered as to interfere with the safety of passengers, until formal sanction has been obtained for the opening of the portion for the public conveyance of passengers.

(6) In section 5D (present numbering) we have conferred upon officers appointed to inspect Railways the additional power of inspecting the rolling-stock used on a Railway, and have amended sections 5C (now 5E), 5D (now 5F) and the penal provisions contained in section 4 of the Bill accordingly.

4. We have made a few minor alterations in the Bill which do not call for special notice.

5. The Bill has been published, and we recommend that it should be passed as now amended; but first we consider, having regard to the amendments we have made, that it should be republished in the *Gazette of India*.

C. P. ILBERT.
J. GIBBS.
E. BARING.
T. C. HOPE.
H. J. REYNOLDS.
H. S. THOMAS.

The 25th January, 1883.

No. II.

A Bill to amend the Indian Railway Act, 1879.

Preamble.

WHEREAS it is expedient to amend the Indian Railway Act, 1879, in manner hereinafter appearing; It is hereby enacted as follows:

Short title. Commencement.

1. This Act may be called the Indian Railway Act, 1882; and it shall come into force at once.

New sections substituted for section 5 of Act IV of 1879.

2. For section five of the said Act the following sections shall be substituted, namely:—

Railway when to be opened.

"5. A Railway, or portion or extension of, or addition to, a Railway, shall not be opened for the public conveyance of passengers until the Railway Administration has given to the Governor General in Council notice in writing of the intention of opening the same, and until the Governor General in Council has by order sanctioned the opening of the same.

Governor General in Council may appoint Inspecting-officers.

"5A. The Governor General in Council may from time to time appoint, by name or by virtue of their office, officers to be Inspecting-officers under this Act.

Sanction not to be given until after report by Inspecting-officer.

"5B. (1) The sanction referred to in section five shall not be given until an officer appointed under section 5A has, after inspection of the Railway, portion, extension or addition, as the case may be, reported to the Governor General in Council that in his opinion the opening of the same would not be attended with danger to the public using it.

"(2) Notwithstanding anything hereinbefore contained, the Governor General in Council may, in any particular case or in any particular class of cases, by special order, confer on any officer appointed under section 5A power to sanction the opening of a Railway, portion, extension or addition, if in the officer's opinion the opening of the same will not be attended with danger to the public using it.

"(3) In such case it shall not be necessary to make the report required by sub-section (1); but the Governor General in Council may by order cancel the sanction given under sub-section (2), or direct that the sanction shall be subject to such conditions as he thinks fit.

"(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor General in Council, or the officer appointed under section 5A, as the case may be, thinks necessary for the safety of the public.

"(5) When sanction for the opening of any Railway, or portion or extension of, or addition to, any Railway is given subject to conditions and the Railway Administration fails or neglects to fulfil, or comply with, those conditions, the sanction shall on the failure or neglect forthwith be deemed to be void, and the Railway, or portion, or extension, or addition, as the case may be, shall not be used unless and until sanction is again obtained under this section for the opening thereof.

When alterations affecting safety of passengers are made in Railway, sanction to be again obtained for opening.

"5C. If, after a Railway has been opened as hereinbefore provided, any portion of it is so altered by the Railway Administration as to cause danger to, or affect the safety of, passengers carried thereon, the portion so altered shall not be used for the public conveyance of passengers, unless and until sanction is obtained, in accordance with the provisions of section 5B, for the opening of it.

[34 & 35 Vic., c. 78, s. 4.]

Powers of Inspector of Railways.

"5D. (1) Every officer appointed under section 5A shall, for the purpose of the inspection, be deemed to be a public servant within the meaning of the Indian Penal Code, and shall, subject to the control of the Governor General in Council, have the following powers, namely:—

"(a) he may enter on and inspect any Railway or portion thereof which has been opened for the public conveyance of passengers, or any rolling-stock used thereon;

"(b) he may by an order in writing under his hand require the attendance of any Railway-servant whom he thinks fit to call before him and examine for the said purpose, and may require any such servant to answer, or furnish returns regarding, such inquiries for the said purpose as he thinks fit to make;

"(c) he may require and enforce the production of all books, papers and documents belonging to or in the possession of any Railway Administration which in his opinion are necessary for the said purpose.

"(2) Every Railway Administration whose Railway or rolling-stock is being inspected under this Act shall afford all reasonable facilities for making the inspection to the officer making it.

Governor General in Council empowered to close Railway.

"5E. When, after inspecting any Railway or portion of a Railway, or any rolling-stock used thereon, any officer appointed under section 5A reports to the Governor General in Council that in his opinion the use of the Railway or portion or of any specified rolling-stock will be attended with danger to the public using it, the Governor General in Council may, by order, direct that the Railway or portion be closed for the public conveyance of passengers, or that the rolling-stock so specified shall no longer be used, as the case may be.

Re-opening of Railway.

"5F. (1) When a Railway or portion of a Railway has been closed under section 5E, it shall not be re-opened for the public conveyance of passengers unless and until it has been inspected, and its opening sanctioned, in accordance with the provisions of section 5B."

"(2) When the Governor General in Council has directed under section 5E that any rolling-stock shall not be used, the rolling-stock shall not be used unless and until an officer appointed under section 5A reports that it is fit for use and the Governor General in Council sanctions its use."

Amendment of, and addition to, section 8.

3. In section eight of the said Act, in clause (d), the word "and" shall be omitted, and after clause (d) the following clause shall be, and be deemed to have always been, inserted:—

"(dd) for regulating the conduct of the Railway-servants, and".

New section to be substituted for section 21 of Act IV of 1879.

4. For section twenty-one of the said Act the following section shall be substituted:—

Penalty for opening or re-opening Railway in contravention of sections 5 and 5D, and keeping open after order under section 5C.

"21. Any Railway Administration opening or using, in contravention of section five or section 5C, any Railway, or any portion or extension of, or addition to, a Railway, or keeping, in contravention of an order of the Governor General in Council, under section 5E, any Railway or portion thereof open, or re-opening, in contravention of section 5F, sub-section (1), any Railway or portion thereof, or using, in contravention of section 5F, sub-section (2), any rolling-stock, shall forfeit to Government the sum of one thousand rupees for every day during which the Railway, portion, extension or addition remains open or is used in contravention of any of the said sections or of the order of the Governor General in Council, as the case may be, or during which the rolling-stock is used."

R. J. CROSTHWAITE,
Addl. Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 3, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 26th January, 1883:—

WE, the undersigned Members of the Select Committee to which the Bill to amend the Indian Railway Act, 1879, was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Agent, South Indian Railway, Negapatam, No. 1879-238, dated 24th February, 1882, and enclosures [Papers No. 1].
„ Agent, South Indian Railway, Negapatam, No. 2005-252, dated 27th February, 1882, and enclosure [Papers No. 2].
Officiating Secretary to Government, North-Western Provinces and Oudh, No. 1160, dated 4th April, 1882 [Paper No. 3].
„ Resident, Haidarábád, No. 161, dated 17th April, 1882 [Paper No. 4].
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„ Officiating Chief Commissioner, Ajmer-Merwára, No. 279, dated 3rd May, 1882, and enclosures [Papers No. 7].
„ Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 1345-60, dated 21st April, 1882 [Papers No. 8].
„ Acting Under Secretary to Government, Bombay, No. 3013, dated 15th May, 1882, and enclosures [Papers No. 9].
„ Acting Chief Secretary to Government, Madras, No. 311, dated 29th April, 1882, and enclosures [Papers No. 10].
„ Secretary to Chief Commissioner, Coorg, No. 226-2, dated 2nd May, 1882, and enclosures [Papers No. 11].
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„ Secretary to Government, Bengal, Public Works Department, No. 2365R., dated 19th July, 1882, and enclosures [Papers No. 14].
„ Deputy Secretary to Government of India, Public Works Department, No. 801R.T., dated 10th August, 1882, and enclosures [Papers No. 15].
„ Under Secretary to Government of India, Public Works Department, No. 706R.T., dated 14th July, 1882, and enclosures [Papers No. 16].
„ Consulting Engineer to Government of India for Guaranteed Railways, No. 3303, dated 15th September, 1882 [Paper No. 17].

2. Since the Bill was circulated, several valuable suggestions have been made to us as to points in which the Indian Railway Act, IV of 1879, might be amended. We think, however, that, as the extension of Railways in this country will probably necessitate before long a general revision of that Act and the preparation of a Bill calculated to meet the growing wants of the country, it is expedient to confine ourselves to the matters with which the Bill before us is concerned, and to leave suggestions on other points to be considered when the whole of the law relating to Indian Railways is dealt with.

3. With this view we have made only such amendments in the Bill as we deemed necessary or desirable in order the better to give effect to the present intentions of the legislature. These amendments are briefly as follows:—

(1) In section 5 A (present numbering) we have enabled the Governor General in Council to appoint officers either by name or by virtue of their office to be inspecting officers under the Act.

We have drawn section 5B so as to render it unnecessary for the Governor General in Council specially to appoint an officer to inspect any particular Railway, and as it may, in some cases, be desirable that sanction should be obtained at once to the opening of a Railway, and that the inspecting officer's report should be communicated by telegraph, we have omitted the provision requiring that officer's report to be in writing.

(2) In sub-section (2) of the same section we have given the Governor General in Council power to confer, in any particular case or class of cases, on the inspecting officer the power to sanction the opening of a Railway or portion of a Railway. As the Bill was drafted, this power had

to be conferred in each particular case, and we considered that it would be more convenient to enable a general power to be conferred on the inspecting officer for dealing with any particular class of cases, such as minor additions to, or extensions of, a Railway.

(3) In sub-section (3) we have reserved to the Governor General in Council a power to review any sanction given by an inspecting officer, and to cancel or modify it.

(4) To meet a case when it is desirable to sanction the opening of a line subject to conditions which are to be complied with by a Railway Administration, we have, in sub-section (4), expressly declared that the sanction may be absolute or subject to conditions. We have accordingly provided in sub-section (5) that, when a conditional sanction is granted for the opening of a Railway and the conditions are not complied with, the sanction shall at once be deemed to be void, and that the Railway shall not be used until sanction is again obtained.

(5) To provide for the case where, after sanction has been given for the opening of a Railway, an alteration is made in it by the Administration, we have in section 5C (present numbering) prohibited the use of any portion of a Railway, so altered as to interfere with the safety of passengers, until formal sanction has been obtained for the opening of the portion for the public conveyance of passengers.

(6) In section 5D (present numbering) we have conferred upon officers appointed to inspect Railways the additional power of inspecting the rolling-stock used on a Railway, and have amended sections 5C (now 5E), 5D (now 5F) and the penal provisions contained in section 4 of the Bill accordingly.

4. We have made a few minor alterations in the Bill which do not call for special notice.

5. The Bill has been published, and we recommend that it should be passed as now amended; but first we consider, having regard to the amendments we have made, that it should be republished in the *Gazette of India*.

C. P. ILBERT.
J. GIBBS.
E. BARING.
T. C. HOPE.
H. J. REYNOLDS.
H. S. THOMAS.

The 25th January, 1883.

No. II.

A Bill to amend the Indian Railway Act, 1879.

IV of 1879.

Preamble.

WHEREAS it is expedient to amend the Indian Railway Act, 1879, in manner hereinafter appearing;

It is hereby enacted as follows:

Short title. Commencement.

1. This Act may be called the Indian Railway Act, 1882; and it shall come into force at once.

New sections substituted for section 5 of Act IV of 1879.

2. For section five of the said Act the following sections shall be substituted, namely:—

Railway when to be opened.

"**5.** A Railway, or portion or extension of, or addition to, a Railway, shall not be opened for the public conveyance of passengers until the Railway Administration has given to the Governor General in Council notice in writing of the intention of opening the same, and until the Governor General in Council has by order sanctioned the opening of the same.

Governor General in Council may appoint Inspecting-officers.

"**5A.** The Governor General in Council may from time to time appoint, by name or by virtue of their office, officers to be Inspecting-officers under this Act.

Sanction not to be given until after report by Inspecting-officer.

"**5B.** (*1*) The sanction referred to in section five shall not be given until an officer appointed under section 5A has, after inspection of the Railway, portion, extension or addition, as the case may be, reported to the Governor General in Council that in his opinion the opening of the same would not be attended with danger to the public using it.

"(*2*) Notwithstanding anything hereinbefore contained, the Governor General in Council may, in any particular case or in any particular class of cases, by special order, confer on any officer appointed under section 5A power to sanction the opening of a Railway, portion, extension or addition, if in the officer's opinion the opening of the same will not be attended with danger to the public using it.

"(*3*) In such case it shall not be necessary to make the report required by sub-section (1); but the Governor General in Council may by order cancel the sanction given under sub-section (2), or direct that the sanction shall be subject to such conditions as he thinks fit.

"(*4*) The sanction given under this section may be either absolute or subject to such conditions as the Governor General in Council, or the officer appointed under section 5A, as the case may be, thinks necessary for the safety of the public.

"(*5*) When sanction for the opening of any Railway, or portion or extension of, or addition to, any Railway is given subject to conditions and the Railway Administration fails or neglects to fulfil, or comply with, those conditions, the sanction shall on the failure or neglect forthwith be deemed to be void, and the Railway, or portion, or extension, or addition, as the case may be, shall not be used unless and until sanction is again obtained under this section for the opening thereof.

When alterations affecting safety of passengers are made in Railway, sanction to be again obtained for opening.

"**5C.** If, after a Railway has been opened as hereinbefore provided, any portion of it is so altered by the Railway Administration as to cause danger to, or affect the safety of, passengers carried thereon, the portion so altered shall not be used for the public conveyance of passengers, unless and until sanction is obtained, in accordance with the provisions of section 5B, for the opening of it.

[34 & 35 Vic., c. 78, s. 4.]

Powers of Inspector of Railways.

"**5D.** (1) Every officer appointed under section 5A shall, for the purpose of the inspection, be deemed to be a public servant within the meaning of the Indian Penal Code, and shall, subject to the control of the Governor General in Council, have the following powers, namely:—

"(*a*) he may enter on and inspect any Railway or portion thereof which has been opened for the public conveyance of passengers, or any rolling-stock used thereon;

"(*b*) he may by an order in writing under his hand require the attendance of any Railway-servant whom he thinks fit to call before him and examine for the said purpose, and may require any such servant to answer, or furnish returns regarding, such inquiries for the said purpose as he thinks fit to make;

"(*c*) he may require and enforce the production of all books, papers and documents belonging to or in the possession of any Railway Administration which in his opinion are necessary for the said purpose.

"(*2*) Every Railway Administration whose Railway or rolling-stock is being inspected under this Act shall afford all reasonable facilities for making the inspection to the officer making it.

Governor General in Council empowered to close Railway.

"**5E.** When, after inspecting any Railway or portion of a Railway, or any rolling-stock used thereon, any officer appointed under section 5A reports to the Governor General in Council that in his opinion the use of the Railway or portion or of any specified rolling-stock will be attended with danger to the public using it, the Governor General in Council may, by order, direct that the Railway or portion be closed for the public conveyance of passengers, or that the rolling-stock so specified shall no longer be used, as the case may be.

Re-opening of Railway.

"**5F.** (*1*) When a Railway or portion of a Railway has been closed under section 5E, it shall not be re-opened for the public conveyance of passengers unless and until it has been inspected, and its opening sanctioned, in accordance with the provisions of section 5B.

"(*2*) When the Governor General in Council has directed under section 5E that any rolling-stock shall not be used, the rolling-stock shall not be used unless and until an officer appointed under section 5A reports that it is fit for use and the Governor General in Council sanctions its use."

Amendment of, and addition to, section 8.

3. In section eight of the said Act, in clause (*d*), the word "and" shall be omitted, and after clause (*d*) the following clause shall be, and be deemed to have always been, inserted:—

"(*dd*) for regulating the conduct of the Railway-servants, and".

New section to be substituted for section 21 of Act IV of 1879.

4. For section twenty-one of the said Act the following section shall be substituted:—

Penalty for opening or re-opening Railway in contravention of sections 5 and 5D, and keeping open after order under section 5C.

"**21.** Any Railway Administration opening or using, in contravention of section five or section 5C, any Railway, or any portion or extension of, or addition to, a Railway, or keeping, in contravention of an order of the Governor General in Council, under section 5E, any Railway or portion thereof open, or re-opening, in contravention of section 5F, sub-section (*1*), any Railway or portion thereof, or using, in contravention of section 5F, sub-section (*2*), any rolling-stock, shall forfeit to Government the sum of one thousand rupees for every day during which the Railway, portion, extension or addition remains open or is used in contravention of any of those sections or of the order of the Governor General in Council, as the case may be, or during which the rolling-stock is used."

R. J. CROSTHWAITE,
Addl. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd February, 1883 :—

No. 3 OF 1883.

A Bill to authorize the Universities of Calcutta, Madras and Bombay to grant certain honorary degrees.

Preamble.

WHEREAS it is expedient to amend the law relating to the granting of honorary degrees, and to give to the Universities at Calcutta, Madras and Bombay the power of granting the degree of Doctor of Laws to persons who have not undergone a previous examination;

It is hereby enacted as follows :—

Repeal of Act XXI of 1875.

1. Act No. XXI of 1875 (*an Act to authorize the University at Calcutta to grant honorary degrees*) is repealed.

Power to confer honorary degree of Doctor of Laws.

2. If the Vice-Chancellor and not less than four of the other members of the Syndicate for the time being of any of the Universities at Calcutta, Madras and Bombay recommend that an honorary degree be conferred on any person, on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree, and if the Chancellor of the respective University confirms the recommendation, the Chancellor, Vice-Chancellor and Fellows for the time being of the University may confer on that person the degree of Doctor of Laws, without requiring him to undergo any examination.

STATEMENT OF OBJECTS AND REASONS.

By Acts II, XXII and XXVII of 1857, by which the Universities of Calcutta, Bombay and Madras were respectively established and incorporated, power is given to grant degrees only after examination, and Act XLVII of 1860 only extends the number and description of degrees which can be conferred, but leaves the necessity of a previous examination untouched. No Act giving power to grant honorary degrees was passed until 1875, when an Act was passed to enable the Calcutta University to confer honorary degrees. That Act enables the University to grant any honorary degree, but it is thought desirable to confine the power to the grant of the degree of Doctor of Laws, in accordance with the ordinary practice of the Universities in England. Madras and Bombay have never had power to grant honorary degrees. It is now proposed to place the Universities at all the three Presidency-towns on the same footing with regard to these degrees.

2. With this view section 1 of the proposed Bill repeals Act XXI of 1875. By the Act establishing the Universities, the power to confer degrees is granted to the Chancellor, Vice-Chancellor and Fellows, in whom, therefore, the power to grant honorary degrees is also vested by section 2 of the Bill. An honorary degree is not, however, to be granted to any person unless the Vice-Chancellor and not less than four of the other members of the Syndicate recommend the grant and the Chancellor confirms the recommendation.

J. GIBBS.

The 30th January, 1883.

R. J. CROSTHWAITE,
Addl. Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 10, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 26th January, 1883:—

WE, the undersigned Members of the Select Committee to which the Bill to amend the Indian Railway Act, 1879, was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Agent, South Indian Railway, Negapatam, No. 1879-238, dated 24th February, 1882, and enclosures [Papers No. 1].
" Agent, South Indian Railway, Negapatam, No. 2005-252, dated 27th February, 1882, and enclosure [Papers No. 2].
Officiating Secretary to Government, North-Western Provinces and Oudh, No. 1160, dated 4th April, 1882 [Paper No. 3].
" Resident, Haidarábád, No. 161, dated 17th April, 1882 [Paper No. 4].
" Secretary to Chief Commissioner, British Burma, No. 445-13L., dated 19th April, 1882 [Paper No. 5].
" Secretary to Government, Panjáb, No. 374, dated 27th April, 1882 [Papers No. 6].
" Officiating Chief Commissioner, Ajmer-Merwára, No. 279, dated 3rd May, 1882, and enclosures [Papers No. 7].
" Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 1345-60, dated 21st April, 1882 [Papers No. 8].
" Acting Under Secretary to Government, Bombay, No. 3013, dated 15th May, 1882, and enclosures [Papers No. 9].
" Acting Chief Secretary to Government, Madras, No. 311, dated 29th April, 1882, and enclosures [Papers No. 10].
" Secretary to Chief Commissioner, Coorg, No. 226-2, dated 2nd May, 1882, and enclosures [Papers No. 11].
" Government Advocate, Panjáb, No. 996D.A., dated 5th April, 1882 [Paper No. 12].
" Her Majesty's Secretary of State for India, No. 23, dated 15th June, 1882, and enclosure [Papers No. 13].
" Secretary to Government, Bengal, Public Works Department, No. 2365R., dated 19th July, 1882, and enclosures [Papers No. 14].
" Deputy Secretary to Government of India, Public Works Department, No. 801R.T., dated 10th August, 1882, and enclosures [Papers No. 15].
" Under Secretary to Government of India, Public Works Department, No. 706R.T., dated 14th July, 1882, and enclosures [Papers No. 16].
" Consulting Engineer to Government of India for Guaranteed Railways, No. 3303, dated 15th September, 1882 [Paper No. 17].

2. Since the Bill was circulated, several valuable suggestions have been made to us as to points in which the Indian Railway Act, IV of 1879, might be amended. We think, however, that, as the extension of Railways in this country will probably necessitate before long a general revision of that Act and the preparation of a Bill calculated to meet the growing wants of the country, it is expedient to confine ourselves to the matters with which the Bill before us is concerned, and to leave suggestions on other points to be considered when the whole of the law relating to Indian Railways is dealt with.

3. With this view we have made only such amendments in the Bill as we deemed necessary or desirable in order the better to give effect to the present intentions of the legislature. These amendments are briefly as follows:—

(1) In section 5 A (present numbering) we have enabled the Governor General in Council to appoint officers either by name or by virtue of their office to be inspecting officers under the Act.

We have drawn section 5B so as to render it unnecessary for the Governor General in Council specially to appoint an officer to inspect any particular Railway, and as it may, in some cases, be desirable that sanction should be obtained at once to the opening of a Railway, and that the inspecting officer's report should be communicated by telegraph, we have omitted the provision requiring that officer's report to be in writing.

(2) In sub-section (2) of the same section we have given the Governor General in Council power to confer, in any particular case or class of cases, on the inspecting officer the power to sanction the opening of a Railway or portion of a Railway. As the Bill was drafted, this power had

to be conferred in each particular case, and we considered that it would be more convenient to enable a general power to be conferred on the inspecting officer for dealing with any particular class of cases, such as minor additions to, or extensions of, a Railway.

(3) In sub-section (3) we have reserved to the Governor General in Council a power to review any sanction given by an inspecting officer, and to cancel or modify it.

(4) To meet a case when it is desirable to sanction the opening of a line subject to conditions which are to be complied with by a Railway Administration, we have, in sub-section (4), expressly declared that the sanction may be absolute or subject to conditions. We have accordingly provided in sub-section (5) that, when a conditional sanction is granted for the opening of a Railway and the conditions are not complied with, the sanction shall at once be deemed to be void, and that the Railway shall not be used until sanction is again obtained.

(5) To provide for the case where, after sanction has been given for the opening of a Railway, an alteration is made in it by the Administration, we have in section 5C (present numbering) prohibited the use of any portion of a Railway, so altered as to interfere with the safety of passengers, until formal sanction has been obtained for the opening of the portion for the public conveyance of passengers.

(6) In section 5D (present numbering) we have conferred upon officers appointed to inspect Railways the additional power of inspecting the rolling-stock used on a Railway, and have amended sections 5C (now 5E), 5D (now 5F) and the penal provisions contained in section 4 of the Bill accordingly.

4. We have made a few minor alterations in the Bill which do not call for special notice.

5. The Bill has been published, and we recommend that it should be passed as now amended; but first we consider, having regard to the amendments we have made, that it should be republished in the *Gazette of India*.

C. P. ILBERT.
J. GIBBS.
E. BARING.
T. C. HOPE.
H. J. REYNOLDS.
H. S. THOMAS.

The 25th January, 1883.

No. II.

A Bill to amend the Indian Railway Act, 1879.

IV of 1879.

Preamble.

WHEREAS it is expedient to amend the Indian Railway Act, 1879, in manner hereinafter appearing; It is hereby enacted as follows:

Short title. Commencement.

1. This Act may be called the Indian Railway Act, 1882; and it shall come into force at once.

New sections substituted for section 5 of Act IV of 1879.

2. For section five of the said Act the following sections shall be substituted, namely:—

Railway when to be opened.

"5. A Railway, or portion or extension of, or addition to, a Railway, shall not be opened for the public conveyance of passengers until the Railway Administration has given to the Governor General in Council notice in writing of the intention of opening the same, and until the Governor General in Council has by order sanctioned the opening of the same.

Governor General in Council may appoint Inspecting-officers.

"5A. The Governor General in Council may from time to time appoint, by name or by virtue of their office, officers to be Inspecting-officers under this Act.

Sanction not to be given until after report by Inspecting-officer.

"5B. (1) The sanction referred to in section five shall not be given until an officer appointed under section 5A has, after inspection of the Railway, portion, extension or addition, as the case may be, reported to the Governor General in Council that in his opinion the opening of the same would not be attended with danger to the public using it.

"(2) Notwithstanding anything hereinbefore contained, the Governor General in Council may, in any particular case or in any particular class of cases, by special order, confer on any officer appointed under section 5A power to sanction the opening of a Railway, portion, extension or addition, if in the officer's opinion the opening of the same will not be attended with danger to the public using it.

"(3) In such case it shall not be necessary to make the report required by sub-section (1); but the Governor General in Council may by order cancel the sanction given under sub-section (2), or direct that the sanction shall be subject to such conditions as he thinks fit.

"(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor General in Council, or the officer appointed under section 5A, as the case may be, thinks necessary for the safety of the public.

"(5) When sanction for the opening of any Railway, or portion or extension of, or addition to, any Railway is given subject to conditions and the Railway Administration fails or neglects to fulfil, or comply with, those conditions, the sanction shall on the failure or neglect forthwith be deemed to be void, and the Railway, or portion, or extension, or addition, as the case may be, shall not be used unless and until sanction is again obtained under this section for the opening thereof.

When alterations affecting safety of passengers are made in Railway, sanction to be again obtained for opening.

"5C. If, after a Railway has been opened as hereinbefore provided, any portion of it is so altered by the Railway Administration as to cause danger to, or affect the safety of, passengers carried thereon, the portion so altered shall not be used for the public conveyance of passengers, unless and until sanction is obtained, in accordance with the provisions of section 5B, for the opening of it.

[34 & 35 Vic., c. 78, s. 4.]

Powers of Inspector of Railways.

"5D. (1) Every officer appointed under section 5A shall, for the purpose of the inspection, be deemed to be a public servant within the meaning of the Indian Penal Code, and shall, subject to the control of the Governor General in Council, have the following powers, namely:—

"(a) he may enter on and inspect any Railway or portion thereof which has been opened for the public conveyance of passengers, or any rolling-stock used thereon;

"(b) he may by an order in writing under his hand require the attendance of any Railway-servant whom he thinks fit to call before him and examine for the said purpose, and may require any such servant to answer, or furnish returns regarding, such inquiries for the said purpose as he thinks fit to make;

"(c) he may require and enforce the production of all books, papers and documents belonging to or in the possession of any Railway Administration which in his opinion are necessary for the said purpose.

"(2) Every Railway Administration whose Railway or rolling-stock is being inspected under this Act shall afford all reasonable facilities for making the inspection to the officer making it.

Governor General in Council empowered to close Railway.

"5E. When, after inspecting any Railway or portion of a Railway, or any rolling-stock used thereon, any officer appointed under section 5A reports to the Governor General in Council that in his opinion the use of the Railway or portion or of any specified rolling-stock will be attended with danger to the public using it, the Governor General in Council may, by order, direct that the Railway or portion be closed for the public conveyance of passengers, or that the rolling-stock so specified shall no longer be used, as the case may be.

Re-opening of Railway.

"5F. (1) When a Railway or portion of a Railway has been closed under section 5E, it shall not be re-opened for the public conveyance of passengers unless and until it has been inspected, and its opening sanctioned, in accordance with the provisions of section 5B.

"(2) When the Governor General in Council has directed under section 5E that any rolling-stock shall not be used, the rolling-stock shall not be used unless and until an officer appointed under section 5A reports that it is fit for use and the Governor General in Council sanctions its use."

Amendment of, and addition to, section 8.

3. In section eight of the said Act, in clause (*d*), the word "and" shall be omitted, and after clause (*d*) the following clause shall be, and be deemed to have always been, inserted:—

"(*dd*) for regulating the conduct of the Railway-servants, and".

New section to be substituted for section 21 of Act IV of 1879.

4. For section twenty-one of the said Act the following section shall be substituted:—

Penalty for opening or re-opening Railway in contravention of sections 5 and 5D, and keeping open after order under section 5C.

"21. Any Railway Administration opening or using, in contravention of section five or section 5C, any Railway, or any portion or extension of, or addition to, a Railway, or keeping, in contravention of an order of the Governor General in Council, under section 5E, any Railway or portion thereof open, or re-opening, in contravention of section 5F, sub-section (*1*), any Railway or portion thereof, or using, in contravention of section 5F, sub-section (*2*), any rolling-stock, shall forfeit to Government the sum of one thousand rupees for every day during which the Railway, portion, extension or addition remains open or is used in contravention of any of those sections or of the order of the Governor General in Council, as the case may be, or during which the rolling-stock is used."

B. J. CROSTHWAITE,
Addl. Secy. to the Govt. of India

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd February, 1883 :—

No. 3 OF 1883.

A Bill to authorize the Universities of Calcutta, Madras and Bombay to grant certain honorary degrees.

Preamble.

WHEREAS it is expedient to amend the law relating to the granting of honorary degrees, and to give to the Universities at Calcutta, Madras and Bombay the power of granting the degree of Doctor of Laws to persons who have not undergone a previous examination;

It is hereby enacted as follows :—

Repeal of Act XXI of 1875.

1. Act No. XXI of 1875 (*an Act to authorize the University at Calcutta to grant honorary degrees*) is repealed.

Power to confer honorary degree of Doctor of Laws.

2. If the Vice-Chancellor and not less than four of the other members of the Syndicate for the time being of any of the Universities at Calcutta, Madras and Bombay recommend that an honorary degree be conferred on any person, on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree, and if the Chancellor of the respective University confirms the recommendation, the Chancellor, Vice-Chancellor and Fellows for the time being of the University may confer on that person the degree of Doctor of Laws, without requiring him to undergo any examination.

STATEMENT OF OBJECTS AND REASONS.

BY Acts II, XXII and XXVII of 1857, by which the Universities of Calcutta, Bombay and Madras were respectively established and incorporated, power is given to grant degrees only after examination, and Act XLVII of 1860 only extends the number and description of degrees which can be conferred, but leaves the necessity of a previous examination untouched. No Act giving power to grant honorary degrees was passed until 1875, when an Act was passed to enable the Calcutta University to confer honorary degrees. That Act enables the University to grant any honorary degree, but it is thought desirable to confine the power to the grant of the degree of Doctor of Laws, in accordance with the ordinary practice of the Universities in England. Madras and Bombay have never had power to grant honorary degrees. It is now proposed to place the Universities at all the three Presidency-towns on the same footing with regard to these degrees.

2. With this view section 1 of the proposed Bill repeals Act XXI of 1875. By the Act establishing the Universities, the power to confer degrees is granted to the Chancellor, Vice-Chancellor and Fellows, in whom, therefore, the power to grant honorary degrees is also vested by section 2 of the Bill. An honorary degree is not, however, to be granted to any person unless the Vice-Chancellor and not less than four of the other members of the Syndicate recommend the grant and the Chancellor confirms the recommendation.

The 30th January, 1883.

J. GIBBS.

R. J. CROSTHWAITE,
Addl. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th February, 1883 :—

No. 4 OF 1883.

A Bill to amend the law in force in the Little Cocos Island and Preparis Island.

WHEREAS the Little Cocos Island and Preparis Island have been transferred to the administration of the Chief Commissioner of British Burma, and attached to the Hanthawaddy District of the Pegu Division of British Burma;

And whereas the Little Cocos Island, when subject to the administration of the Chief Commissioner and Superintendent of the Andaman and Nicobar Islands, formed portion of a Scheduled district under the Scheduled Districts Act, 1874, and was subject to the operation of the Andaman and Nicobar Regulation, 1876;

XIV of 1874.

III of 1876.

And whereas it is expedient that the law in force in the Little Cocos Island and in the Preparis Island should be the same as that in the Hanthawaddy District of the Pegu Division of British Burma;

It is hereby enacted as follows :—

Short title and commencement.

1. This Act may be called the Little Cocos and Preparis Islands Laws Act, 1883 : and it shall come into force on the passing thereof.

Declaration of laws to be in force in Little Cocos and Preparis Islands.

2. All enactments which, on the twenty-ninth day of November, 1882, were in force in the Hanthawaddy District of the Pegu Division of British Burma, shall be deemed to have come into force in the Little Cocos and Preparis Islands on that day ; and all enactments which, on that day, were in force in those Islands and not in that District shall be deemed to have been repealed on and from that day in those Islands.

Provision as to pending proceedings.

3. All proceedings commenced before any authority in those Islands before the twenty-ninth day of November, 1882, and still pending, shall be disposed of by such authority as the Chief Commissioner of British Burma may direct, and, save as directed in this section, shall be carried on as if this Act had not been passed.

Withdrawal of Little Cocos Island from Andaman and Nicobar Islands Regulation, 1876, and Scheduled Districts Act, 1874.

4. On and from the twenty-ninth day of November, 1882, the Little Cocos Island shall be deemed to have been removed from the operation of the Andaman and Nicobar Islands Regulation, 1876, and to have ceased to be a Scheduled district.

III of 1876.

STATEMENT OF OBJECTS AND REASONS.

THE Little Cocos Island formed a portion of the territories administered by the Chief Commissioner of the Andaman and Nicobar Islands, and, as such, a portion of a Scheduled District under Act XIV of 1874; the Andaman and Nicobar Islands being a district named in Part VIII of Schedule I of that Act.

2. For administrative purposes it was thought advisable to transfer this Island to the Administration of the Chief Commissioner of British Burma, and to attach it to the District of Hanthawaddy in British Burma. It is, therefore, necessary to withdraw the Little Cocos Island from the operation of the Scheduled Districts Act and of the Andaman and Nicobar Islands Regulation, 1876, and to make the laws in force there the same as those in force in the district of Hanthawaddy. Preparis Island, which was only nominally included in the territories administered by the Chief Commissioner of the Andamans, and which is not a portion of a Scheduled District, has also been attached to the Hanthawaddy District in British Burma, and it is expedient therefore to have the same laws in force in Preparis Island as in the Hanthawaddy District.

3. These objects are effected by sections 2, 3 and 4 of the Bill, the change of the law being made to take effect from the date on which the Islands were transferred to British Burma.

C. P. ILBERT.

The 31st January, 1883.

R. J. CROSTHWAITE,
Addl. Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 17, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd February, 1883:—

No. 3 OF 1883.

A Bill to authorize the Universities of Calcutta, Madras and Bombay to grant certain honorary degrees.

Preamble.

WHEREAS it is expedient to amend the law relating to the granting of honorary degrees, and to give to the Universities at Calcutta, Madras and Bombay the power of granting the degree of Doctor of Laws to persons who have not undergone a previous examination;

It is hereby enacted as follows:—

Repeal of Act XXI of 1875.

1. Act No. XXI of 1875 (*an Act to authorize the University at Calcutta to grant honorary degrees*) is repealed.

Power to confer honorary degree of Doctor of Laws.

2. If the Vice-Chancellor and not less than four of the other members of the Syndicate for the time being of any of the Universities at Calcutta, Madras and Bombay recommend that an honorary degree be conferred on any person, on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree, and if the Chancellor of the respective University confirms the recommendation, the Chancellor, Vice-Chancellor and Fellows for the time being of the University may confer on that person the degree of Doctor of Laws, without requiring him to undergo any examination.

STATEMENT OF OBJECTS AND REASONS.

BY Acts II, XXII and XXVII of 1857, by which the Universities of Calcutta, Bombay and Madras were respectively established and incorporated, power is given to grant degrees only after examination, and Act XLVII of 1860 only extends the number and description of degrees which can be conferred, but leaves the necessity of a previous examination untouched. No Act giving power to grant honorary degrees was passed until 1875, when an Act was passed to enable the Calcutta University to confer honorary degrees. That Act enables the University to grant any honorary degree, but it is thought desirable to confine the power to the grant of the degree of Doctor of Laws, in accordance with the ordinary practice of the Universities in England. Madras and Bombay have never had power to grant honorary degrees. It is now proposed to place the Universities at all the three Presidency-towns on the same footing with regard to these degrees.

2. With this view section 1 of the proposed Bill repeals Act XXI of 1875. By the Act establishing the Universities, the power to confer degrees is granted to the Chancellor, Vice-Chancellor and Fellows, in whom, therefore, the power to grant honorary degrees is also vested by section 2 of the Bill. An honorary degree is not, however, to be granted to any person unless the Vice-Chancellor and not less than four of the other members of the Syndicate recommend the grant and the Chancellor confirms the recommendation.

The 30th Janu[illegible]883.

J. GIBBS.

R. J. CROSTHWAITE,
Addl. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th February, 1883 :—

No. 4 OF 1883.

A Bill to amend the law in force in the Little Cocos Island and Preparis Island.

WHEREAS the Little Cocos Island and Preparis Island have been transferred to the administration of the Chief Commissioner of British Burma, and attached to the Hanthawaddy District of the Pegu Division of British Burma;

And whereas the Little Cocos Island, when subject to the administration of the Chief Commissioner and Superintendent of the Andaman and Nicobar Islands, formed portion of a Scheduled district under the Scheduled Districts Act, 1874, and was subject to the operation of the Andaman and Nicobar Regulation, 1876;

of 1874.

of 1876.

And whereas it is expedient that the law in force in the Little Cocos Island and in the Preparis Island should be the same as that in the Hanthawaddy District of the Pegu Division of British Burma;

It is hereby enacted as follows :—

Short title and commencement.

1. This Act may be called the Little Cocos and Preparis Islands Laws Act, 1883 : and it shall come into force on the passing thereof.

Declaration of laws to be in force in Little Cocos and Preparis Islands.

2. All enactments which, on the twenty-ninth day of November, 1882, were in force in the Hanthawaddy District of the Pegu Division of British Burma, shall be deemed to have come into force in the Little Cocos and Preparis Islands on that day; and all enactments which, on that day, were in force in those Islands and not in that District shall be deemed to have been repealed on and from that day in those Islands.

Provision as to pending proceedings.

3. All proceedings commenced before any authority in those Islands before the twenty-ninth day of November, 1882, and still pending, shall be disposed of by such authority as the Chief Commissioner of British Burma may direct, and, save as directed in this section, shall be carried on as if this Act had not been passed.

Withdrawal of Little Cocos Island from Andaman and Nicobar Islands Regulation, 1876, and Scheduled Districts Act, 1874.

4. On and from the twenty-ninth day of November, 1882, the Little Cocos Island shall be deemed to have been removed from the operation of the Andaman and Nicobar Islands Regulation, 1876, and to have ceased to be a Scheduled district.

III of 1876.

STATEMENT OF OBJECTS AND REASONS.

THE Little Cocos Island formed a portion of the territories administered by the Chief Commissioner of the Andaman and Nicobar Islands, and, as such, a portion of a Scheduled District under Act XIV of 1874; the Andaman and Nicobar Islands being a district named in Part VIII of Schedule I of that Act.

2. For administrative purposes it was thought advisable to transfer this Island to the Administration of the Chief Commissioner of British Burma, and to attach it to the District of Hanthawaddy in British Burma. It is, therefore, necessary to withdraw the Little Cocos Island from the operation of the Scheduled Districts Act and of the Andaman and Nicobar Islands Regulation, 1876, and to make the laws in force there the same as those in force in the district of Hanthawaddy. Preparis Island, which was only nominally included in the territories administered by the Chief Commissioner of the Andamans, and which is not a portion of a Scheduled District, has also been attached to the Hanthawaddy District in British Burma, and it is expedient therefore to have the same laws in force in Preparis Island as in the Hanthawaddy District.

3. These objects are effected by sections 2, 3 and 4 of the Bill, the change of the law being made to take effect from the date on which the Islands were transferred to British Burma.

C. P. ILBERT.

The 31st January, 1883.

R. J. CROSTHWAITE,
Addl. Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 24, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th February, 1883 :—

No. 4 OF 1883.

A Bill to amend the law in force in the Little Cocos Island and Preparis Island.

WHEREAS the Little Cocos Island and Preparis Island have been transferred to the administration of the Chief Commissioner of British Burma, and attached to the Hanthawaddy District of the Pegu Division of British Burma;

And whereas the Little Cocos Island, when subject to the administration of the Chief Commissioner and Superintendent of the Andaman and Nicobar Islands, formed portion of a Scheduled district under the Scheduled Districts Act, 1874, and was subject to the operation of the Andaman and Nicobar Regulation, 1876;

XIV of 1874.

III of 1876.

And whereas it is expedient that the law in force in the Little Cocos Island and in the Preparis Island should be the same as that in the Hanthawaddy District of the Pegu Division of British Burma;

It is hereby enacted as follows :—

Short title and commencement.

1. This Act may be called the Little Cocos and Preparis Islands Laws Act, 1883 : and it shall come into force on the passing thereof.

Declaration of laws to be in force in Little Cocos and Preparis Islands.

2. All enactments which, on the twenty-ninth day of November, 1882, were in force in the Hanthawaddy District of the Pegu Division of British Burma, shall be deemed to have come into force in the Little Cocos and Preparis Islands on that day; and all enactments which, on that day, were in force in those Islands and not in that District shall be deemed to have been repealed on and from that day in those Islands.

Provision as to pending proceedings.

3. All proceedings commenced before any authority in those Islands before the twenty-ninth day of November, 1882, and still pending, shall be disposed of by such authority as the Chief Commissioner of British Burma may direct, and, save as directed in this section, shall be carried on as if this Act had not been passed.

Withdrawal of Little Cocos Island from Andaman and Nicobar Islands Regulation, 1876, and Scheduled Districts Act, 1874.

4. On and from the twenty-ninth day of November, 1882, the Little Cocos Island shall be deemed to have been removed from the operation of the Andaman and Nicobar Islands Regulation, 1876, and to have ceased to be a Scheduled district.

III of 1876.

STATEMENT OF OBJECTS AND REASONS.

THE Little Cocos Island formed a portion of the territories administered by the Chief Commissioner of the Andaman and Nicobar Islands, and, as such, a portion of a Scheduled District under Act XIV of 1874; the Andaman and Nicobar Islands being a district named in Part VIII of Schedule I of that Act.

2. For administrative purposes it was thought advisable to transfer this Island to the Administration of the Chief Commissioner of British Burma, and to attach it to the District of Hanthawaddy in British Burma. It is, therefore, necessary to withdraw the Little Cocos Island from the operation of the Scheduled Districts Act and of the Andaman and Nicobar Islands Regulation, 1876, and to make the laws in force there the same as those in force in the district of Hanthawaddy. Preparis Island, which was only nominally included in the territories administered by the Chief Commissioner of the Andamans, and which is not a portion of a Scheduled District, has also been attached to the Hanthawaddy District in British Burma, and it is expedient therefore to have the same laws in force in Preparis Island as in the Hanthawaddy District.

3. These objects are effected by sections 2, 3 and 4 of the Bill, the change of the law being made to take effect from the date on which the Islands were transferred to British Burma.

C. P. ILBERT.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 3, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd March, 1883 :—

No. 5 OF 1883.

THE BENGAL TENANCY BILL, 1883.

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Bengal Tenancy Bill.

(*Chapter I.—Preliminary. Sec. 3.*)

Explanation of abbreviations in margin.

D. means Mr. Field's Digest.

C. B., the Bill prepared by the Commission.

B. B., the Bill submitted by the Bengal Government with letter No. 849, dated 27th July, 1881.

A

BILL

TO

Amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the Territories under the Administration of the Lieutenant-Governor of Bengal.

WHEREAS it is expedient to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

C. B., s. 1. B. B., s. 1.

1. (*1*) This Act may be called the Bengal Tenancy Act, 1884.

Short title.

(*2*) It shall come into force on such date (hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local Gazette, appoint in this behalf.

Commencement.

(*3*) It shall extend by its own operation to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal, except the Town of Calcutta, the Division of Orissa, and the Scheduled Districts specified in the third part of the First Schedule of the Scheduled Districts Act, 1874; and the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local Gazette, extend the whole or any part of this Act to the Division of Orissa.

Local extent.

C. B., s. 2. B. B., s. 2.

2. (*1*) The enactments specified in Schedu hereto annexed are repealed in the territories to which this Act extends by its own operation.

Repeal.

(*2*) When this Act is extended to the Division of Orissa, such of those enactments as are in force in that Division, or, where a part only of this Act is so extended, so much of them as is inconsistent with that part, shall be repealed in that Division.

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

(*4*) The repeal of any enactment by this Act shall not revive any right, privilege, matter or thing not in force or existing at the commencement of this Act.

3. The following definitions and rules shall apply in the construction of this Act unless there is something repugnant in the subject or context:— C. B., s. 3. B. B., s. 3.

Construction of Act.

(*1*) "Estate" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district:

(*2*) "Proprietor" means a person or a number of persons owning an estate:

(*3*) "Tenure" includes an under-tenure and the interest of every tenant of the class referred to in section 14. New.

Illustrations.

(*a*)—A *durpatni* or *sipatni* interest or a mokurrerree holding is a tenure.

(*b*)—A *dar-ijarah* or a farm for a term of years is a tenure.

(*4*) "Tenure-holder" means a person or a number of persons owning a tenure.

(*5*) A person shall not be deemed to be a raiyat, in respect of any land, or to hold that land as a raiyat, unless he holds it for the purpose of agriculture, horticulture or pasture, or he or his predecessor in interest came into possession of it for such purpose: C. B., s. 3 "raiyat" and "land." B. B., s. 3 "raiyat" and "land."

Provided that a person shall be deemed to hold as a raiyat any *bastu* or homestead land included in the same holding with other land held by him as a raiyat.

Explanation.—A person may hold land for a purpose mentioned in this clause though he has sublet it.

(*6*) "Under-raiyat" means a tenant holding land whether immediately or mediately below a raiyat.

(*7*) "Bastu holding" means bastu or other homestead land held by a tenant having the right provided for by Chapter VII. New.

(*8*) "Tenant" does not include any person who is not a tenure-holder, raiyat or under-raiyat, or the tenant of a bastu holding. New.

(*9*) "Landlord" means a person or a number of persons immediately under whom a tenant holds.

Bengal Tenancy Bill.

(*Chapter I.—Preliminary, Chapter II.—Khamar and Raiyatí Land. Secs. 4—8.*)

(*10*) "Rent" means whatever is payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant.

(*11*) "Pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery."

D. s. 101. C. B. s. 56. B. B. s. 48. (*12*) "Arrear" means an instalment, or part of an instalment, of rent which is not paid before sunset of the day on which it is payable.

(*13*) "Holding" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions.

New. (*14*) "Agricultural year" means, where the Bengalí year prevails, the year commencing on the first day of Bysáck, and where the Faslí or Amlí year prevails, the year commencing on the first day of Asin.

C. B. ss. 60 & 16. B. B. ss. 6 & 15. (*15*) "Permanent Settlement" means the Permanent Settlement of Bengal, Bihár and Orissa made in the year 1793.

(*16*) "Transfer" includes sale, whether voluntary or in execution of a decree, and mortgage and gift.

(*17*) "Succession" includes both intestate and testamentary succession.

(*18*) "Bihár" means all the districts of the Patna Division, and such district or parts of districts of the Bhágalpur Division as the Lieutenant-Governor of Bengal may from time to time, by notification in the official Gazette, declare to be included in Bihár for the purposes of this Act.

(*19*) "Signed" includes "marked" when the person making the mark is unable to write his name; it also includes "stamped" with the name of the person referred to.

(*20*) "Prescribed" means prescribed by the Local Government by notification in the official Gazette.

(*21*) "Collector" means the Collector of a District or any other officer appointed by the Local Government to discharge the functions of a Collector under this Act.

(*22*) "Revenue-officer" in any provision of this Act means such officer as the Local Government may appoint to discharge the functions of a Revenue-officer under that provision.

C. B. s. 4 Report of Rent Commission, s. 3. B. B. s. 4. **4.** Nothing in this Act shall affect—

Saving of custom, special law, &c.

(*a*) any custom or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions;

(*b*) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act;

(*c*) any enactment regulating the procedure for the realization of rents in estates belonging to the Government, or under the management of the Court of Wards or of the revenue-authorities;

(*d*) any enactment relating to the avoidance of tenancies by a sale for arrears of the Government revenue;

(*e*) any enactment relating to the partition of out revenue-paying estates;

(*f*) any other special or local law not repealed either expressly or by necessary implication by this Act or

(*g*) any incident of a ghátwálí or other service tenure.

Illustration.

C. B. s. 19 Expl. 4 (*f*). B. B. s. 19, Expl. 4 (*c*) proviso. The custom that an under-raiyat should, under certain circumstances, acquire a right of occupancy is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom accordingly, wherever it exists, will not be affected by this Act.

CHAPTER II.

OF THE DISTINCTION BETWEEN KHAMAR AND RAIYATÍ LAND.

Khamar land defined. **5.** "*Khamar land*" means—

C. B. s. 81. B. B. ss. 3 & 75. *1st*, land situated elsewhere than in Bihár which a proprietor has held, whether under the name of khamar, nij-jote, ser or otherwise, as his private land for twelve continuous years before the commencement of this Act, and

2nd, land situate in Bihár which—

(*a*) is recognized as zeraat by a village custom established before the commencement of this Act: or

(*b*) is proved to have been held by a proprietor as zeraat for twelve continuous years immediately before the commencement of this Act.

& 75. **6.** All land which is not khamar land of some estate shall be deemed to be raiyatí land, and all land shall be presumed to be raiyatí land until the contrary is proved.

All other land to be raiyatí.

B. B. s. 76. **7.** The Local Government may direct that a survey and register shall be made of all khamar land situate in any district or part of a district.

Power to order survey and register of khamar lands.

B. B. s. 77. **8.** The survey shall be made by the Collector or by an officer authorized by the Collector in that behalf, under such rules as may from time to time be prescribed by the Local Government for the conduct of such surveys; and the Collector or such officer may exercise any of the powers conferred upon a Collector by the Bengal Survey Act of 1875, except the powers in Part IV of the said Act relating to the apportionment and recovery of expenses.

V. (B. C.) of 1875.

Mode of making survey.

Bengal Tenancy Bill.

(*Chapter III.—Tenure-holders generally. Secs. 9—20.*)

B. B. s. 78. **9.** The Collector shall make a register, in such form as the Local Government may from time to time prescribe, of such lands in each village as he may ascertain to be khamar lands within the meaning of the definition contained in section five; and copies of that register shall be published in such manner as the Local Government may direct.

Publication of register.

B. B. s. 79. **10.** (*1*) Any person dissatisfied with any entry in the register may appeal to the Commissioner within one month after the publication; and the Commissioner shall make such enquiry as he considers necessary, and may direct the register to be amended in such manner as he thinks fit.

Appeals.

(*2*) An appeal shall lie to the Board of Revenue from any order passed by the Commissioner under this section, if preferred within one month from the date of the order.

B. B. s. 80. **11.** If no appeal is preferred to the Commissioner, or after such appeals as have been so preferred have been disposed of, the Commissioner shall submit to the Board of Revenue a copy of the register, with a report showing how the survey and register have been made; and, if the Board are satisfied that the register is correct, they shall transmit the same to the Local Government for its approval.

Submission of register to Board of Revenue and Local Government.

B. B. s. 81. **12.** If the Local Government approves the register, it may direct that its approval of the same be notified in the official Gazette: Provided that its approval shall not in any case be given until after three months from the date of the publication under section nine.

Approval of register.

B. B. s. 82. **13.** When the approval of a register by the Local Government has been notified under section twelve, all land entered in the register shall, notwithstanding anything in the foregoing sections, be deemed to be khamar land, and all other land situate in the local area for which the register has been prepared shall, notwithstanding anything as aforesaid, be deemed to be raiyatí land.

Consequence of notification of approval.

CHAPTER III.—OF TENURE-HOLDERS GENERALLY.

A.—Of the Right to hold at fixed rents.

[D., 20 & 37. C. B. ss. 6 & 16. B. B., ss. 6 & 15.] **14.** Where land has been held by a tenant and his predecessors in interest at a rent which has not been changed from the time of the Permanent Settlement, then, subject to the provisions of this Act, the rent shall not be liable to enhancement, and the tenant shall be deemed to be a tenure-holder for the purposes of this Act.

Land held at rent unchanged since Permanent Settlement not liable to enhancement.

D. ss. 21 & 38 C. B. ss. 6 & 17. B. B. ss. 6 & 16. **15.** Where land has been held by a tenant and his predecessors in interest at a rent which has not been changed for twenty years, then, subject to the provisions of this Act, it shall be presumed, until the contrary is shown, that it has been held by them at that rent from the time of the Permanent Settlement.

Presumption from twenty years' holding at unchanged rent.

D. s. 38. C. B. s. 16. B. B. s. 15. Expl. I.] **16.** When a tenant has paid as rent a fixed share or the value of a fixed share of the produce of the land, the rent shall not be deemed to have been changed within the meaning of sections fourteen and fifteen merely by reason of the amount paid having varied from year to year, or by reason of the rent having been commuted to a fixed money-rent.

Application of sections 14 and 15 when rent is paid in kind.

[D. s. 37. C. B. s. 16, Expl. II. B. B. s 15, Expl. II.] **17.** The operation of the foregoing sections of this chapter shall not be affected by the fact of land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding.

Effect of separation or amalgamation of holding.

[D. s. 19. C. B. s. 7. B. B. s. 7.] **18.** (*1*) Where a tenure has been held from the time of the Permanent Settlement, its rent shall not be liable to enhancement except on proof—

Tenure held since Permanent Settlement liable to enhancement only in certain cases.

(*a*) that the landlord under whom it is held is entitled to enhance the rent thereof either by the special custom of the district, or by the conditions under which the tenure is held, or

(*b*) that the tenure-holder, by receiving reductions of his rent, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

(*2*) A reduction of rent granted to a tenure-holder, on account of diluvion or for land taken under the provisions of any enactment for the time being in force for the acquisition of land for public purposes or companies, shall not be deemed a reduction within the meaning of this section.

[D. s. 20. C. B. s. 6. B. B. s. 6.] **19.** Nothing in the foregoing sections of this chapter shall apply to land held under a terminable agreement.

Saving as to land held under terminable agreement.

[C. B. ss. 6 & 17, Exception. B. B., ss. 6 & 16, Exception.] **20.** Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in the foregoing sections of this chapter shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a fixed rate of rent has been expressly recognized in settlement-proceedings by a Revenue-authority empowered by the Government to make definitively or confirm settlements.

Saving as to land held in a district not permanently settled.

Bengal Tenancy Bill.

(*Chapter III.—Tenure-holders generally. Secs. 21—28.*)

B.—Of the enhancement of rent.

[D. s, 23. C. B. ss. 9 & 12. B. B.ss. 9 & 10.]

21. (*1*) Where the rent of a tenure-holder is liable to enhancement, it may, subject to any contract between the parties, be enhanced up to the limit of the customary rate payable by persons holding similar tenures in the vicinity.

Limits of enhancement of rent of tenures.

(*2*) Where no such customary rate exists, it may, subject as aforesaid, be enhanced up to such limit as the Court thinks fair and equitable.

(*3*) In determining what is fair and equitable under sub-section two, the Court shall not, except as provided in sub-sections four and five, leave the tenure-holder as profit more than thirty per centum or less than ten per centum of the balance which remains after deducting from the gross rents payable to him the expenses of collecting those rents.

(*4*) If more than half the land included in the area of the tenure was unreclaimed at the time when the tenure was created, and if the reclamation of the unreclaimed land was one of the objects of the creation of the tenure, and that land was reclaimed accordingly, the Court, in determining what is fair and equitable under sub-section two, shall not leave the tenure-holder as profit less than twenty per centum of the balance mentioned in sub-section three, and may leave him as profit any share of that balance whether it exceeds thirty per centum thereof or not.

(*5*) If, in any case to which sub-section four does not apply, the tenure-holder has made improvements on the land, the Court, in determining what is fair and equitable under sub-section two, may leave him as profit any share of the balance mentioned in sub-section three it thinks fit, provided it be not less than ten per centum of the balance.

(*6*) If the tenure-holder himself occupies any portion of the land included in the area of his tenure, or has made a grant of any portion of the land either rent-free or at a beneficial rent, a fair and equitable rent shall be calculated for that portion and included in the gross rents aforesaid.

[C. B., s. 10. B. B., s. 11.]

22. Where the rent of a tenure-holder is liable to enhancement, the enhanced rent fixed under section 21 shall not be more than double the rent previously payable.

Enhanced rent not to be more than double the previous rent.

[C. B., s. 10. B. B., s. 11.]

23. The Court may, if it thinks that an immediate increase of rent would produce hardship, direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement allowed has been reached.

Power to order gradual enhancement.

[C. B., s. 10. B. B., s. 11.]

24. When the rent of a tenure-holder has been enhanced under section 21 or by contract, it shall not be again enhanced under that section during the ten years next following the date on which it has been so enhanced.

Rent once enhanced may not be altered for ten years.

C.—Of the Incidents of permanent tenures.

25. Every permanent tenure shall, subject to the provisions of this Act in respect of registration, be capable of being transferred and bequeathed in the same manner and to the same extent as other immoveable property.

[C. B., s. 13. B. B. ss. 12 & 17.]

Incidents of permanent tenures generally.

26. A holder of a permanent tenure shall not be ejected by his landlord except under a decree of a Civil Court passed in accordance with this Act on the ground that he has broken a condition on breach of which he is, under the terms of a written contract between him and his landlord, liable to be ejected.

Permanent tenure-holder not liable to ejectment.

D.—Of the registration of transfers of, and succession to, permanent tenures.

[D. s. 25. C. B., s. 46. B. B. s. 37.]

27. (*1*) When a transfer of a permanent tenure (other than a transfer by sale in execution of a decree or by a summary sale under Chapter IV) or a succession to such a tenure takes place, the landlord shall, subject, in the case of a patní tenure, to the provisions of section 39, register the same on application made to him by the transferor and transferee, or by the person succeeding, as the case may be, and on payment by the applicant of the fee next hereinafter prescribed.

Landlord bound to register voluntary transfer or succession on application.

(*2*) The fee payable on an application under this section shall be as follows, namely :— [D. s. 27. C. B., ss. 47, 49. B.B., ss. 39, 41.]

(*a*) When the application is made not more than six months from the date of the transfer or succession, a fee of two per centum upon the annual rent of the tenure: provided that no such fee shall be less than one rupee or more than one hundred rupees.

(*b*) When the application is made more than six months from the date of the transfer or succession, a fee of twenty per centum upon the annual rent of the tenure: provided that no such fee shall be less than ten rupees or more than one thousand rupees.

(*3*) When a landlord refuses to comply with an application for registration, made as required by sub-section one, he shall deliver to the applicant a statement in writing of the reasons for his refusal. [New.]

28. (*1*) An application for the registration of a transfer of or a succession to a tenure may, instead of being made to the landlord under section 27, be made to such Revenue-officer as the Local Government may from time to time appoint in this behalf; and, on its being so made, and on the fee payable under section 27 being paid to the officer, he shall cause a notice to be served [New.]

Application may be served through Revenue-officer.

Bengal Tenancy Bill.

(*Chapter III.—Tenure-holders generally. Secs. 29—35.*)

on the landlord, requiring him to register the transfer or succession, and informing him that the fee has been received and will be paid to him on demand when the registration has been effected.

(*2*) A landlord on whom a notice is served under this section shall, subject in the case of a patní tenure to the provisions of section 39, be bound to comply forthwith with the requisition therein contained.

[C. B. ss. 47, 48 (*c*) B. B., ss. 39, 40 (*c*).]

XIV of 1882.

29. (*1*) When a permanent tenure is sold in execution of a decree other than a decree for arrears of rent due in respect thereof, the Court shall, before confirming the sale under section 314 of the Code of Civil Procedure, require the purchaser to pay into Court the registration fee prescribed by section 27, clause (*a*), and such further fee for service of notice of the sale on the landlord as may be prescribed by the rules under section 35.

Registration in case of transfer by sale in execution of decree other than decree for rent.

(*2*) When the sale has been confirmed, the Court shall forthwith cause to be served on the landlord a notice of the sale, requiring him to register the same, and informing him that the registration-fee has been received and will be paid to him on demand when the registration has been effected; and the landlord shall be bound to comply with the requisition forthwith.

30. When a permanent tenure is transferred by sale in execution of a decree for arrears of rent due in respect thereof, or by summary sale under Chapter IV, the landlord shall be bound to register the transfer without any application or requisition being made to him in this behalf, and without the payment of any fee.

Registration in case of transfer by sale in execution of decree for rent or by summary sale.

[D. § 10. C. B., ss. 46, 48 (*a*), 49. B. B., ss. 37, 40 (*a*) and 41.]

31. When a transfer of a permanent tenure (not being a transfer by sale in execution of a decree or by summary sale under Chapter IV) has taken place, the landlord may, until the transfer has been registered under section 27, or a Revenue-officer has ordered a notice to be served under section 28, hold the transferor and transferee jointly and severally liable for arrears of rent accruing subsequent to the transfer.

Effect of omission to register voluntary transfer.

[C. B., s. 25. B. B., s. 44.]

32. (*1*) When a landlord refuses or neglects for a period of one month to register a transfer or succession which he is bound to register under the foregoing sections, the transferor or transferee, or, as the case may be, the person succeeding, may apply to any Civil Court having jurisdiction in the local area within which the land is situate to compel such registration.

Application to Court to compel landlord to register.

(*2*) The Court to which an application is made under sub-section one may issue a notice to the landlord, and, when the application is made by one party to a transfer, also to the other party or parties to the transfer, requiring him or them, as the case may be, to show cause, at a time and place therein specified, why the transfer or succession should not be registered.

(*3*) If no cause as aforesaid is so shown, the Court may make an order directing the landlord to register the transfer or succession, and the order so made shall have the force of a decree in a suit.

[C. B., ss. 50 and 51. B. B., ss. 42 and 43.]

33. (*1*) When a transfer (other than a transfer by sale in execution of a decree or by summary sale under Chapter IV) or a succession, registrable under the foregoing sections, has taken place, and no application is made for its registration within the six months following the date on which it has taken place, the landlord may apply to any Civil Court as aforesaid to compel the parties to the transfer, or the person succeeding, as the case may be, to consent to its registration and pay the fee mentioned in section 27, clause (*b*).

Application by landlord to compel registration.

(*2*) The Court to which an application is made under sub-section one may issue a notice calling upon the parties to the transfer, or the person succeeding, as the case may be, to show cause, at a time and place specified in the notice, why they or he should not consent to the registration and pay the fee.

(*3*) If no cause as aforesaid is so shown, the Court may make an order authorising the landlord to register the transfer or succession, and directing the transferee, or the person succeeding, as the case may be, to pay the fee; and the order so made shall have the force of a decree in a suit.

[C. B., s. [illegible] B. B., s. [illegible]]

34. When a transfer of, or a succession to, a tenure has been registered under the foregoing sections, every person to or from whom the tenure or any share thereof is transferred, or (as the case may be) every person succeeding to the tenure, shall be entitled to receive free of charge from the landlord on demand a copy of the entry in the register relating to the tenure, certified under his hand as a true copy, and to receive from time to time in like manner as many additional copies as he may demand: provided that for every such additional copy he shall pay to the landlord such fee, not less than *eight annas* or more than *five rupees*, as the Board of Revenue may from time to time fix in this behalf.

Landlord to give copies of entries in the register.

[C. B., s. [illegible] B. B., s. [illegible]]

35. (*1*) The Board of Revenue may from time to time, by rules consistent with this Act and published in the official Gazette, prescribe forms for the registers to be maintained under the foregoing sections, and determine the mode in which, and the place at which, applications are to be made under section 27, and generally the procedure to be followed in regard to registration.

Power to make rules regarding registration.

Bengal Tenancy Bill.

(Chapter IV.—Patní Tenures. Secs. 36—45.)

(2) In making any rule under sub-section one the Board may provide that any breach thereof shall be punishable with fine which may extend to fifty rupees.

CHAPTER IV.

OF PATNÍ TENURES.

D. s. 26. C. B., ss. 14 & 15. B. B., ss. 13 & 14.]

Definition of patní tenure.

36. "Patní tenure" means a tenure of the kind described in Schedule II annexed to this Act, and includes the darpatní and other similar under-tenures referred to in that schedule.

D. s. 26. C. B., s. 14. B. B., s. 13.

Incidents of patní tenures.

37. (1) Every patní tenure shall be deemed to be a permanent tenure.

(2) The holder of a patní tenure may, subject to the provisions of this Act, let the land comprised in his tenure or any part thereof.

[B. B. s. 45 (a).]

Right of landlord of patní tenure to demand security from transferee.

38. When a patní tenure is transferred, whether voluntarily or by sale in execution of a decree, or by summary sale under section 42, the landlord may require the transferee to furnish substantial security, to the amount of one half year's rent of the tenure, for the payment of the rent and the fulfilment of the other conditions of the tenure.

[B. B. s. 45 (c).]

Landlord may refuse registration of voluntary transfer when security is not given.

39. When a patní tenure is transferred otherwise than by sale in execution of a decree, or by summary sale under section 42, the landlord may refuse to register the transfer under Chapter III of this Act until the security required under section 38 is furnished.

[B. B. s. 45 (b).]

Landlord may attach tenure sold in execution or by summary sale when security is not given.

40. (1) In the case of a transfer by sale in execution of a decree, or by summary sale under section 42, if security is demanded by the landlord from the purchaser under section 38, and is not furnished within one month from the date on which it is so demanded, the landlord may attach and hold possession of the tenure to the exclusion of the transferee until the security is furnished.

(2) While an attachment under this section continues, the landlord may collect the rents from the undertenure-holders or raiyats, and, after deducting therefrom the cost of the attachment, the expenses of collection and the rent due to himself, he shall hold the balance in trust for the purchaser.

(3) If the rents so collected are not sufficient to discharge the cost of the attachment, the expenses of collection, and the rent due to the landlord, the purchaser shall be liable for the deficiency, and the landlord may proceed against him for the recovery of the same.

B. s. 45 (c).]

Application to Civil Court, if security tendered is refused.

41. (1) If the security tendered under section 38 by any transferee is rejected by the landlord, the transferee may, within three months from the date of the rejection, apply to the Civil Court for an order directing the landlord to receive the security, and the Court, if satisfied of the sufficiency of the security tendered, may make such order, or, if not so satisfied, may make an order rejecting the application.

(2) No appeal shall lie from any order under this section.

Recovery of arrears by summary sale.

42. If default is made in payment of the rent due in respect of a patní tenure, held immediately from a proprietor, the landlord may, in addition to any other remedy given him by law, apply for the summary sale of the tenure in accordance with the rules for the sale of patní taluqs at the instance of zemindars, contained in Schedule III annexed to this Act.

Provided that nothing in those rules shall entitle a purchaser at any such sale to eject an occupancy-raiyat or cancel any contract entitling him to hold at a rent which was fair and equitable at the time the contract was made.

CHAPTER V.—OF OCCUPANCY RAIYATS GENERALLY.

[B. S. 19, Expl. II.]

Interpretation.

43. For the purposes of this chapter—

(a) "village" means an area included in a village-map of the revenue-survey within the same exterior boundary, and, where no such maps have been prepared, such area as the Local Government or any officer appointed by the Local Government in this behalf may determine: and [New.]

(b) where two or more estates have been created by one or more partitions taking place since the first day of January, 1853, the area comprised in the parent estate of which they would have formed part if no such partition had taken place, shall be deemed to be a single estate.

[B.B. s. 19 (1) & Expl. IV & proviso.]

Present occupancy-raiyats to become occupancy-raiyats under Act.

44. Every raiyat who, immediately before the commencement of this Act, has, by the operation of any enactment, by custom having the force of law, or otherwise, a right of occupancy in any land shall, when this Act comes into force, become, for the purposes of this Act, an occupancy-raiyat of that land.

Acquisition of status of settled raiyat of village or estate.

45. (1) Every person who, for a period of twelve years, whether before or after the commencement of this Act, has continuously held, as a raiyat, raiyatí land situate in any village or estate, shall, notwithstanding any contract to the contrary, and though the land so held by him at different times during that period may have been different, be deemed to have become on the expiration of that period, a settled raiyat of that village or estate.

Bengal Tenancy Bill.

(Chapter V.—Raiyats with Right of Occupancy. Secs. 46—52.)

(2) A person shall be deemed for the purposes of this section to have held as a raiyat any raiyatí land held as a raiyat by a person whose heir he is.

(3) Raiyatí land held by two or more co-sharers as a raiyatí holding shall be deemed for the purposes of this section to have been held as a raiyatí holding also by each such co-sharer.

Loss of status of settled raiyat.

46. If a settled raiyat of a village or estate has ceased for a period of one year, whether before or after the commencement of this Act, to hold raiyatí land as a raiyat in that village or estate, either alone or as a co-sharer with others, he shall be deemed to have ceased, on the expiration of that period, to be a settled raiyat of that village or estate.

Settled raiyat to have occupancy-right in raiyatí land held by him in village or estate.

47. Every settled raiyat of a village or estate holding after the second day of March 1883 as a raiyat any raiyatí land comprised in that village or estate shall, notwithstanding any contract to the contrary, be deemed to acquire or have acquired in that land a right of occupancy under the law for the time being in force:

[D. s. 40, Expls. I & V. B. B. s. 19, Expl. IV.]

Provided that a person shall not acquire a right of occupancy under this section in respect of any land held by him alone as owner, tenure-holder or ijáradár.

Acquisition of occupancy-right by grant.

48. (1) A proprietor or permanent tenure-holder, from whom a person takes land as a raiyat, or immediately under whom a person holds land as a raiyat, may grant to that person an occupancy-right in respect of that land.

(2) An occupancy-right granted under this section shall be deemed to be an occupancy-right within the meaning of this Act.

[D. s. 40, Expl. V. B. B. s. 19, Expl. III (b), Expl. IV (f).]

Acquisition of occupancy right in khamar land.

49. (1) Every person who, for a period of twelve years ending after the commencement of this Act, has held khamar land as a raiyat shall, unless he has held it for any portion of that period under a lease for a fixed period, acquire a right of occupancy in that land.

(2) The holding of the father or other person from whom a raiyat inherits shall be deemed to be the holding of the raiyat for the purposes of this section.

[B. B. s. 69.]

Incidents of occupancy-right generally.

50. When a raiyat has an occupancy-right in respect of any land, the following provisions shall, notwithstanding any contract between him and his landlord to the contrary, apply, namely:—

(a) he may use the land in any manner which does not render it unfit for the purposes of the tenancy:

(b) he may make improvements on the land as by this Act provided:

(c) he shall pay rent at fair and equitable rates determined as by this Act provided: [B. B. s 21. (d).]

(d) he shall not be ejected by his landlord from the land, except in execution of a decree for ejectment passed in accordance with this Act on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with the provisions of this Act and on breach of which he is, under the terms of a written contract between him and his landlord, liable to be ejected: [B. B. s. 21 (e)., 31,69 (a).]

(e) he may sub-let the land or any part thereof: [B. B. s. 71.]

(f) his interest in the land shall, subject to the rights reserved to the landlord by this Act, be capable of being transferred, and bequeathed by will in the same manner and to the same extent as other immoveable property: [B. B. s. 21 (a) and (b).]

(g) his interest in the land shall, if he dies intestate in respect of it, descend in the same manner as any other immoveable property: provided that, in any case in which, under the law of inheritance to which he is subject, his other property goes to the Crown, his interest in the land shall go to his landlord. [B. B. s. 21 (c).]

Landlord's right of pre-emption on voluntary sale of occupancy-right.

51. (1) When an occupancy-raiyat intends to sell his occupancy-right to any person other than the landlord, he shall file in the office of the Collector, or of the officer in charge of the sub-division, for service on the landlord, a written notice of his intention, stating the person to whom he intends to sell the right, and shall defer proceeding with the sale for one month from the date on which he files the notice.

(2) The officer in whose office the notice is filed shall forthwith cause it to be served on the landlord.

(3) The landlord may, within the period of one month from the date of the notice being filed, claim to purchase the occupancy-right from the raiyat at such price as may be agreed on between them, or, if they cannot agree on a price, at such price as may be fixed by the Civil Court on an application made to it in this behalf by the landlord within the said period of one month; and, if the landlord so claims, the raiyat shall sell the right to him accordingly.

(4) If a raiyat sells his right of occupancy in contravention of this section, the landlord may, within six months from the date of the sale, claim to purchase the right from the purchaser or any other person into whose hands it may have passed at a price ten per centum below its estimated value, and, if the landlord so claims, the purchaser or that person, as the case may be, shall sell the right to him accordingly.

Landlord's right of pre-emption on sale in execution.

52. Where an occupancy-right is sold in execution of a decree, and two or more persons, one of whom is the landlord, respectively ad-

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vance the same sum at any bidding, the bidding shall be deemed to be the bidding of the landlord.

Landlord's right to take the place of mortgagee on foreclosure.

53. (*1*) Where a right of occupancy has been mortgaged by the raiyat and an order absolute for foreclosure is applied for in respect of it under section 87 of the Transfer of Property Act, 1882, the Court shall, if it proposes to make the order, cause a notice of the application to be served on the landlord, and shall defer making the order for a period of one month from the service of the notice. IV of 1882.

(*2*) If the landlord within the said period of one month pays into Court the amount requisite to redeem the mortgage, the Court shall pay that amount to the plaintiff in the suit, declare the landlord entitled to stand in the place of the plaintiff, and pass an order absolute for foreclosure in favour of the landlord.

(*3*) An order absolute passed under sub-section two shall have the same effect as if the landlord had been the mortgagee and the plaintiff in the suit.

Landlord's right to purchase in case of gift of occupancy-right.

54. (*1*) When an occupancy-raiyat makes a gift of his occupancy-right to any person other than his landlord, he shall forthwith file in the office of the Collector, or of the officer in charge of the sub-division, for service on the landlord, a written notice of the gift, stating the person to whom he has made it.

(*2*) The officer in whose office the notice is filed shall forthwith cause it to be served on the landlord.

(*3*) The landlord may, within the period of one month from the date on which the notice is filed, claim to purchase the right from the donee, or any other person into whose hands it may have passed, at such price as may be agreed on between them, or, if they cannot agree on a price, at such price as may be fixed by the Civil Court on an application made to it in this behalf by the landlord within the said period of one month, and, if the landlord so claims, the donee or other person as aforesaid shall sell the right to him accordingly.

(*4*) If a raiyat makes a gift of his occupancy-right, and does not comply with the provisions of this section, the landlord may, within six months from the date on which the gift is made, claim to purchase the right from the donee, or any other person into whose hands it may have passed, at a price ten per centum below its estimated value; and, if the landlord so claims, the donee or that person, as the case may be, shall sell the right to him accordingly.

Landlord's right to purchase where occupancy-right is bequeathed.

55. When an occupancy-raiyat dies, and any person, other than a person to whom, if the raiyat had died intestate, the occupancy-right would have descended, acquires that right under a bequest made by the raiyat, the landlord may, within the period of six months from the date on which the right is so acquired, claim to purchase the right from the legatee, or any other person into whose hands it may have passed, at such price as may be agreed upon between them, or, if they cannot agree upon a price, at such price as the Civil Court may, on the application of the landlord, made within the said period of six months, fix in this behalf, and if the landlord so claims the legatee or other person as aforesaid shall sell the right to him accordingly.

Raiyat of land of which landlord has acquired occupancy-right to be an occupancy-raiyat.

56. Notwithstanding any contract to the contrary, when the landlord of an occupancy-raiyat acquires, under the foregoing sections or otherwise, the occupancy-right in any of the land comprised in the holding, any person thereafter holding the land as a raiyat shall have a right of occupancy in respect of it, and, if immediately before the acquisition of the right by the landlord the rent of the land was a money-rent, shall be entitled to hold at a money-rent fixed in accordance with the provisions of this Act.

Acquisition of status of settled raiyat by succeeding to occupancy-right.

57. Every person succeeding by way of intestate succession to the occupancy-rights, or any share of the occupancy-rights, of a settled raiyat of a village or estate, in respect of any land situate in that village or estate, shall become a settled raiyat of the village or estate:

Provided that, when a person so succeeding holds as a raiyat at the time when he so succeeds other land in the same village or estate, he shall not, merely by reason of becoming a settled raiyat of the village or estate under this section, acquire, under section 47, an occupancy-right in that other land.

CHAPTER VI.

OF THE RENT PAYABLE BY OCCUPANCY-RAIYATS.

(*A*).—*Of money-rents generally.*

Existing money-rents payable until altered as herein provided.

58. A money-rent payable by an occupancy-raiyat shall be presumed to be fair and equitable, and shall continue to be paid by him until it is enhanced under this Act or reduced. [B. B. s. 21 (*d*).]

Enhancement of money-rents by contract.

59. (*1*) A money-rent payable by an occupancy-raiyat may be enhanced by a contract in writing approved of, and registered by, a Revenue-officer appointed by the Local Government in this behalf. [New.]

(*2*) A Revenue-officer shall not, under this section, approve or register any contract by which a raiyat engages to pay a rent more than *six* annas per rupee greater than that previously payable, or more than one-*fifth* of the estimated average annual

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value of the gross produce of the land in staple crops, calculated at the price at which raiyats sell at harvest-time, or any contract, until he has satisfied himself that it is fair and equitable, and that the raiyat in entering into it acts as a free agent.

[B. B. s. 21 (*d*).]

Money-rents not enhanceable except as provided.

60. Except as provided by section 59, or on account of an addition to the area of the holding by alluvion or otherwise, a money-rent payable by an occupancy-raiyat shall not be enhanced otherwise than by a decree passed under this chapter.

Limit of money rent payable by settled raiyat taking new holding.

61. (*1*) When raiyati land which has previously been held by a tenant at a money-rent is let to a settled raiyat of the village or estate in which it is situate, that raiyat shall not be bound to pay therefor any rent higher than that which was paid by the previous tenant, unless the higher rent has been fixed by a contract in writing, approved of and registered by a Revenue-officer appointed by the Local Government in this behalf.

(*2*) A Revenue-officer shall not under this section approve of or register any contract by which a raiyat engages to pay a rent more than one-*fifth* of the estimated average annual value of the gross produce of the land in staple crops, calculated at the price at which raiyats sell at harvest-time, or any contract, until he has satisfied himself that it is fair and equitable, and that the raiyat in entering into it acts as a free agent.

B.—Of the preparation of a table of rates and produce, and of suits to enhance money rents where such a table is in force.

[B. B. ss. 131 & 132.]

Power to direct preparation of table.

62. The Local Government may, by an order in the official Gazette, direct a Revenue-officer to prepare for any local area, with the aid of such assessors as the Local Government may appoint in this behalf, a table showing for each class of land comprised in that area the rate of rent fairly and equitably payable by occupancy-raiyats, the average gross produce of the land and the average value of that produce.

Contents of table.

[B. B. s. 133.]

63. The table shall specify—

(*a*) the several classes of land for which, having regard to the nature of the soil, situation, means of irrigation and other like considerations, it is necessary to fix different rates of rent;

(*b*) the rate, or the maximum and minimum rates, of rent fairly and equitably payable by occupancy-raiyats holding land of each such class; and

(*c*) the estimated average amount, or the maximum and minimum estimated average amounts, of the gross produce in staple crops of land of each such class, and the estimated average value or values of that produce.

Principle on which rent-rates are to be fixed.

[B. B. s. 133.]

64. In fixing the rate of rent for any class of land under section 63 regard shall be had—

(*a*) to the rates of rent ordinarily payable by occupancy-raiyats for land of that class at the time the table is prepared;

(*b*) to the value of the average annual gross produce of land of that class and the cost of raising such produce about the time at which those rates were fixed, or, if that time or the value and cost about that time cannot readily be ascertained, to the value of the average annual gross produce and the cost of raising such produce about any other time which it may appear equitable to take for the purpose of comparison;

(*c*) to the value of the average annual gross produce of land of that class and the cost of raising such produce at the time at which the table is prepared; and

(*d*) to the following rule, namely, that when the rate of rent for any class of land is raised on account of an increase in the value of the average gross produce of land of that class, the new rate shall not bear to the old rate a higher proportion than the increased value of the produce bears to the former value:

Provided that the rate fixed for any class of land shall not in any case exceed one-*fifth* of the estimated average annual value of the gross produce in staple crops of land of that class, calculated at the price at which raiyats sell at harvest-time. [B. B. s. 24, cl. (*c*).]

Local publication of the table.

[B. B. s. 137.]

65. When the Revenue-officer has prepared the table, he shall publish it in the local area to which it relates in the vernacular language prevailing in that local area, in such manner as the Board of Revenue may from time to time prescribe.

Revenue-officer to deal with objections.

[B. B. s. 138.]

66. Any person objecting to any entry in the table may present a petition to the Revenue-officer within a period of one month after the publication; and the Revenue-officer, with the aid of the assessors, shall consider any such objection, and may alter or amend the table.

Table to be submitted to superior Revenue-authorities.

[B. B. s. 139.]

67. If no objection is made within the said period of one month, or, where objections are made, after those objections have been disposed of, the Revenue-officer shall submit the table, together with his proceedings, a report setting forth the grounds of his decision on each point, and any petitions of objection which may have been

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received, through the Commissioner of the Division, to the Board of Revenue for approval.

[B. B. s. 140.] **68.** The Board of Revenue may amend the table submitted under section 67 in any manner which appears to it proper, and may allow in whole or in part any objection forwarded therewith or subsequently made, or may return the case for further enquiry.

Proceedings of Board of Revenue thereupon.

[B. B. s. 141.] **69.** When a table of rates has been sanctioned by the Board, it shall be submitted to the Local Government, which may amend the same in any manner it thinks fit, and may direct, if it thinks fit, that the table or amended table shall be published in the official Gazette with a specification of the local area to which it applies.

Publication of table after final sanction.

[B. B, s. 143.] **70.** A table for any local area published under section 69 shall come into force on the date on which it is so published, and shall continue in force for such period, not less than ten or more than thirty years, as the Local Government at the time of publication may direct.

Period for which table remains in force.

[B. B. s. 142.] **71.** The publication of a table under section 69 shall be conclusive evidence in any proceeding under this Act—

Table to be conclusive evidence.

(1) that the proceedings for the preparation of the table have been duly conducted in accordance with this Act:

(2) that, except as in this Act provided, the rates shown in the table for each class of land are the fair and equitable rates payable for land of that class by occupancy-raiyats within the local area to which the table applies:

(3) that the average gross produce of land of any class, and the average value thereof, are in accordance with the gross produce and the value specified in regard to that class in the table.

72. All expenses incurred by the Government in preparing a table of rates and produce for any local area, including the salaries of all officers employed exclusively in its preparation, and such portions as the Local Government may from time to time fix of the salaries of officers employed in its preparation in addition to their other public duties, shall be defrayed by occupancy-raiyats and their landlords in that local area in such proportions as the Local Government may from time to time determine; and the proportion of those expenses so to be defrayed by any person shall be recoverable from him as if it were an arrear of land-revenue due by him.

Expenses incurred in preparing table how defrayed.

[B. B. s. 144.] **73.** When a table is in force under the foregoing sections for any local area, the landlord of any holding within that area, held by an occupancy-raiyat at a money rent, may, subject to the provisions of section 78, institute a suit to enhance the rent then payable on the ground that it is below that which would be payable at the rates shown in the table; and the Court shall enhance the rent in accordance with the rates shown in the table, or, where for any class of land a maximum and a minimum rate are entered in the table, to such rate, not higher than the maximum and not lower than the minimum, as it thinks fit: Provided that—

Suit to enhance where table is in force.

1st.—Where the rent of any land comprised in the holding would, by reason of a change having taken place in or in regard to the land since the raiyat or his predecessor in interest began to hold it, be fixed under this section at a higher rate, and would, but for that change, have been fixed under this section at a lower rate, the following rules shall apply, namely:—

(*a*) if the change has been effected solely by the agency or at the expense of the raiyat or his predecessor in interest, the Court shall fix the rent of that land at the lower rate; [B. B. s. 23, cls. (3) & (4).]

(*b*) if the change has been effected partly by the agency or at the expense of the landlord or his predecessor in interest, and partly by the agency or at the expense of the raiyat or his predecessor in interest, the Court shall fix the rent of the land at such rate intermediate between the higher rate and the lower rate as, having regard to all the circumstances of the case, it thinks fair and equitable; and [New.]

(*c*) if it is not proved that the change has been effected by the agency or at the expense of the landlord or the raiyat, or the predecessor in interest of either of them, the Court shall fix the rent of the land at a rate equal to the lower rate, together with half the difference between the higher rate and the lower rate. [B. B. s. 24 (*a*).]

2ndly.—When the raiyat proves that by contract or by custom, or on some equitable ground, he is entitled to hold at a rate lower than the rate applicable under this section, the Court shall fix the rent at the lower rate. [B. B. ss. 24(*c*), 142, proviso.]

Illustrations.

(*a*) The rates shown in the table for land of a certain description are—

when the land is irrigated from a well ... Rs. 4 per acre.
when the land is not so irrigated ... Rs. 2 „

The holdings of *A*, *B*, *C* and *D*, occupancy-raiyats, are composed of land of that description irrigated from wells constructed on these holdings respectively.

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The well on A's holding is an ancient one existing from a time anterior to the tenancy: that on B's holding has been constructed by the landlord since the commencement of the tenancy: that on C's holding has been constructed by the raiyat: that on D's holding has been constructed by the landlord and raiyat, each contributing some portion of the labour and materials. The rents of the holdings of A and B must be fixed at Rs. 4 per acre, that of C's holding at Rs. 2 per acre, and that of D's holding at such rate intermediate between Rs. 2 and Rs. 4 as the Court thinks fair and equitable.

(*b*) The rates shown in the table for land of a certain description are as follows:—

when such land is irrigated from a branch of a river ... ... Rs. 4 per acre.
when such land is not so irrigated ... Rs. 2 per acre.

The holdings of E and F, occupancy-raiyats, are composed of land of that description, and were not irrigable until 40 years ago, when, owing to a change in the course of a neighbouring river, a new branch established itself contiguous to them. E has been in occupation of his holding 50 years, F only 30; the rent of E's holding must be fixed at Rs. 3, that of F's holding at Rs. 4.

C.—Of suits to enhance money rents where a table of rates and produce is not in force.

[B. B. ss. 23 (1), (3) and (4), 4 (*e*) 2.]

74. (*1*) The landlord of a holding held at a money rent by an occupancy-raiyat and situate in a local area for which a table of rates and produce, prepared under the foregoing sections, is not in force, may, subject to the provisions of section 78, institute a suit to enhance the rent on one or more of the following grounds, namely:—

Grounds on which landlord may sue to enhance where table is not in force.

(1) that the rate of rent paid by the raiyat is below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in the vicinity;

(2) that the productive powers of the land held by the raiyat, as compared with those powers at the time when the rent was fixed, or, when that time or the productive powers at that time cannot readily be ascertained, with the productive powers at any other time which it may appear equitable to take for purposes of comparison, have increased otherwise than by the sole agency or at the sole expense of the raiyat or his predecessor in interest and from causes not merely temporary or casual; and

(3) that the average prices of produce in the locality, or at the usual markets, as compared with similar prices about the time when the rent was fixed, or, when that time or the prices prevailing about that time cannot readily be ascertained, with the similar prices about any other time which it may appear equitable to take for purposes of comparison, have increased otherwise than by the sole agency or at the sole expense of the raiyat or his predecessor in interest, and from causes not merely temporary or casual.

(*2*) Nothing in this section shall affect any contract binding a landlord not to enhance the rent of a tenant.

Illustrations of Ground (1).

(*a*.) A's paternal grandfather seventy years ago reclaimed the land which A, an occupancy-raiyat, now holds, and which came to him by inheritance from such paternal grandfather. B is an occupancy-raiyat who holds land which was in a cultivable state when B was first let into possession thereof. There is evidence that the hereditary descendant of a raiyat who, being the first settler, reclaimed the land has a special privilege. A and B are not raiyats of the same class.

(*b*.) A is in possession of a holding which has descended to him from his great-grandfather, who held it at the time of the Permanent Settlement. B was let into possession of his holding twenty years ago. There is evidence that the descendants of raiyats who were in possession at the time of the Permanent Settlement customarily hold at rates less than raiyats who have come into possession at a later period. A and B are not raiyats of the same class.

75. All enhancements of rent on the second or third of the grounds specified in section seventy-four shall be subject to the following rules, namely:— [B. B. s. 24 (*a*) and (*c*).]

Rules for enhancement under section 74.

(*a*) If the increase of the productive powers of the land, or of the prices of produce, has been effected wholly by the agency or at the expense of the landlord or his predecessor in interest, the landlord shall be entitled to the whole benefit of the increase:

(*b*) If the increase has been effected partly by the agency or at the expense of the landlord or his predecessor in interest, and partly by the agency or at the expense of the raiyat or his predecessor in interest, the benefit shall be divided between the landlord and the raiyat in such shares as the Court, having regard to all the circumstances of the case, thinks fair and equitable:

(*c*) If it is not proved that the increase has taken place by the agency or at the expense of the landlord or the raiyat, or the predecessor in interest of either of them, each shall be entitled to one-half of the benefit: Provided that in any such case the enhanced rent shall not bear to the rent previously payable a higher proportion than the increased productive powers or increased prices bear (as the case may be) to the former productive powers or former prices:

(*d*) The enhanced rent shall not in any case exceed one-*fifth* of the estimated average annual value of the gross produce of the land in staple crops, calculated at the price at which raiyats sell at harvest-time.

D.—Rules applicable to suits to enhance money rents generally.

76. The rent of a holding shall not be enhanced in a suit under any of the foregoing sections of this chapter so that the enhanced rent shall be more than double the rent previously payable. [B. B. s. 24 (*b*).]

No enhancement beyond double the rent previously payable.

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[B. B. s. 24 (d).]

77. When a Court passing a decree for enhancement under any of those sections considers that the immediate enforcement of the decree in its full extent would be attended with hardship to the raiyat, it may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement decreed has been reached.

Power to order progressive enhancement.

[B. B. s. 143.]

78. When the rent of an occupancy-holding has been enhanced by a decree under any of those sections or under any enactment repealed by this Act, or by contract, or has been commuted under section 82, a suit for its enhancement shall not be instituted under this chapter within the ten years next following the date on which it has been so enhanced or commuted, except on the ground that since the rent has been so enhanced or commuted an improvement has been made by the landlord which, but for this section, would entitle him to an enhancement.

Rent enhanced or commuted not enhanceable for 10 years.

E.—Of suits for the reduction of money rents.

[B. B. s. 25. (2) & (3).]

79. (*1*) An occupancy-raiyat holding at a money rent may, notwithstanding any contract to the contrary, institute a suit for the reduction of his rent on either or both of the following grounds, and, except as provided by section 96, not otherwise, namely:—

Occupancy-raiyat when entitled to reduction of rent.

(*a*) on the ground that the productive powers of the land, as compared with those powers at the time when the rent was fixed, or, when that time or the productive powers at that time cannot readily be ascertained, with the productive powers at any other time which it may appear equitable to take for purposes of comparison, have decreased from some cause beyond the raiyat's control, and not merely temporary or casual;

(*b*) on the ground that the average prices of produce in the locality or at the usual markets, as compared with similar prices about the time when the rent was fixed, or, when that time or the prices prevailing about that time cannot readily be ascertained, with the average prices prevailing about any other time which it may appear equitable to take for purposes of comparison, have decreased from some cause beyond the raiyat's control, and not merely temporary or casual.

(*2*) In any suit instituted under this section the Court may direct such reduction of the rent as it thinks fair and equitable.

F.—Special rules regarding money rents payable for pasture lands.

[B. B. s. 23, Expl. II. & s. 24 (e).]

80. (*1*) Sections 62 to 79, both inclusive, shall not apply to land fit to be used, or which in accordance with local usage is used, only as pasture; but when such land is held at a money rent by an occupancy-raiyat, the landlord may, subject to any contract between the parties, institute a suit to enhance the rent on the ground—

Special rules for pasture lands.

(*a*) that the rate of rent payable by the raiyat is below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in the vicinity, or

(*b*) that, having regard to the increase of rent on arable land in the vicinity since the rent payable by the raiyat was fixed, it is reasonable to enhance that rent.

(*2*) Where an enhancement is applied for on the ground mentioned in clause (*b*), the Court shall fix the rent at such rate as it thinks fair and equitable.

G.—Of rents payable in kind or varying with the crop.

81 (*1*). Where an occupancy-raiyat pays rent in kind, or pays as rent the value of a certain share of the actual gross produce, the following rules shall apply, namely:—

Limit to amount of rent payable in kind or varying with crop.

(*a*) notwithstanding any contract or custom to the contrary, the landlord shall not be entitled to recover, in respect of any portion of the holding on which staple crops are grown, more than half the gross produce or its value, as the case may be;

(*b*) the landlord shall not, except under a contract in writing, be entitled to recover, in respect of any portion of the holding on which other crops are grown, any other description or any greater amount of rent than a sum equal to one-half of the estimated average value of the produce of that portion of the holding if staple crops were grown on it.

(*2*) Nothing in this section shall prevent a landlord recovering the value of any seed, labour or other assistance he may have contributed towards the production of the crop.

82 (*1*). An occupancy-raiyat whose holding consists of raiyatí land, and who pays rent in kind, or pays as rent the value of a certain share of the actual gross produce of the holding, may, notwithstanding any contract to the contrary, sue to have his rent commuted into a money-rent.

Commutation of rents.

C. R. and 92.

(*2*) The money-rent shall be fixed at the discretion of the Court—

(*a*) according to the prevailing money-rent payable by the same class of raiyats for land of a similar description and with similar advantages in the vicinity, or

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(*b*) according to the average value of the rent actually received by the landlord during the preceding five years.

(*3*) When a money-rent is fixed under clause (*b*), a reasonable deduction shall be made by the Court from the average value aforesaid in consideration of the whole risk of cultivation being taken by the raiyat.

H.—Supplementary provisions.

[B. B. s. 45.]

83. (*1*) The Collector of every district shall prepare annually lists of the market-prices at harvest-time of staple crops grown in such local areas as the Board of Revenue may from time to time direct, and shall submit them to the Board of Revenue for approval or revision.

Collectors to prepare annual price-lists of staple crops.

(*2*) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette under the signature of one of the Secretaries to the Board.

(*3*) Any such price-list so published shall, in any proceedings under this chapter, be conclusive evidence of the prices prevailing in the local area at harvest-time in the year to which it relates.

[B. B., ss. 134, 145 and 24 (e).]

84. The Board of Revenue may from time to time, subject to the approval of the Local Government and to the control of the Governor General in Council, make rules—

Power to make rules.

(*a*) for the guidance of officers engaged in the preparation of tables of rates and produce under this chapter;

(*b*) for the guidance of officers engaged in the preparation of price-lists under section 83;

(*c*) determining what crops shall be deemed to be staple crops for the purposes of this chapter in any local area;

(*d*) for the guidance of Revenue-officers registering contracts under section 59 and section 61.

(*e*) for the guidance of Revenue-officers and Courts in estimating the average annual value of the gross produce of land for the purposes of sections 59 and 61 and section 75, clause (*d*).

CHAPTER VII.

OF THE RIGHT OF A SETTLED RAIYAT IN BASTU LAND.

[New.]

85. (*1*) A person who is under Chapter V a settled raiyat of a village or estate as defined in that chapter shall, notwithstanding any contract to the contrary, have a right permanent, heritable and capable of being transferred and bequeathed, in any *bastu* or other homestead land in that village or estate which is not comprised in an occupancy-holding and which is held by him as the site of, or for the purpose of erecting, a dwelling-house suitable for himself and his family, together with all necessary out-offices.

Settled raiyat to have permanent right in *bastu* land.

(*2*) A person having a right under sub-section one in any land in a village or estate shall not lose that right merely by reason of his ceasing to be a settled raiyat of that village or estate.

[B. B. s. 32.]

86. (*1*) Notwithstanding any contract to the contrary, a person having in respect of any land a right under section 85 shall not be ejected from that land except in execution of a decree for ejectment passed in accordance with this Act on the ground that he has broken a condition consistent with the provisions of this Act and on breach of which he is, under the terms of a written contract between him and his landlord, liable to be ejected, and, if he is so ejected, shall be entitled to compensation for any house or offices of the description referred to in section 85 which may have been erected on the land by him or his predecessor in interest whether before or after the commencement of this Act.

Provisions regarding ejectment.

(*2*) A Court passing a decree for the ejectment of such a person shall determine the amount of compensation (if any) due to him under sub-section one and shall make the decree conditional on the payment of that amount by the decree-holder.

[B. B. s. 33.]

87. When a person has in respect of any land a right under section 85, and the rent of the land has not been enhanced during the previous ten years, the landlord may, unless barred by any contract between the parties, enhance the rent, so that it may be equal to the rent paid by other tenants for land in the neighbourhood having similar advantages and used for similar purposes, or at his option so that it may be equal to five per centum of the market-value of the land.

Rule for enhancing rent.

CHAPTER VIII.

OF ORDINARY RAIYATS.

88. Every person holding raiyatí land as a raiyat and not having a right of occupancy in respect of it shall be deemed to hold it as an ordinary raiyat.

Ordinary raiyat defined.

89. An ordinary raiyat shall, subject to the provisions of section 119, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

Rents regulated by agreement.

[B. B. ss. 26, 72 (5).]

90. Notwithstanding any contract to the contrary, an ordinary raiyat shall not be ejected from raiyatí land by his landlord as such except—

Grounds on which an ordinary raiyat may be ejected from raiyatí land.

(*a*) as hereinafter provided for arrears of rent,

(*b*) in execution of a decree for ejectment passed in accordance with this Act on the ground

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that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is, under the terms of a written contract between him and his landlord, liable to be ejected, or

(*c*) in execution of a decree for ejectment passed on the ground that he has refused to agree to an enhancement of rent demanded by his landlord in accordance with the provisions next hereinafter contained.

91. When a landlord wishes to enhance, within the limit fixed by section 119, the rent of an ordinary raiyat holding raiyatí land at a money-rent not fixed for a term by agreement, and the raiyat does not agree to the enhancement, the landlord may cause to be served on the raiyat through the Civil Court a notice of the enhancement not less than six months before the commencement of the agricultural year in which the landlord desires the enhancement to take effect.

Notice of enhancement to be served through Civil Court.

92. (*1*) If, within the period of one month from the service of a notice under section 91, the raiyat on whom the notice has been served presents to the Court issuing the notice a statement in writing declaring his willingness to pay the enhanced rent, he shall be deemed to have agreed to pay that rent from the commencement of the agricultural year next following.

Raiyat may agree to enhancement. If he does not, landlord may sue to eject.

(*2*) If the raiyat does not, within the said period of one month, present to the Court a statement as aforesaid, the landlord may, not less than ten weeks before the commencement of the agricultural year next following, institute a suit to eject the raiyat.

93. (*1*) If, in any suit instituted under section 92, the defendant appears and agrees to pay the enhanced rent demanded, his agreement shall thereupon be recorded, and he shall not be ejected, but shall be liable to pay that rent from the commencement of the agricultural year next following the date of the agreement.

Procedure in suit.

(*2*) If the defendant does not appear, or if, on appearing, he does not agree to pay the enhanced rent demanded, the Court may pass a decree for his ejectment on condition that, within fifteen days from the date of the decree, the landlord deposits in Court—

(*a*) such sum (if any) as may be declared by the decree to be payable to the raiyat as compensation for improvements; and

(*b*) a further sum as compensation for disturbance equal to *ten* times the yearly increase of rent demanded.

94. (*1*) If these sums are so deposited, the decree shall be made absolute, and the sums deposited shall be paid to the raiyat.

Decree when absolute:

(*2*) If these sums are not so deposited, the decree shall become void, and the raiyat shall remain in occupation of his holding at the rent previously paid by him.

when to become void.

95. When a raiyat has agreed, under section 92 or section 93, to pay an enhanced rent for his holding, or a decree to eject him from the holding has become void under section 94, no notice shall be served on him under section 91 in respect of that holding during the ten years next following the date on which he has so agreed, or the decree has become void, as the case may be.

Fresh proceedings not to be taken for ten years.

CHAPTER IX.

PROVISIONS REGARDING RENT APPLICABLE TO SEVERAL CLASSES OF TENANTS.

A.—Of alterations of rent consequent on alterations of the area of the holding of a tenure-holder or occupancy raiyat.

96. (*1*) Notwithstanding anything in Chapter III or Chapter VI, every tenure-holder shall, in the absence of a contract to the contrary, and every occupancy-tenant shall, notwithstanding any contract to the contrary,— [D., ss. 19 and 24. C. B., ss. 8 & 18 B.B., ss. 8, 18, 23 (2) & 25 (1).]

Additions to, and deductions from, rent in respect of alteration of area.

(*a*) be liable to pay additional rent for all land added to the area of his holding by alluvion or otherwise, unless he can show that the land has reformed on the site of land which was formerly included in that area, and for the loss of which he has had no abatement of rent; and

(*b*) be entitled to a reduction of rent in respect of any diminution of the area of his holding caused by diluvion or otherwise, unless it is proved that the land lost was added to the area of the holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(*2*) The amount added to the rent shall be calculated at the rates payable by occupancy-raiyats for lands of a similar description and with similar advantages in the vicinity, less a deduction, in the case of a tenure-holder, of thirty per cent. for profits, risk and cost of collection.

(*3*) The amount abated from the rent shall bear the same proportion to the rent previously payable as the diminution of the total yearly value of the holding bears to the previous total yearly value thereof, or, in default of satisfactory proof of the yearly value of the land lost, shall bear to the rent previously payable the same proportion as the diminution of area bears to the previous area of the holding.

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B.—Instalments in which money-rents are payable by tenure-holders, raiyats and under-raiyats.

[B. B. s. 47.]

97. A money-rent payable by a tenure-holder shall be paid in such instalments and on such dates as may have been agreed upon between the tenure-holder and his landlord; in the absence of agreement, in such instalments and on such dates as may be customary; and, in the absence of any agreement or custom, in such instalments and on such dates as the Board of Revenue may fix in this behalf for any local area.

Rent of tenure-holder in what instalments and on what dates payable.

[B. B. s. 47 (*b*).]

98. A money-rent payable by a raiyat or under-raiyat shall, notwithstanding any contract or custom to the contrary, be paid in such instalments, and on such dates, not being more than four in each year, as the Board of Revenue may fix in this behalf for any local area:

Rent of raiyat or under-raiyat in what instalments and on what dates payable.

Provided that, when the instalments in which, and the dates on which, rent is payable are fixed by an agreement made before the commencement of this Act, or by a custom which has prevailed from before the commencement of this Act, the amount payable on each date fixed by the Board under this section for the payment of an instalment shall be equal to the aggregate of the instalments which would, under the agreement or custom, have fallen due since the date so fixed by the Board for the payment of the last previous instalment.

[B. B. s. 47.]

99. (*1*) Every order made by the Board of Revenue under section 97 or section 98 shall be made after a consideration of the prevailing customs and the time of harvest in the local area to which it is to apply.

Making and publication of orders under sections 97 and 98.

(*2*) Every such order shall be published in manner prescribed not less than three months before the commencement of the agricultural year in which it is to take effect.

C.—Of the Receipts and Accounts to be given to tenants.

[D. s. 61. C. B, s. 57. B. B, s. 49 (*a*) and (*b*).]

100. (*1*) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount paid by him.

Tenant making payment to his landlord entitled to a receipt.

(*2*) The receipt shall specify—

(*a*) the date of payment;

(*b*) the amount paid on account of principal and interest respectively, or, where the payments are made in kind, the quantity and description of produce delivered;

(*c*) where other money recoverable under any enactment for the time being in force is paid with the rent, the amount so paid.

(*d*) the holding in respect of which the rent is paid;

(*e*) the name of the person (if any) registered in the landlord's serishta as the tenant;

(*f*) the annual rent payable for the holding and the amount of rent then in arrear; and

(*g*) the instalment and year on account of which the payment is declared by the tenant to be made, or, in the absence of any such declaration, the instalment and year on account of which it has been credited by the landlord.

(*3*) The landlord shall prepare and retain a counterpart of the receipt containing similar particulars.

(*4*) Every receipt which does not contain substantially the above particulars shall be deemed to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

[B. B. s. 49 (*c*).]

101. (*1*) Every tenant shall be entitled to receive from his landlord, within three months after the expiry of each agricultural year, a statement of account for that year showing—

Tenant entitled to statement of account at close of the year.

(*a*) the holding for which the tenant pays rent to the landlord;

(*b*) the name of the person (if any) registered in the landlord's serishta as the tenant;

(*c*) the annual rent payable for the holding;

(*d*) the amount of rent in arrear at the beginning of the year;

(*e*) the payments made during the year on account of principal and interest respectively, or, when the payments are made in kind, the quantity and description of produce delivered;

(*f*) the portion of each payment credited to the rent of the year, and the portion credited to the arrears of previous years; and

(*g*) the amount, if any, remaining unpaid at the close of the year.

(*2*) The landlord shall prepare and retain a counterpart of the statement containing similar particulars.

[D. s. 65. B. B. ss. 49 (*d*) and 94.]

102. (*1*) If a landlord refuses or neglects to deliver to a tenant demanding the same a receipt containing the particulars prescribed by section 100 for any rent paid by the ten-

Penalties and fine for withholding receipts and statements of accounts and failing to keep counterparts.

ant, the tenant may, within six months from the date of the demand, institute a suit to recover from him such penalty, not exceeding double the amount or value of that rent, as the Court thinks fit.

(2) If a landlord refuses or neglects to deliver to a tenant demanding the same the statement of account for any year prescribed in section 101, the tenant may, within six months from the date of the demand, institute a suit to recover from him such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by the tenant to the landlord during that year.

(3) If a landlord fails to prepare and retain a counterpart of a receipt or statement as required by section 100 or section 101, he shall be punished with fine which may extend to fifty rupees.

D.—Of the deposit of rent by a tenant in a public office.

[D. s. 99. C. B. ss. 58 & 59. B. B. ss. 50 & 51.]

Application to deposit rent in public office.

103. (1) In any of the following cases, namely :—

(a) when a tenant bound to pay money on account of rent has reason to believe that the person to whom his rent is payable will not be willing to receive the same and to grant him a receipt therefor :

(b) when the money is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers therefor, and no person has been empowered to receive the rent in their behalf : or

(c) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent :

the tenant may present, to such officer as the Local Government from time to time appoints in this behalf for the local area in which the holding is situate, an application in writing for permission to deposit in his office the full amount of the money then due.

(2) The application shall contain a statement of the grounds on which it is made, shall be signed by the tenant or, where he is not personally cognizant of the facts of the case, by some person so cognizant, and shall be accompanied by a fee of eight annas.

[D. ss. 99 & 100. B. B. s. 52.]

Receipt granted by public officer for rent deposited to be a valid acquittance.

104. (1) If it appears to the officer to whom an application is made under section 103 that the applicant is entitled under that section to deposit the rent, he shall receive the rent and give a receipt for the same under his official seal.

(2) A receipt given under this section shall operate as an acquittance for the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if the rent had been received—

(a) in case (a) of section 103 by the person specified in the application as the person to whom the rent was payable ;

(b) in case (b) of section 103 by the co-sharers jointly ; and

(c) in case (c) of section 103 by the person entitled to it.

Notification of receipt of deposit.

105. (1) The officer receiving a deposit under section 104 shall forthwith cause to be affixed in a conspicuous place in his office a notification of the receipt thereof, containing a statement of all material particulars contained in the application under section 103, and, when the deposit is made under section 103, clause (a), shall send a copy of the notification by post in a registered cover to the person to whom the rent is alleged by the depositor to be payable.

(2) If the amount of the deposit is not paid away under section 106 within the period of fifteen days next following the date on which the notification is affixed as aforesaid the officer shall cause a notice of the receipt of the deposit to be served (free of charge) upon every person who he has reason to believe claims or is entitled to the deposit.

Deposit to whom payable.

106. (1) The officer may pay the amount of the deposit to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

(2) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section ; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

Refund to depositor.

107. If no payment is made under section 106 before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given under section 104.

E.—Of arrears of rent.

[D. s. 101. C. B. s. 56. B. B. s. 48.]

Interest on arrears.

108. Every arrear of rent shall, unless otherwise provided by a written contract between the parties, be liable to interest at the rate of twelve per centum per annum.

[D. s. 68. C. B. s. 901. B. B. s. 98.]

Power to award damages on rent withheld without reasonable cause.

109. If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as it thinks fit :—

Provided that, when damages are awarded under this section, interest shall not be decreed under section 108.

[D. s. 69. C. B. s. 91. B. B. s. 97.]

Power to award damages to defendant improperly sued for rent.

110. If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum not exceeding twenty-five per centum on the whole amount claimed by the plaintiff as it thinks fit.

[D. ss. 12 (5) & 93. C. B. ss. 79(5) & 152. B. B. ss. 72 (5) & 169.]

Ejectment from non-transferable holding for arrears.

111. (1) When an arrear of rent remains due in respect of a non-transferable holding at the end of the Bengali year where that year prevails, or at the end of the month of Jeyt where the Fusli or Amli year prevails, the landlord may, whether he has obtained a decree for the recovery of the arrear or not, and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the tenant.

(2) A decree passed in favour of the plaintiff in any such suit shall specify the amount of the arrear together with the interest (if any) due thereon, and the decree shall not be executed if that amount and the costs of the suit are paid into Court within fifteen days from the date of the decree, or, when the Court is closed on the fifteenth day, on the day upon which the Court re-opens.

F.—Of rent taken by division or estimation of the crop.

Commission for dividing or estimating crops.

112. Whenever rent is taken by division of the produce, or by estimate or appraisement of the crop, if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division, estimate or appraisement, or if there is a dispute about the division of the produce, or the quantity or value of the crop, the Collector may, on the application of either party, and on his depositing such sum on account of expenses as the Collector may require, issue a commission to such person as he thinks fit, to divide, estimate or appraise the crop.

Appointment of assessors, &c.

113. (1) When a Collector appoints a commissioner for any of the purposes mentioned in section 112, the Collector may, in his discretion, direct the commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting those assessors (if any), and the procedure to be followed in making the division, estimate or appraisement.

(2) The commissioner so appointed shall make the division, estimate or appraisement in accordance with those instructions, and submit a report of his proceedings to the Collector.

Remedy for error in division.

114. (1) If in any division under section 113 either party receives less than the share to which he is entitled, he may, within three months from the date on which the division is completed, institute a suit against the other party to recover the value of the additional portion of the crop due to him at the price which prevailed on that date.

(2) If no such suit is instituted within the said period of three months, the division shall for all purposes be deemed as between the parties thereto to have been rightly made.

Procedure where crop has been estimated or appraised.

115. (1) When a crop has been estimated or appraised under section 113 the estimate or appraisement shall be reduced to writing and signed by the commissioner making the same, and shall be submitted to the Collector by whom the commission was issued.

(2) The Collector shall consider the commissioner's estimate or appraisement, and, after such hearing and inquiry (if any) as he may think necessary, shall pass an order thereon either confirming or varying the estimate or appraisement ; and that order shall be final.

Costs of proceedings under foregoing sections.

116. All expenses incurred in carrying out the provisions of sections 112 to 115 (both inclusive) shall be payable by the landlord or tenant, or partly by one and partly by the other, as the Collector may in each case direct ; and the amount payable by any person under such a direction shall be recoverable from him as if it was an arrear of land-revenue due by him.

Interference with produce of land otherwise than under section 112, criminal trespass.

117. If the landlord of any land of which the rent is payable in the manner mentioned in section 112, or any other person, interferes in any way, without the consent of the tenant, with the cutting or harvesting of any produce of the land except by an application to the Collector under section 112, he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code. XLV of 1860

Danabandi or appraisement papers in Bihár to be deposited in Collector's office.

118. When the rent payable for land in Bihár is the equivalent money-value of a fixed proportion of the actual gross produce thereof, and such equivalent

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money-value is determined by an estimate or appraisement (*danabandi*) of the standing crop, or by some similar proceeding, the *danabandi* or appraisement papers shall, within fifteen days after the making of the appraisement, be lodged in the office of the Collector of the district.

G.—Further provisions regarding rent.

[B. B. s. 30.] **119.** Notwithstanding anything in the foregoing sections of this Act, or in any contract made after the second day of March, 1883, a raiyat or under-raiyat shall not be bound to pay for his holding a money-rent exceeding *five*-sixteenths of the estimated average annual value of the gross produce of the holding in staple crops, calculated, in such manner as the Board of Revenue may from time to time, by rules, direct, at the prices at which raiyats sell at harvest time.

Limit to rents of raiyats and under-raiyats.

120. The rent payable by a tenant in any agricultural year shall be presumed to be the rent payable by him in the following agricultural year until the contrary is shown.

Presumption that rent continues unchanged.

[New.] **121.** When a landlord grants a lease, or makes any other contract, purporting to entitle the tenant of land not included in an area permanently settled to hold that land free of rent or at a fixed rent, and while the lease or contract is in force—

Power to alter rent in case of new assessment of revenue.

(*a*) land-revenue is for the first time made payable in respect of the land, or,

(*b*) land-revenue having been previously payable in respect of it, a fresh settlement of land revenue is made,

a Revenue-officer may, notwithstanding anything in the contract between the parties, by order, on the application of the landlord or of the tenant, fix a fair and equitable rent for the land in accordance with the provisions of this Act.

[B. B. s. 70.] **122.** (*1*) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has given notice of the transfer to the tenant.

Tenant not liable to transferee of landlord's interest for rent paid to former landlord without notice of the transfer.

(*2*) When there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section.

[B. B. s. 63 (2).] **123.** All impositions upon tenants under the denomination of *abwab*, *mahtut*, or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void.

Abwab, &c., illegal.

D. s. 64. B. B. ss. 63 (2), 64 (*a*), 93.] **124.** Every tenant from whom, except under any special enactment for the time being in force, any sum of money or any portion of the produce of his land is exacted by his landlord in excess of the rent lawfully payable, may, within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the Court thinks fit, not exceeding five hundred rupees; or, when double the amount or value of what is so exacted exceeds five hundred rupees, not exceeding double that amount or value.

Penalty for exaction by landlord from tenant of sum in excess of the rent payable.

[C. B. s. 64. B. B. s. 56.] **125.** (*1*) The rent of a tenure, occupancy-holding or bastu holding shall be a first charge on the same.

Rent first charge on tenures, occupancy-holdings and bastu holdings.

(*2*) If the right, title and interest of the tenant is brought to sale in execution of a decree for money obtained by a person other than the landlord, the landlord shall be entitled to be first paid out of the sale proceeds any rent which may be due to him by the tenant.

CHAPTER X.

OTHER PROVISIONS APPLICABLE TO SEVERAL CLASSES OF TENANTS.

A.—Of improvements on raiyats' holdings and compensation therefor.

[B. B. s. 69.] **126.** (*1*) For the purposes of this chapter the term "improvement," used with reference to a raiyat's holding, shall mean any work which adds to the letting-value of the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

"Improvement."

(*2*) It shall include for those purposes—

(*a*) the construction of wells, tanks and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;

(*b*) the preparation of land for irrigation;

(*c*) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural

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purposes, or waste-land which is culturable;

(*d*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(*e*) the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto; and

(*f*) the erection of a dwelling-house suitable for the raiyat and his family, together with all necessary out-offices.

But no work executed by the raiyat of a holding shall be deemed to be an improvement for the purposes of this chapter if it substantially diminishes the value of any other part of the estate or tenure of his landlord.

(*3*) A work which benefits several holdings shall for the purposes of this chapter be deemed to be, with respect to each of them, an improvement.

[B. B. s. 69.] **127.** (*1*) The landlord of an occupancy-raiyat shall not be entitled as such to prevent the raiyat making an improvement in respect of his holding, and shall not, except as next hereinafter provided, be entitled to make an improvement in respect of the holding without the permission of the raiyat.

Right to make improvements in case of occupancy-holding.

(*2*) A landlord of an occupancy-holding who would, but for the want of his raiyat's permission, be entitled to make an improvement in respect of the holding, may, if he desires that any improvement, other than an improvement of the description mentioned in section 126, clause (*f*), be made, deliver or cause to be delivered to the raiyat a request in writing calling upon him to make the improvement within a reasonable time; and, if the raiyat is unable or neglects to comply with that request, may make the improvement himself.

[B. B. s. 69.] **128.** (*1*) An ordinary raiyat shall not, except as next hereinafter provided, be entitled to make in respect of his holding without his landlord's permission any improvement other than an improvement of the description mentioned in section 126, clause (*f*).

Right to make improvements in case of ordinary raiyat's holding.

(*2*) An ordinary raiyat, who would, but for the want of his landlord's permission, be entitled to make an improvement in respect of his holding, may, if he desires that the improvement be made, deliver, or cause to be delivered, to his landlord a request in writing calling upon him to make the improvement within a reasonable time; and, if the landlord is unable or neglects to comply with that request, may make the improvement himself.

129. (*1*) Every raiyat who is ejected from his holding shall be entitled to compensation for improvements which have been made in accordance with this Act by him, or by his predecessor in interest, and for which compensation has not already been made.

Compensation for improvements payable to raiyat on ejectment.

(*2*) Whenever a Court makes a decree or order for the ejectment of a raiyat, it shall determine the amount of compensation (if any) due under this section to the raiyat for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the raiyat.

(*3*) No compensation under this section for an improvement shall be claimable where the raiyat has made the improvement in pursuance of a contract or under a lease binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and he has obtained that advantage.

(*4*) Improvements made by a raiyat before the commencement of this Act shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the raiyat to make the improvement and was ready to make it himself.

130. The Local Government may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 129, for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

Power to make rules for appointment of assessors.

131. (*1*) In estimating the compensation to be awarded under section 129 for an improvement, regard shall be had—

Principle on which compensation is to be estimated.

(*a*) to the amount by which the letting-value, or the produce, of the holding, or the value of that produce, is increased by the improvement;

(*b*) to the labour and capital required for the making of such an improvement; and

(*c*) to any reduction or remission of rent or any other advantage given by the landlord to the raiyat in consideration of the improvement.

(*2*) When the amount of the compensation has been assessed, the landlord and raiyat may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

132. A stipulation in a contract providing—

Certain stipulations in contracts to be void.

(*a*) that a landlord shall be entitled to prevent a raiyat from making, or to eject him for making, such improvements on his holding as he is entitled to make under this Act, or

(*b*) that a raiyat ejected from his holding shall not be entitled to compensation for improvements

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in any case in which he would, under this Act, be entitled to such compensation,

shall be void.

B.—Of the landlord's right to measure land.

[D. s. 58. C. B. s. 75. B. B. s. 67.]

133. Subject to the provisions of any contract, a landlord may, by himself or by any person authorized by him in this behalf, enter upon and measure all land comprised in any estate or tenure, of the rents of which he is in receipt, except land entered in the general register of revenue-free lands prepared under the Land Registration Act, 1876:

Landlord entitled to measure land unless restrained by contract.

VII (B. C.) of 1876.

Provided that, when any land has been measured by a landlord, whether before or after the passing of this Act, it shall not, without the written permission of the Collector, be again measured by the landlord within the ten years next following the date on which it was so measured.

Illustration.

A., a proprietor, grants a portion of his estate in patní to B, to whom the raiyats pay rent. Both A and B are entitled to make a general survey and measurement of the lands comprised in the patní lease.

[D. s. 94. B. B. s. 176.]

134. When a landlord desires to measure, under section 133, any land held by his tenant, the tenant shall, if the landlord requires him to do so, attend and point out the boundaries of the land.

Tenant bound to point out boundaries.

[D. s. 94. B. B. s. 176.]

135. (*1*) When a landlord desires to measure any land under section 133, and any person occupying the land obstructs him in so doing, or any tenant, bound under section 134 to attend and point out the boundaries of his land, refuses or neglects so to do, the landlord may apply to the Court which would have jurisdiction to hear a suit for the recovery of the land, to make an order directing such person to permit the measurement, or such tenant to attend and point out the boundaries, as the case may be.

Remedy when landlord is obstructed or tenant does not point out boundaries.

(*2*) The Court may, on receiving an application under this section, cause a notice to be served on the occupant or tenant, as the case may be, requiring him to show cause, at a time and place specified therein, why the order applied for should not be made.

(*3*) If the person on whom a notice is served under sub-section (2) does not show cause as aforesaid, the Court may make the order applied for.

[D. s. 94. B. B. s. 177.]

136. If a tenant ordered under section 135 to attend and point out the boundaries of the land held by him refuses or neglects to do so, a map or other record of the boundaries and measurements of the land prepared under the direction of the landlord, at the time the tenant was ordered to attend, shall be presumed to be correct until the contrary is shown.

Presumption against tenant not attending to point out boundaries.

137. (*1*) Every measurement of land made by order of a Civil Court, or of a Revenue-officer, in any suit or proceeding between a landlord and tenant, shall be made according to the Government measure of 14,400 square feet to one standard bighá.

[D. s. 94. C. B. s. 37 (*a*). B. B. s. 68 (*a*).

Measurement in suits between landlord and tenant to be made according to Government measure.

(*2*) If the rights of the parties are regulated by any different local measure, the Government measure shall be converted into the local measure for the purposes of the suit.

138. (*1*) If any dispute as to the length of a standard used in a local measure arises in any suit under this Act, the Collector shall, on a reference made to him for this purpose by the Court, determine the proper length thereof.

[D. s. 98. C. B. s. 76 (*b*) B. B. s. 68 (*b*).]

Determination of the length of the standard in case of dispute.

(*2*) An appeal shall lie from the Collector's decision to the District Judge.

(*3*) If no such appeal be preferred, the decision of the Collector, or, if an appeal be preferred, the decision of the District Judge thereon, shall be conclusive.

C.—Of surrender and abandonment.

139. (*1*) A raiyat not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding; but notwithstanding the surrender he shall continue to be liable for the rent of the holding for the agricultural year next following the date of the surrender, unless—

[D. s. 12 (3) C. B. s. 79 (3) B. B. s. 72 (3).

Surrender by raiyat.

(*a*) he gives to his landlord, at least three months before he surrenders, notice in writing of his intention to surrender; or

(*b*) the holding is let to another person for a agricultural year following the surrender.

(*2*) If the landlord refuses to receive a notice, tendered to him under clause (*a*), or to sign a receipt for the same, the raiyat may apply to the Court within the jurisdiction of which the holding or any portion of it is situate, and the Court shall thereupon cause the notice to be served on the landlord.

140. Any tenant of a holding which is not transferable, who leaves his holding uncultivated and the rent of it unpaid for a period of one year, shall, at the expiration of that period, be deemed to have surrendered the holding:

[D. s. 12 (4). C. B. s. 79 (4). B. B. s. 72 (4).]

Non-transferable holding in certain cases to be deemed surrendered.

Bengal Tenancy Bill.

(Chapter X.—Other Provisions applicable to several classes of Tenants. Secs. 141—145.)

Provided that, in reckoning that period, any time during which, owing to an inundation or any other accident to the land beyond the tenant's control, it may have been impossible to cultivate the land, shall be excluded.

D.—Of Merger.

[C. B. ss. 43 & 44. B. B. ss. 34 & 35.]

141. (*1*) When in the case of any tenancy the interest of the landlord and that of the tenant become, by transfer, succession or otherwise, united in the same person, so as to be owned by him in the same right, the interest of the tenant shall—

Merger of tenant's interest in landlord's interest.

(*a*) during the period of three months mentioned in sub-section (*2*) be presumed to be merged in the interest of the landlord and extinguished, unless the person proves that he has not intended it to be merged, and

(*b*) after the expiration of that period be deemed to be so merged and extinguished, unless within that period the person executes an instrument declaring his intention that a merger shall not take place, and the instrument is registered under the Indian Registration Act, 1877 and is published in the prescribed manner.

III of 1877.

(*2*) The period of three months referred to in sub-section (*1*) shall, when the interests become united after the commencement of this Act, begin to run from the date on which they become united, and, when they have become united before the commencement of this Act, begin to run from the commencement of this Act:

Provided that, when, at the time the interests become united, the person in whom they become united has not attained his age of majority or is of unsound mind, the period shall not begin to run before he has attained that age or become of sound mind, as the case may be.

(*3*) A merger under this section shall not operate to the prejudice of any person having a lien upon the interest merged.

(*4*) When, at the time of a merger taking place in respect of a tenancy under this section, a subtenancy exists immediately under that tenancy, the person who becomes the owner of the consolidated interests shall, subject to the provisions of the law for the time being in force relating to sales of land for arrears of Government revenue and to the provisions of this Act as to sales for arrears of rent, have the same rights against, and be subject to the same obligations towards, the sub-tenants, as the owner of the tenant's interest had, and was subject to, before the merger.

E.—Of the appointment of a Manager on behalf of co-owners of an estate or tenure.

142. When co-owners of an estate or tenure disagree as to the management thereof, and in consequence there has ensued, or is likely to ensue,

[D. s. 16. C. B. s. 65 (1). B. B. s. 57 (1).

Power to call upon co-owners to show cause why they should not appoint a common manager.

(*a*) inconvenience to the public, or

(*b*) injury to private rights,

the District Judge may, upon the application in case (*a*) of the Collector, and in case (*b*) of any one having an interest in the estate or tenure, direct a notice to be served upon all the co-owners, calling upon them to show cause why they should not appoint a common manager:

Provided that a co-owner of an estate or tenure shall not be entitled to apply under this section unless he is actually in possession of the interest he claims and, if he is a co-owner of an estate, unless his name and the extent of his interest are registered under Act VII of 1876 passed by the Lieutenant-Governor of Bengal in Council.

143. If the co-owners fail to show cause as aforesaid within one month after service of a notice under section 142, the District Judge may make an order directing them to appoint a common manager, and a copy of the order shall be served upon any co-owner who did not appear before it was made.

C. B. s. 65 (2). B. B. s. 57 (2).

Power to order them to appoint a manager if cause is not shown.

144. If the co-owners do not, within one month after the making of an order under section 143, or, where the order has been served as directed by that section, within one month after such service, appoint a common manager and report the appointment for the information of the District Judge, the District Judge may—

C. B. s. 66 B. B. s.

Power to appoint manager if order is not obeyed.

(*a*) direct that the estate or tenure be managed by the Court of Wards in any case in which the Court of Wards assents to undertake the management thereof; or

(*b*) in any case appoint a manager.

145. The Lieutenant-Governor of Bengal may nominate a person for any local area to manage all estates and tenures within that local area for which it may be necessary to appoint a manager under section 144, clause (*b*); and, when any person has been so nominated, no other person shall be appointed manager under that clause by the District Judge, unless in the case of any estate the Judge thinks fit to appoint one of the co-owners themselves as manager.

C. B. s. 66 B. B. s. 65

Power to nominate person to act in all cases under section 144(*b*).

Bengal Tenancy Bill.

(Chapter XI.—Settlement of Rents. Secs. 146—155.)

C. B. s. 66 3). B. B, s. 58 (3).

146. In any case in which the Court of Wards undertakes the management of an estate or tenure under section 144, so much of the provisions of the Court of Wards Act, 1879, as relates to the management of immoveable property shall apply to the management.

The Court of Wards Act, 1879, applicable to management by Court of Wards under section 144 (*a*).

IX (B. C.) of 1879.

C. B. s. 67. B. B. s. 59.

147. (*1*) A manager appointed under section 144, clause (*b*), shall receive by way of remuneration such fixed salary or percentage of the money collected by him as manager as the District Judge from time to time directs.

Provisions applicable to manager appointed under section 144(*b*).

(*2*) He shall give such security for the proper discharge of his duties as the District Judge directs.

(*3*) He shall, subject to the control of the District Judge, have, for the purposes of management, the same powers as the co-owners jointly might but for his appointment have exercised.

(*4*) He shall keep regular accounts, and allow the co-owners or any of them to inspect and take copies of those accounts; and

(*5*) He shall be removeable by the order of the District Judge, and not otherwise.

C. B. s. 68. B. B. s. 60.

148. When an estate or tenure has been placed under the management of the Court of Wards, or a manager has been appointed for the same under section 144, the District Judge may at any time direct that the management of it be restored to the co-owners if he is satisfied that such management will be conducted by them jointly without inconvenience to the public or injury to private rights.

Power to restore management to co-owners.

F.—Miscellaneous.

[B. B., s. 72 (5), (6) and (7).]

149. No tenant shall be ejected from his holding except in execution of a decree.

No ejectment except in execution of decree.

[B. B. ss. 21 (4), 37.]

150. Nothing in this Act shall entitle a tenant whose holding is transferable to transfer or bequeath, without the consent of his landlord, a portion only of the land comprised in the holding so that it may be held from the landlord by the transferee as a separate holding.

Portion of holding not transferable.

CHAPTER XI.

OF THE SETTLEMENT OF RENTS BY A REVENUE-OFFICER.

151. (*1*) The Local Government may, if it thinks fit, in any of the cases next hereinafter mentioned, make an order directing that the rents of all tenants or of any class of tenants in any local area shall be settled by Revenue-officers to be from time to time appointed by the Local Government in this behalf.

Power to order Revenue-officers to settle rents.

(*2*) The cases in which an order may be made under this section are the following, namely:—

(*a*) where a large proportion of the tenants or of the landlords applies for such an order, and deposits for the payment of expenses such amount as the Local Government directs:

(*b*) where the making of such an order is calculated to settle or avert a serious dispute existing, or likely to arise, between the tenants and their landlords generally:

(*c*) where a settlement of revenue is being made in respect of the local area, or the local area is comprised in an estate or tenure owned or managed by the Government or the Court of Wards.

(*3*) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made, and an order so notified shall continue in force until it is rescinded by an order notified in like manner.

152. While an order under section 151 continues in force in respect of any tenants, a Civil Court shall not, except as provided by section 155, clause (*b*), entertain a suit for the enhancement or reduction of the rents of those tenants under this Act.

Bar to jurisdiction of Civil Courts while order is in force.

153. (*1*) When the rents of any tenants to whom an order under section 151 applies are subject to alteration by order of a Court, the officer appointed to settle the rents of those tenants under this chapter shall, without any application being made to him in this behalf, fix those rents in accordance with the principles embodied in this Act, and so that no rent fixed under this section shall exceed the maximum prescribed by this Act in cases of enhancement.

Rents of certain tenants to be fixed.

(*2*) Where the Local Government has, under this chapter, directed a settlement of the rents of the occupancy-raiyats of any local area, and a table of rates and produce has not been prepared under Chapter VI for that local area, it may further direct the officer appointed to settle the rents to prepare such a table before proceeding to fix the rents of those raiyats.

154. When the rents of any tenants to whom an order under section 151 applies are not subject to alteration as aforesaid, the officer appointed to settle the rents of those tenants shall, without any application being made to him in this behalf, ascertain and record the rents payable by them.

Rents of other tenants to be ascertained and recorded.

155. (*1*) If in the course of the proceedings taken for fixing the rent of a tenant under section 153 any question arises which, in the opinion of the officer conducting those proceedings, would be more properly decided by a Civil Court, the officer may in his discretion, but subject to any rules made by the Local Government in this behalf,

Power to refer question to Civil Court or leave case to be dealt with by Civil Court.

(*a*) refer the question for decision to the Civil Court which would, but for section 152, have had jurisdiction to try a suit for the enhancement or reduction of the rent, or

(*b*) by order in writing direct that the tenant's case be excluded from the operation of this chapter and be left to be disposed of by suit in a Civil Court, as if the order under section 151 did not apply to it.

(*2*) When a Revenue-officer makes a reference under clause (*a*) of this section in respect of a tenant, he may either stay his proceedings in respect of that tenant, or, if the nature of the case admits of his doing so, pass an order in alternative form or otherwise fixing the rent contingent upon the decision of the Civil Court.

Bengal Tenancy Bill.

(Chapter XI.—Settlement of Rents. Secs. 156—161.)

156. (*1*) A Revenue-officer settling rents under this chapter shall prepare, in the prescribed form, one or more jamabandís, comprising all or such numbers of the tenants whose rents he is appointed to settle as the Board of Revenue may direct.

Preparation of jamabandí.

(*2*) Every jamabandí prepared under this section shall show in respect of each tenant comprised therein—

(*a*) the class to which he belongs, that is to say, whether he is a tenure-holder, occupancy-raiyat, tenant of a bastu holding, ordinary raiyat or under-raiyat;

(*b*) the land held by him;

(*c*) the name of his landlord;

(*d*) whether the rent has been fixed under section 153 or ascertained under section 154;

(*e*) the amount of the rent fixed or ascertained, and, when the rent is a gradually increasing one, the time at which, and the steps by which, it increases.

157. Every jamabandí prepared under section 156 shall be published in the prescribed manner, and any person objecting to any entry therein may, within one month from the date of the publication, present to the Revenue-officer, for transmission to the Commissioner of the Division, a petition stating his objection to the entry.

Publication of jamabandí and objections thereto.

158. (*1*) On the expiration of the said period of one month, the Revenue-officer shall submit to the Commissioner of the Division a copy of the jamabandí, with a report setting forth the grounds on which it has been prepared, and the petitions of objection (if any) which he may have received under section 157.

Submission of jamabandí and petitions of objection to the Commissioner and Board.

(*2*) The Commissioner shall consider the jamabandí and report, and the objections (if any), and, after allowing the objectors (if any) an opportunity of being heard, shall forward the papers to the Board of Revenue with his opinion regarding the same.

159. (*1*) The Board of Revenue may return the papers for further inquiry, or may submit the jamabandí with or without modifications to the Local Government for sanction.

Sanction to and final publication of jamabandí, and date from which it comes into force.

(*2*) The Local Government may return for further inquiry the papers received under sub-section (*1*) or may sanction the jamabandí with or without modification.

(*3*) When a jamabandí has been sanctioned by the Local Government under this section, it shall be published in the prescribed manner.

(*4*) A jamabandí published under this section shall come into force from the commencement of the agricultural year next following the publication.

160. When a jamabandí has come into force under section 159, a tenant's rent shown therein as fixed under section 153 shall be deemed to be the rent payable by him, and shall not, during the period of ten years next following the date on which the jamabandí comes into force, be enhanced in a suit instituted under this Act, except on the ground that since the jamabandí came into force an improvement has been made by the landlord which, but for this section, would entitle him to an enhancement:

Rent fixed under foregoing provisions to be deemed the rent payable.

Provided that—

(*1*) such rent may from time to time be altered in any other manner permitted by law: and

(*2*) nothing in this section shall prevent the rent shown in a jamabandí in respect of a tenancy from being called in question on any of the following grounds, namely:—

(*a*) that the tenancy does not exist or that the tenant is not liable to pay rent;

(*b*) that the tenant belongs to a class different from that to which he is shown in the jamabandí to belong;

(*c*) that the land comprised in the tenancy is different from, or more or less than, that shown in the jamabandí;

(*d*) that a rent different from that shown in the jamabandí has been fixed by a contract legally binding on the parties, and which has been brought to the notice of the officer preparing the jamabandí.

161. When a jamabandí has been published under section 159 a tenant's rent shown therein as, ascertained under section 154, shall be presumed to be the

Rent ascertained under foregoing provisions to be presumed to be the rent payable.

Bengal Tenancy Bill.

(Chapter XII.—Preparation of Record-of-rights by a Revenue-officer and Chapter XIII.—Recovery of Rents. Secs. 162—166.)

rent payable by that tenant until the contrary is shown.

Certain other entries in jamabandi to be presumed to be correct.

162. An entry made in a jamabandí under clause (*a*), clause (*b*) or clause (*c*) of section 156 shall, after the jamabandí has been published under section 159, be presumed for all purposes to be correct until the contrary is shown.

Expenses incurred in proceedings under this chapter how defrayed.

163. All expenses incurred by the Government in carrying out the provisions of this chapter in any local area, in any case mentioned in section 151, clause (*a*) or clause (*b*), including the salaries of all officers employed exclusively in carrying out those provisions therein, and such portions as the Local Government may from time to time fix of the salaries of officers employed in carrying out those provisions therein in addition to their other public duties, shall be defrayed by the landlords and tenants in that local area whose rents are fixed or ascertained under this chapter, in such proportions as the Local Government, having regard to all the circumstances of each case, may determine; and the proportion of those expenses so to be defrayed by any person shall be recoverable from him as if it were an arrear of revenue due by him.

CHAPTER XII.

OF THE PREPARATION OF A RECORD-OF-RIGHTS BY A REVENUE-OFFICER.

Power to order preparation of record-of-rights.

164. (*1*) The Local Government may, in any case with the previous sanction of the Governor General in Council, and may, if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that a record-of-rights shall be prepared for all tenancies or any class of tenancies in a local area by Revenue-officers to be from time to time appointed by the Local Government.

(*2*) The cases in which an order may be made under this section without the previous sanction of the Governor General in Council are the following, namely:—

(*a*) where a large proportion of the landlords or of the tenants applies for such an order and deposits for the payment of expenses such amount as the Local Government directs;

(*b*) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally; and

(*c*) where the local area is comprised in an estate or tenure which belongs to or is managed by the Government or the Court of Wards.

(*3*) The Local Government shall, in any order made by it under this section, specify the particulars to be included in the record-of-rights to be prepared under that order.

(*4*) The particulars so specified may be all or some of the following, namely:—

(*a*) the name of each tenant;

(*b*) the class to which he belongs, that is to say, whether he is a tenure-holder, occupancy-raiyat, tenant of a bastu holding, ordinary raiyat or under-raiyat;

(*c*) the land held by him;

(*d*) the name of his landlord; [B. B. s. 181.]

(*e*) the rent payable;

(*f*) the mode in which that rent has been fixed, whether by contract, by order of a Court or otherwise.

(*5*) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

Presumption as to entries in record.

165. Every entry in a record-of-rights prepared under section 164 shall be presumed to be correct until the contrary is proved.

CHAPTER XIII.

OF THE RECOVERY OF RENTS FROM RAIYATS AND UNDER-RAIYATS BY DISTRAINING THE PRODUCE OF THE HOLDING.

Cases in which an application for distraint may be made.

166. Where an arrear of rent is due to the landlord of a raiyat or under-raiyat, and has not been due for more than a year, and no security has been accepted therefor by the landlord, the landlord may, in addition to any other remedy to which he is entitled by law, present an application to the Court, having jurisdiction to entertain a suit for the recovery of the arrear, requesting the Court to recover the arrear by distraining, while in the possession of the cultivator, [B. B. ss. 101, 104, 123.]

(*a*) any crops or other products of the earth standing or ungathered on the holding;

(*b*) any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding, on a threshing-floor, or place for treading out grain or the like (whether in the fields or within a homestead) or in a storehouse.

Provided that an application shall not be made under this section—

(*1*) by a proprietor or manager as defined under the Bengal Land Registration Act, 1876, or a mortgagee of such a proprietor or manager, unless his name and the extent of his interest in the land in respect of which the arrear is due have been registered under the provisions of that Act; or VII (B. C.) of 1876.

Bengal Tenancy Bill.

(Chapter XIII.—Recovery of Rents. Secs. 167—172.)

(*2*) for the recovery of any sum in excess of the rent payable for the holding in the preceding agricultural year, unless that sum is payable under a written contract or in consequence of a proceeding under this Act or an enactment hereby repealed; or

[B. B. ss. 71, 125.]

(*3*) in respect of the produce of any part of the holding which the tenant has sublet with the written consent of the landlord.

[B. B. ss. 104-5.]

Form of application and fee payable.

167. (*1*) Every application under section 166 shall specify—

(*a*) the holding in respect of which the arrear is claimed, and the boundaries thereof, or such other particulars as may suffice for its identification;

(*b*) the name of the tenant;

(*c*) the period in respect of which the arrear is claimed;

(*d*) the amount of the arrear, with the interest, if any, claimed thereon, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the contract, or proceeding as the case may be, under which that amount is payable;

(*e*) the nature and approximate value of the produce to be distrained; and

(*f*) the place where it is to be found, or such other particulars as may suffice for its identification.

(*2*) Every such application shall be liable to the court-fee which would be payable in a suit instituted for the recovery of the arrear therein claimed.

(*3*) Every such application shall be signed and verified in the manner prescribed by the Code of Civil Procedure for the signing and verification of plaints; and, if the application so verified contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

[B. B. ss. 105 & 106.]

Procedure on receipt of application.

168. (*1*) The applicant shall, at the time of filing an application under section 166, or as soon after as the Court permits, file in Court such documentary evidence (if any) as he may consider necessary for the purposes of the application.

(*2*) The Court may examine the applicant, and may admit the application or reject it, or permit the applicant to furnish additional evidence in support of it.

Procedure if application is admitted.

169. If the application is admitted, the Court shall depute an officer to distrain the produce specified therein, or such portion of that produce as it thinks fit; and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it himself or placing some other person in charge of it in his behalf, and publishing a notification of the distraint in accordance with rules to that effect to be made by the High Court: [B.B.s. 107.]

Provided that produce, which from its nature does not admit of being stored, shall not be distrained under this section at any time less than twenty days before the time when it would be fit for reaping or gathering. D. s. 111.

Service of demand and account.

170. (*1*) The distraining officer shall, at the time of making the distraint, serve on the defaulter a written demand for the arrear due, and the costs incurred in making the distraint, together with an account exhibiting the grounds on which the distraint is made. [B.B. s. 108.]

(*2*) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

(*3*) The demand and account shall, if practicable, be served personally; but if a person on whom they are to be served absconds or conceals himself, or cannot otherwise be found, the officer shall affix copies of the demand and account on the outer door of the house in which he usually resides.

Right to reap, &c., produce.

171. (*1*) A distraint under this chapter shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation. [B. B. ss. 109 and 110.]

(*2*) In default of the person entitled to do so, the distraining officer shall cause any standing crops or ungathered products distrained to be reaped or gathered when ripe, and shall store the same in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood.

(*3*) In either case the distrained property shall be placed in the charge of the distraining officer, or of some other person appointed by him in this behalf.

Sale proclamation to be issued unless demand is satisfied.

172. (*1*) Unless the demand, with all costs of the application for distraint, be immediately satisfied, an officer distraining property [B.B. s. 113.]

Bengal Tenancy Bill.

(Chapter XIII.—Recovery of Rents. Secs. 173—182.)

under section 169 shall issue a proclamation specifying the particulars of the property distrained and demand for which it is distrained, and notifying that he will, at a place and on a specified day, not being less than three or more than seven days after the time of making the distraint, sell the distrained property by public auction.

(2) The proclamation shall be stuck up on a conspicuous place in the village in which the land is situate for which the arrears of rent are claimed.

[B.B. s. 114.] **173.** The sale shall be held at the place where the distrained property is, or at the nearest place of public resort, if the distraining officer is of opinion that it is likely to sell there to better advantage.

Place of sale.

[D. s. III.] **174.** Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter upon the land by himself, or by any person appointed by him in this behalf, and do all that is necessary for the purpose of tending and reaping or gathering them.

Power to sell produce before it is reaped or gathered.

[B. B. s. 115.] **175.** The property shall be sold by public auction in one or more lots, as the officer holding the sale may think advisable; and if the demand, with the costs of distraint and sale, is satisfied by the sale of a portion of the property, the distraint shall be immediately withdrawn with respect to the remainder.

Manner of sale.

[B.B. s. 116.] **176.** If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorised to act in his behalf, applies to have the sale postponed till the next day or (if a market be held at the place of sale) the next market-day, the sale shall be postponed until such day, and shall be then completed, whatever price may be offered for the property.

Postponement of sale.

[B.B. s. 117.] **177.** The price of every lot shall be paid in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks necessary, and in default of such payment the property shall be put up again and sold.

Payment of purchase-money.

[B.B. s. 118.] **178.** When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Certificate to be given to purchaser.

[B. B. s. 119.] **179.** (*1*) From the proceeds of every sale of distrained property under this chapter, the officer holding the sale shall pay to the applicant for distraint the expenses incurred by him on account of the distraint, calculated on a scale of charges prescribed by rules to be made by the Board of Revenue in this behalf.

Proceeds of sale how to be applied.

(2) The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale, and the surplus (if any) shall be paid to the person whose property has been sold.

[B. B. s. 120.] **180.** Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

Certain officers may not purchase.

[B. B. ss. 111, 123.] **181.** (*1*) If at any time after a distraint has been made under this chapter, and before the sale of the distrained property, the defaulter, or the owner of the distrained property where he is not the defaulter, deposits in the Court issuing the order of distraint, or in the hands of the distraining officer, the amount specified in the demand served under section 170, together with all costs which may have been incurred after the service of the demand, the Court or officer, as the case may be, shall grant a receipt for the same and the distraint shall forthwith be withdrawn.

Procedure where demand is paid before the sale.

(2) When the distraining officer receives the deposit, he shall forthwith pay the same into the Court.

(3) A receipt granted under this section to an owner of distrained property not being the defaulter shall afford a full protection to him against any subsequent claim for the arrears of rent on account of which the distraint was made.

(4) After the expiration of one month from the date of a deposit being made under this section, the Court shall pay over the same to the applicant for distraint, unless in the meanwhile the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation in respect of the same.

[B. B. s. 124.] **182.** (*1*) When an inferior tenant, on his property being lawfully distrained under this chapter for the default of a superior tenant, makes any payment under section 181, he shall be entitled to deduct the amount of that payment from any rent payable by him to his immediate landlord, and, if that landlord is not the defaulter, he shall in like manner be entitled to deduct the amount so deducted from any rent payable by him to his immediate landlord and so on until the defaulter is reached.

Amount paid by under-tenant for his lessor may be deducted from rent.

(2) Nothing in this section shall affect the right of an inferior tenant making a payment under section 181 to institute a suit for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

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(Chapter XIII.—Recovery of Rents. Secs. 183—192.)

[B.B. s. 126.] **183.** When land is sublet, and any conflict arises under this chapter between the rights of a superior and of an inferior landlord who distrain the same property, the right of the superior landlord shall prevail.

Conflict between rights of superior and inferior landlords.

184. When any conflict arises between an order for distraint issued under this chapter and an order issued by a Civil Court for the attachment or sale of the property which is the subject of the distraint, the order for distraint shall prevail, but, if the property is sold under that order, the surplus proceeds of the sale shall not be paid to the owner of the property under section 179 without the sanction of the Court by which the order of attachment or sale was issued.

Distraint of property which is under attachment.

[B. B. ss. 91, 122.] **185.** Any person who, otherwise than in accordance with this Act or some other enactment for the time being in force, distrains or attempts to distrain the produce of a tenant's holding, or prevents or attempts to prevent any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code.

Penalty for illegal distraint.

XLV of 1860.

[New.] **186.** When any offence punishable under section 185 is committed for the benefit of, or in behalf of, any person owning or claiming any interest in the land in respect of which the offence is committed, or having or claiming any interest in a dispute which has led to the commission of the offence, or when any person has accepted or derived any benefit from the commission of any such offence, he shall be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both, if, having reason to believe that the offence was likely to be committed, he has not used all lawful means in his power to prevent its commission.

Persons benefiting, &c., by offences under section 185 liable to punishment.

187. (*1*) The Local Government may, by an order published in the official Gazette, suspend the provisions of sections 166 to 184 (both inclusive) in any local area for such time as it thinks proper.

Power to suspend provisions of sections 166 to 184.

(2) So long as an order under this section continues in force, in respect of any local area, no Court shall receive an application for distraint for arrears of rent due on lands situate within that local area.

CHAPTER XIV.

SPECIAL RULES OF PROCEDURE APPLICABLE TO SUITS BETWEEN LANDLORD AND TENANT.

A.—Rules applicable to suits between landlord and tenant generally.

188. The cause of action in all suits between landlord and tenant as such shall, for the purposes of the Code of Civil Procedure, be deemed to have arisen within the local limits of the jurisdiction of the Civil Court which would have jurisdiction to entertain a suit for the recovery of the land in respect of which the relation of landlord and tenant exists between the parties.

Place of suing.

D. s. 174. C. B. s. 148. B. B. s. 165. XIV of 1882.

189. Every náib or gumáshta of a landlord empowered in this behalf by a written authority under the hand of the landlord shall, for the purposes of every such suit, be deemed to be the recognized agent of the landlord within the meaning of the Code of Civil Procedure, notwithstanding that the landlord may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending.

Náibs or gumáshtas to be authorised agents.

D. s. 169. C. B. s. 150. B.B. s. 167(*a*).

190. The particulars referred to in section 58 of the Code of Civil Procedure shall, in the case of such suits, instead of being entered in the register of civil suits prescribed by that section, be entered in a special register to be kept by each Civil Court, in such form as the Local Government may from time to time prescribe in this behalf.

Special register of suits.

D. s. 173. C. B. s. 147. B. B. s. 164. XIV of 1882.

B.—Rules applicable to particular classes of suits between landlord and tenant.

191. Sections 121 to 127 (both inclusive), 129, 194 to 197 (both inclusive), 305, and 320 to 325C (both inclusive) of the Code of Civil Procedure shall not apply in any suits of the following classes between landlord and tenant as such, namely:—

Sections 121 to 127, 129, 194 to 197, 305, and 320 to 325C of Code not to apply in suits for possession, rent or damages.

C. B. s. 165. B. B. s. 157. XIV of 1882.

(*a*) suits for the recovery of rent:

(*b*) suits for penalties claimable under any provision of this Act:

(*c*) suits to recover possession of the land.

192. The plaint in every suit of a description mentioned in section 191 shall contain, in addition to the particulars specified in section 50 of the Code of Civil Procedure, a statement of the extent, situation, designation and boundaries of the land held by the tenant; or, where the plaintiff is unable to give the boundaries, in lieu thereof a description sufficient for identification.

Particulars to be specified in plaint in such suits.

D. s. 185. C. B. s. 167. B. B. s. 169. XIV of 1882.

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(Chapter XIV.—Procedure in Suits between Landlord and Tenant. Secs. 193—202.)

D. s. 192. C. B. s. 173. B. B. s. 195.

193. The summons shall in every such suit be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the settlement of issues only.

Summons in such suits to be for final disposal.

194. The service of a summons on a defendant in any such suit may, if the Court so directs, be effected by forwarding the summons by post in a letter addressed to the defendant and registered under Part III of the Indian Post, Office Act, 1866.

Service of summons in such suits by registered letter.

XIV of 1866.

D. s. 108. C. B. s. 184. B. B. s. 206.

195. A written statement shall not be filed in any such suit without the leave of the Court.

Written statements not to be filed in such suits without leave.

B. B. s. 214.

196. The rules for recording the evidence of witnesses prescribed by section 189 of the Code of Civil Procedure shall apply in all such suits whether an appeal is allowed in them or not.

Mode of recording evidence in such suits.

XIV of 1882.

D. ss. 177 & 223. C. B. ss. 155 & 197. B. B. ss. 171 & 219.

197. When a decree, not being a decree of the description referred to in section 111, sub-section (*2*), is passed in any such suit, the Court may, when passing the decree, order on the oral application of the decree-holder the execution thereof.

Execution in such suits on oral application.

D. s. 179. C. B. ss. 157 & 220. B. B. ss. 172 & 242.

198. An appeal shall not lie from any decree or order passed, whether in the first instance or on appeal in any suit instituted by a landlord, for arrears or by a tenant for a penalty claimable under any provision of this Act where—

No appeal in certain suits for arrears and penalties.

(*a*) the decree or order is passed by a District Judge, Additional Judge or Subordinate Judge, and the amount claimed in the suit does not exceed one hundred rupees, or

(*b*) the decree or order is passed by any other judicial officer specially empowered by the Local Government to exercise final jurisdiction under this section, and the amount claimed in the suit does not exceed fifty rupees;

unless in either case the decree or order has decided a question relating to title to land or to some interest in land as between parties having conflicting claims thereto, or a question of a right to enhance or vary the rent of a tenant:

Provided that the District Judge may call for the record of any case in which a judicial officer as aforesaid has passed a decree or order to which this section applies, and, if he is satisfied that a failure of justice has been caused by a substantial error, defect or irregularity in the proceedings or in the decision, may pass such order as he thinks fit.

[New.]

199. (*1*) When, in a suit for an arrear of rent instituted against a tenant, the defendant admits that the arrear is due by him, but pleads that it is due to a person other than the plaintiff, the Court may, if it thinks fit, refuse to take cognizance of the plea until the defendant has paid the amount of the arrear into Court.

Defendant in suit for arrear admitting arrear is due, but disputing plaintiff's title, to pay into Court.

(*2*) When the amount of an arrear has been paid into Court under this section, the Court shall give the defendant a receipt for the same, and the receipt so given shall operate as an acquittance for the arrear, in the same manner and to the same extent as if it had been paid to the person entitled to it.

(*3*) The Court shall forward the amount paid in to the officer to whom an application to deposit the rent would be made under section 103 and it shall thereupon be deemed to be a deposit received under clause (*c*) of that section.

[C. B. s. 108 B. B. s. 220.]

200. Notwithstanding anything contained in section 232 of the Code of Civil Procedure, an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the land has become, and is vested in him.

When assignee of decree for arrears may apply for execution.

[B. B. ss. 128 & 130, cl. (*b*).]

201. (*1*) A decree for enhancement of rent under this Act, if passed in a suit instituted in the first eight months of an agricultural year, shall not take effect before the commencement of the agricultural year next following, and, if passed in a suit instituted in the last four months of the agricultural year, shall not take effect before the commencement of the agricultural year next but one following.

Date from which decree for enhancement takes effect.

(*2*) Subject to the provisions of sub-section (*1*), it shall be in the discretion of the Court to fix the date from which any such decree shall take effect.

[B. B. ss. 21. (*e*). 31, 44 & 45 Vic. C. 41 s. 14.]

202. (*1*) A suit for the ejectment of a tenant, on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment, shall not be entertained unless the landlord has requested the tenant, where the damage or breach is capable of remedy, to remedy the same, and, in any case, to pay reasonable compensation for the damage or breach, and the tenant has failed to comply within a reasonable time with that request.

Relief against forfeitures.

(*2*) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the damage or breach, and whether, in

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(Chapters XIV, XV.—Procedure in Suits between Landlord and Tenant. Sale of Transferable Holdings in Execution, &c. Secs. 203—208.)

the opinion of the Court, the damage or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the damage or breach is declared to be capable of remedy, to remedy the same.

(*3*) The Court may from time to time extend a period fixed by it under sub-section (*2*) for remedying a damage or breach.

(*4*) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the damage or breach is declared by the Court to be capable of remedy, remedies the damage or breach to the satisfaction of the Court, the decree shall not be executed.

[C. B. s. 80. B. B. s. 73.]

203. The following rules shall be applicable in the case of every raiyat ejected from a holding:—

Rights of ejected raiyats in respect of crops and land prepared for sowing.

(*a*) When the raiyat has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the crops as estimated by the Court executing the decree for ejectment.

(*b*) When the raiyat has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejectment, together with reasonable interest on that value:

Provided that a raiyat shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage.

[C. B. s. 80. B. B. s. 73.]

204. When a landlord elects, under section 203, clause (*a*), to allow a raiyat to retain possession of any land for the purpose specified in that clause, the raiyat shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejectment may deem reasonable.

Payment by raiyat for occupation of land under section 203.

[New.]

205. In all suits and proceedings for ejectment, the Court shall inquire into and determine all claims under this Act by the landlord against the tenant as such, or by the tenant against the landlord as such.

All claims between landlord and tenant to be determined in ejectment-proceedings.

206. (*1*) When it appears to a Court making an inquiry under section 205 that the amount payable by the landlord to the tenant as such exceeds the amount payable by the tenant to the landlord as such, the decree or order for ejectment (if any) shall, unless the landlord and tenant come to an arrangement regarding the payment of the excess sum, specify a time within which it must be paid into Court.

Procedure when, on ejectment, money is due by the landlord to the tenant.

(*2*) If it is so paid within the time specified, the Court shall eject the tenant; and

if it is not so paid, the Court shall refuse to eject the tenant.

C.—Suit to determine status, &c., of tenant.

[C.B.s. 151, B. B. s. 168.]

207. Every landlord may institute a suit against his tenant, and every tenant against his landlord, for the determination of all or any of the following matters, namely:—

Suit to determine status, &c., of tenant.

(*a*) the land held by the tenant;

(*b*) the class to which he belongs, that is to say, whether he is a tenure-holder, occupancy-raiyat, tenant of a bastu holding, ordinary raiyat, or under-raiyat, and, if he is a tenure-holder, whether his rent is liable to enhancement; and

(*c*) the rent payable by him at the time the suit is instituted.

CHAPTER XV.

OF THE SALE OF TRANSFERABLE HOLDINGS IN EXECUTION OF DECREES FOR ARREARS DUE ON THEM.

D. s. 155. C. B. ss. 206 Expl. & 210 B. B. ss. 223 Expl. & [illegible]

208. (*1*). "Incumbrance" in this chapter, used with reference to a tenancy, means any lien, sub-tenancy, easement or other right or interest created upon the holding by the tenant in limitation of his own interest therein, except—

Definitions.

(*a*) a tenure existing from the time of the permanent settlement;

(*b*) a tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;

(*c*) a tenure of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals,

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(Chapter XV.—Sale of Transferable Holdings in Execution, &c. Secs. 209—214.)

places of worship or burning or burying grounds have been made;

(*d*) a right of occupancy;

(*e*) a right conferred on an occupancy-raiyat to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and

(*f*) any right or interest which the landlord has expressly and in writing given the tenant permission to create.

C. B. s. 206 Expl. B. B. s. 228 Expl.] (2) "Registered incumbrance" in this chapter, used with reference to a tenancy on which an arrear of rent is due, means any incumbrance which the defaulter or his predecessor in interest has created by an instrument registered under the Registration Act for the time being in force, and of which, after it has been registered, a copy has been served on the landlord under section 223, not less than six months before the arrear became due.

C. B. s. 201. B. B. s. 223.] **209.** (1) When a decree has been passed for an arrear of rent due for a transferable holding, and the decree-holder applies under section 235 of the Code of Civil Procedure for the attachment and sale of the holding in execution of the decree, his application shall contain, in addition to the particulars specified in that section and section 237 of the said Code, a statement of the annual rent of the holding.

Application for sale of holding.

XIV of 1882.

(2) When the holding is a permanent tenure, there shall be filed with the application a copy of so much of the register kept under Chapter III as relates to the tenure.

s. s. 152. B. s. 203. B. s. 225.] **210.** (1) When an order has been passed for the sale of a holding upon an application made under section 209, the proclamation made under section 287 of the Code of Civil Procedure shall, in addition to stating and specifying the particulars mentioned in that section, announce—

Proclamation announcing sale.

of 1882.

(*a*) in the case of a tenure, that the tenure will first be put up to auction subject to the registered incumbrances and will be sold subject to those incumbrances if the sum bid is sufficient to liquidate the amount of the decree and costs, and that otherwise it will, if the decree-holder so desires, be sold on a subsequent day of which due notice will be given with power to annul all incumbrances; and

(*b*) in the case of an occupancy-holding, or bastu holding, that the holding will be sold with power to annul all incumbrances.

(2) The proclamation shall, besides being made in the manner prescribed by section 289 of the said Code, be published in such manner as the Local Government may, from time to time, direct in this behalf.

C. B. s. 206. B. B. s. 228(*a*) and Expl. **211.** (1) When a tenure has been advertised for sale under section 210, it shall be put up to auction, subject to registered incumbrances; and, if the bidding reaches a sum sufficient to liquidate the amount of the decree and costs, including the costs of sale, the tenure shall be sold subject to such incumbrances.

Sale of tenure subject to registered incumbrances and effect thereof.

(2) The purchaser at a sale under this section may, in manner provided by section 214, and not otherwise, annul any incumbrance upon the tenure not being a registered incumbrance.

C. B. s. 207(*a*) B. B. s. 229(*a*) **212.** (1) If the bidding for a tenure put up to auction under section 211 does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, and if the decree-holder thereupon desires that the tenure be sold with power to avoid all incumbrances, the officer holding the sale shall adjourn the sale and make a fresh proclamation under section 289 of the Code of Civil Procedure, announcing that the tenure will be put up to auction and sold with power to avoid all incumbrances upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure shall be put up to auction and sold with power to avoid all incumbrances.

Sale of tenure with power to avoid all incumbrances and effect thereof.

XIV of 1882.

D. s. 155. C. B. s. 210. B. B. s. 232. (2) The purchaser at a sale under this section may, in manner provided by section 214, and not otherwise, annul any incumbrance on the tenure.

B. B. s. 228(*b*). **213.** (1) When an occupancy-holding or bastu holding has been advertized for sale under section 210, it shall be put up to auction and sold with power to avoid all incumbrances.

Sale of occupancy-holding with power to avoid all incumbrances and effect thereof.

(2) The purchaser at a sale under this section may, in manner provided by section 214, and not otherwise, annul any incumbrance on the holding.

214. (1) A purchaser having power to annul an incumbrance under section 211, section 212, or section 213, and desiring to avoid the same, may within one year from the date on which he first has notice of the incumbrance, present to the Collector an application in writing, requesting him to serve on the incumbrancer a notice declaring that the incumbrance is annulled.

Procedure for annulling incumbrances under the foregoing sections.

(2) Every such application must be accompanied by such fee for the service of the notice as the Board of Revenue may fix in this behalf.

(3) When an application for a service of a notice is made to the Collector in manner prescribed by this section, he shall cause the notice to be served in compliance therewith, and the incumbrance shall be deemed to be annulled from the date on which it is so served.

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(Chapter XV.—Sale of Transferable Holdings in Execution, &c. Secs. 215—222.)

B. B. s. 225(*c*). **215** (1). The Local Government may, from time to time, by notification in the official Gazette, direct that occupancy-holdings in any local area put up for sale in execution of decrees for rent due on them shall, before being put up with power to avoid all incumbrances, be put up subject to registered incumbrances, and may by like notification rescind any such direction.

Power to direct that occupancy-holdings be dealt with under foregoing sections as tenures.

(2) While any such direction remains in force in respect of any local area, all occupancy-holdings in that local area shall, for the purposes of sale under the foregoing sections of this chapter, be treated in all respects as if they were tenures.

D. s. 246. C. B. s. 211. B. B. s. 233. **216.** (1) In disposing of the proceeds of a sale under this chapter, the following rules, instead of those prescribed by section 295 of

Rules for disposal of the sale-proceeds.

XIV of 1882. the Code of Civil Procedure, shall be observed, that is to say:—

(*a*) There shall first be paid to the decree-holder the costs incurred by him in bringing the holding to sale.

(*b*) There shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made.

(*c*) If there remains a balance after these sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have fallen due to him in respect of the holding between the institution of the suit and the date of the sale, but not more than six months after the date of the final decree.

(*d*) The balance (if any) remaining after the payment of the rent mentioned in clause (*c*) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application.

(2) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (*c*), the Court shall determine the dispute, and the determination shall have the force of a decree.

B. s. 153. C. B. s. 204. B. B. s. 226. XIV of 1882. Holding to be released from attachment only on payment into Court of amount of decree with costs, or on confession of satisfaction by decree-holder.

217. (1) Sections 278 to 283 (both inclusive) of the Code of Civil Procedure shall not apply to a holding attached in execution of a decree for arrears due thereon.

(2) When an order for the sale of a holding in execution of such a decree has been made, the holding shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree, including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the holding on the ground that the decree has been satisfied out of Court.

(3) Nothing in this section shall affect the right of any person to institute a suit to set aside the sale of a holding under this chapter.

D. ss. 35, 36, 154. C. B. s. 205. B. B. s. 227. **218.** (1) When any person having, in a holding advertized for sale under this chapter, an interest which would be voidable upon such sale, pays into Court the amount requisite to prevent the sale,

Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the holding.

(*a*) the amount so paid by him shall be deemed to be a debt bearing interest at twelve per cent. per annum and secured by a mortgage of the holding to him;

(*b*) his mortgage shall, subject to the provisions of section 125, be deemed to be the first charge on the holding; and

(*c*) he shall be entitled to take possession of the holding as mortgagee, and retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(2) Nothing in this section shall affect any other remedy to which any such person would be entitled.

D. ss. 35, 36, 154. C. B. s. 227. **219.** When a holding is advertised for sale under this chapter in execution of a decree against a superior tenant defaulting, and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court in order to prevent the sale, he may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord; and, if that landlord is not the defaulter, he may in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

Inferior tenant paying into Court may deduct from rent.

C. B. s. 206(1) B. B. s. 230(1) XIV of 1882. **220.** (1) Notwithstanding anything contained in section 294 of the Code of Civil Procedure, the holder of a decree in execution of which a holding is sold under this chapter may without the permission of the Court bid for or purchase the holding.

Decree-holder may bid at sale; judgment-debtor may not.

(2) The judgment-debtor shall not bid for or purchase a holding so sold.

XIV of 1882. **221.** Sections 313 and 326 of the Code of Civil Procedure shall not apply to any sale under this chapter.

Operation of sections 313 and 326 of Code of Civil Procedure excluded.

New. III of 1877. **222.** Notwithstanding anything contained in Part IV of the Indian Registration Act, 1877, an instrument creating an incumbrance upon any transferable holding which has been executed before the commencement of this Act, and is not required by section 17 of the said Registration Act to be registered, shall be accepted for registration under that Act if it is presented for that purpose to the proper officer within one year from the commencement of this Act.

Registration of certain instruments creating incumbrances.

C. B. s. 209 Expl. B. B. s. 229 Expl. **223.** Every officer who has, whether before or after the passing of this Act, registered an instrument executed by a tenant of a transferable holding and creating an incumbrance on the holding, shall, at the request

Registration-officer to serve copies of instruments creating incumbrances.

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(Chapter XVII.—Supplementary. (Schedule I.—Repeal of Enactments.)

of the tenant or of the person in whose favour the incumbrance is created, and on payment by him of such fee as the Local Government may fix in this behalf, cause a copy of the instrument to be served on the landlord in the manner prescribed in Part VII of the Indian Registration Act, 1877, for the service of summons.

III of 1877.

CHAPTER XVI.

OF LIMITATION.

Limitation in suits, appeals and applications in Schedule IV.

224. The suits, appeals and applications specified in Schedule IV annexed to this Act shall be instituted and made within the time prescribed in that schedule for them respectively; and every such suit or appeal instituted, and application made, after the period of limitation so prescribed, shall be dismissed, although limitation has not been pleaded.

XV of 1877.

Portions of the Indian Limitation Act not applicable to such suits, &c.

225. Sections 7, 8 and 9 of the Indian Limitation Act, 1877, shall not apply to the suits and applications mentioned in section 224.

CHAPTER XVII.

SUPPLEMENTARY.

Saving as to service-tenures.

226. Nothing in this Act shall confer a right to transfer or bequeath a service-tenure which, before the passing of this Act, was not capable of being transferred or bequeathed.

Power to make rules regarding procedure and powers of officers.

227. The Local Government may, from time to time, by notification in the official Gazette, make rules consistent with this Act to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

(*a*) any power exercised by a Civil Court in the trial of suits;

(*b*) power to enter upon any land, and to survey, demarcate and make a map of the same; and

(*c*) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil.

Procedure for making, publication and confirmation of rules.

228. (*1*) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(*2*) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may in its opinion be sufficient for giving information to persons interested, and in the case of rules made by any other authority, in the prescribed manner.

(*3*) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(*4*) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*5*) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

Náibs and gumáshtas of landlords.

229. Any appearance, application or act in, before, or to, any Court or other authority required or authorized by this Act to be made or done by a landlord may, unless the Court or authority otherwise directs, be made or done also by a náib or gumáshta of the landlord empowered in this behalf by a written authority under the hand of the landlord; and every notice required by this Act to be served on, or given to, a landlord shall, if served on, or given to, a náib or gumáshta of the landlord empowered as aforesaid to accept service of or receive the same, be as effectual for the purposes of this Act as if it had been served on, or given to, the landlord in person.

Rights of pasturage, forest-rights, &c.

230. The provisions of this Act applicable to suits for the recovery of arrears of rent shall, as far as may be, apply to suits for the recovery of anything payable or deliverable in respect of any rights of pasturage, forest-rights, rights over fisheries and the like.

SCHEDULE I.

(*See Section 2.*)

REPEAL OF ENACTMENTS.

Regulations of the Bengal Code.

Number and year.	Subject of Regulation.	Extent of repeal.
VIII of 1793 .	A Regulation for re-enacting with modifications and amendments the rules for the Decennial Settlement of the Public Revenue payable from the lands of the zemindars, independent talukdars, and other actual proprietors of land in Bengal, Behar, and Orissa, passed for those Provinces respectively on the 18th September 1789, the 25th November 1789, and the 10th February 1790, and subsequent dates.	Sections 51, 52, 53, 54, 55, 64, and 65.
XII of 1805 .	A Regulation for the settlement and collection of the Public Revenue in the zila of Cuttack, including the parganas of Pattáspur, Kummadichour, and Bagrae, at present included in the zila of Midnapur.	Section 7.
V of 1812 .	A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.	Sections 2, 3, 4, 26 and 27.

Bengal Tenancy Bill.

(Schedule I.—Repeal of Enactments, and Schedule II.—Extract from Preamble to Regulation VIII of 1819.)

SCHEDULE I—*contd.*

Number and year.	Subject of Regulation.	Extent of repeal.
XVIII of 1812 .	A Regulation for explaining Section 2, Regulation V, 1812, and rescinding Sections 3 and 4, Regulation XLIV, 1793, and Sections 3 and 4, Regulation I, 1795, and enacting other rules in lieu thereof.	Preamble and Sections 2 and 3.
VIII of 1819 .	A Regulation to declare the validity of certain tenures, and to define the relative rights of zamíndárs and patní taluqdárs; also to establish a process for the sale of such taluqs in satisfaction of the zamíndár's demand of rent, and to explain and modify other parts of the system established for the collection of rents generally throughout Bengal.	The whole Regulation.
I of 1820 .	A Regulation for providing that all sales of certain taluqs, made answerable by sale for arrears of the zamíndár's rent, shall be conducted in the mode prescribed by Regulation VIII, 1819, for the sales therein described.	The whole Regulation.
XI of 1825 .	A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea.	In Clause 1 of Section 4, from and including the words "nor if annexed to a subordinate tenure" to the end of the Clause.

Acts of the Bengal Council.

Number and year.	Subject of Act.	Extent of repeal.
VI of 1862 .	An Act to amend Act X of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	The whole Act.
VIII of 1865 .	An Act to amend the law for the sale of such undertenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.	The whole Act.
IV of 1867 .	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.
VIII of 1869 .	An Act to amend the Procedure in suits between Landlords and Tenants.	The whole Act.
VIII of 1879 .	An Act to define and limit the powers of Settlement-officers.	The whole Act.

Acts of the Governor General in Council.

Number and year.	Subject of Act.	Extent of repeal.
XXV of 1850 .	An Act for the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII, 1819, and Act I V, 1846.	So much a is unrepealed.
XXXIIIof 1850 .	An Act for amending the forms necessary for the sale of patní tenures in Bengal.	The whole Act.
VI of 1853 .	An Act relating to summary suits for arrears of rent, to sales of pátní taluqs and other saleable Tenures, and to sales of land in satisfaction of summary decrees for rent.	The whole Act.
X of 1859 .	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.

SCHEDULE II.

(*See Section 36.*)

Extract from Preamble to Regulation VIII of 1819.

"In the exercise of the privilege * * * conceded to zamíndárs under direct engagements with Government, there has been created a tenure which had its origin on the estates of the Rájá of Bardwán, but has since been extended to other zamíndáris; the character of which tenure is, that it is a taluq created by the zamíndár, to be held at a rent fixed in perpetuity, by the lessee and his heirs for ever; the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he is excused from this obligation at the zamíndár's discretion; but even if the original tenant be excused, still, in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbent has always in practice been liable to be so called upon at the option of the zamíndár.

Bengal Tenancy Bill.

(*Schedule III.—Summary Sale of Patní Tenures.*)

"By the terms also of the engagements interchanged, it is, amongst other stipulations, provided that, in case of an arrear occurring, the tenure may be brought to sale by the zamíndár, and if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand.

"These tenures have usually been denominated patní taluqs, and it has been a common practice of the holders of them to underlet on precisely similar terms to other persons who, on taking such leases, went by the name of darpatní taluqdárs: these, again, sometimes similarly underlet to bepatnídárs; and the conditions of all the title-deeds vary in nothing material from the original engagements executed by the first holder."

SCHEDULE III.

SUMMARY SALE OF PATNÍ TENURES.

(See section 42.)

Extract from Regulation VIII of 1819, amended in accordance with subsequent enactments.

8. *First.*—Zamíndárs, that is, proprietors under direct engagements with the Government, shall be entitled to apply in the manner following for periodical sales of any tenures upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure.

Zamíndárs allowed sales of tenures, in which right to sell for arrears is reserved.

The exercise of this power shall not be confined to cases in which the stipulation for sale may have been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for a sale at the end of the year, in conformity with the practice heretofore allowed by the Regulations in force.

Second.—On the first day of Baisákh, that is, at the commencement of the following year from that of which the rent is due, the zamíndár shall present a petition to the Collector, containing a specification of any balances that may be due to him on account of the expired year, from all or any taluqdárs or other holders of an interest of the nature described in the preceding clause of this section.

First sale to be applied for on first Baisákh.

The same shall then be stuck up in some conspicuous part of the kachahrí, with a notice that if the amount claimed be not paid before the first of Jeth following, the tenures of the defaulters will on that day be sold by public sale in liquidation.

Should, however, the first of Jeth fall on a Sunday or holiday, the next subsequent day, not a holiday, shall be selected instead; a similar notice shall be stuck up at the sadr kachahrí of the zamíndár himself, and a copy or extract of such part of the notice as may apply to the individual case shall be by him sent to be similarly published at the kachahrí or at the principal town or village upon the land of the defaulter.

The zamíndár shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the mufassal shall be served by a single peon, who shall bring back the receipt of the defaulter, or of his manager, for the same; or in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood, in attestation of the notice having been brought and published on the spot.

If it shall appear from the tenor of the receipt or attestation in question that the notice has been published at any time previous to the fifteenth of the month of Baisákh, it shall be a sufficient warrant for the sale to proceed upon the day appointed.

In case the people of the village should object or refuse to sign their names in attestation, the peon shall go to the kachahrí of the nearest munsif, or if there should be no munsif, to the nearest thánáa, and there make voluntary oath of the same having been duly published; certificate to which effect shall be signed and sealed by the said officers and delivered to the peon.

Third.—On the first day of Kártik, in the middle of the year, the zamíndár shall be at liberty to present a similar petition, with a statement of any balances that may be due on account of the rent of the current year, up to the end of the month of Asin, and to cause similar publication to be made of a sale of the tenures of defaulters, to take place on the first of Aghan, unless the whole of the advertised balance shall be paid before the date in question, or so much of it as shall reduce the arrear, including any intermediate demand for the month of Kártik, to less than one-fourth or a four-anna proportion of the total demand of the zamíndár, according to the kistbandí, calculated from the commencement of the year to the last day of Kártik.

Mid year sale to be applied for on first of Kártik.

9. All sales of saleable tenures applied for under the rules of this Regulation shall be made in public kachahrí; the land shall be sold to the highest bidder, and every one not the actual defaulter shall be free to bid, not excepting the person in satisfaction of whose demand the sale may be made, nor the under-tenants of the defaulter; fifteen per cent. of the purchase-money shall be paid immediately the lot is knocked down, and the officer conducting the sale shall be competent to refuse to accept a bid, or to knock down a lot to any bidder, unless he has assurance to his satisfaction that the amount

Sales how conducted.

Bengal Tenancy Bill.

(*Schedule III.—Summary sale of Patní Tenures.*)

required to be deposited is in hand for the purpose, or will be produced within two hours.

If the fifteen per cent. be not paid in cash, * * * * * * * * * within two hours of the sale, or an equivalent amount in Government securities be not lodged, the lot shall be resold on the same day, and if the remainder of the purchase-money be not paid by noon of the eighth day, notice shall be given of resale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the bázár of the sadr station of the zila, after which the lot shall be resold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen per cent. already made, and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one; such deficiency to be levied by the process for the execution of decrees of the Civil Courts.

The forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be credited to Government.

10. At the time of the sale, the notice previously stuck up in the kachahrí shall be taken down, and the lots be called up successively in the order in which they may be found in that notice.

Forms to be observed in selling.

A person shall attend on the part of the zamíndár, with a particular statement of the payments made up to the day of sale, on account of the balance of each advertised lot, together with the receipt for, or certificate of, the notice directed to be published in the mufassal, nor shall any lot be put up to sale until the statement produced shall have been inspected, and the existence of a balance for the year ascertained therefrom, nor until the receipt for the notice shall have been read; the observance of which forms shall be recorded in a separate rubakárí to be held upon each lot sold.

If the sale be of the description provided for in the third clause of section 8 of this Regulation, the kistbandí of the defaulter shall likewise be produced, in order that it may be seen that the balance remaining unpaid exceeds a four-anna proportion of the demand up to the date of sale; nor shall the sale take place unless this be ascertained.

The zamíndár shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the public officer making the sale be answerable in any respect, except for its fairness and publicity, and for the observance of the rules prescribed for his guidance in this Regulation.

11. *First.*—It is hereby declared, that any taluq or saleable tenure that may be disposed of at a public sale, under the rules of this Regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said taluq may have been held.

Tenure to be sold free of incumbrance by act of defaulter.

No transfer by sale, gift or otherwise, no mortgage or other limited assignment, shall be permitted to bar the indefeasible right of the zamíndár to hold the tenure of his creation answerable, in the state in which he created it, for the rent which is in fact his reserved property in the tenure, except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such zamíndár.

Second.—In like manner, on sale of a taluq for arrears, all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred; the possessors of such interests must consequently lose the right to hold possession of the land and to collect the rents of the raiyats; this having been enjoyed merely in consequence of the defaulter's assignment of a certain portion of his own interest, the whole of which was liable for the rent.

No under-lease to stand after sale.

* * * * *

13. *First.*—With reference to the injury that may be brought upon the holder of a taluq of the second degree by the operation of the preceding rules, in case the proprietor of the superior tenure purposely withholds the rent due from himself to the zamíndár, after having realised his own dues from the inferior tenantry, it is deemed necessary to allow such taluqdárs the means of saving their tenures from the ruin that must attend such a sale; and the following rules have accordingly been enacted for this purpose.

Reason for allowing under-tenants means of staying sale.

Second.—Whenever the tenure of a taluqdár of the first degree may be advertised for sale in the manner required by the second and third clauses of section 8 of this Regulation, for arrears of rent due to the zamíndár, the taluqdárs of the second degree, or any number of them, shall be entitled to stay the final sale, by paying into the Collectorate the amount of balance that may be declared due by the person attending on the part of the zamíndár on the day appointed for sale; in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answering any demand that may remain due on the day fixed for the sale, and should the amount lodged be sufficient, the sale shall notproceed, but after

How under-tenants may stay sale.

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(Schedule III.—Summary sale of Patní Tenures.)

making good to the zamíndár the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it.

Third.—If the amount so lodged shall be rent due by the inferior taluqdár to the holder of the advertised tenure, the same shall be stated at the time of making the deposit, and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim of rent that may at the time be pending, or be thereafter brought forward against him or them by the proprietor of the advertised tenure, on account of the year or months for which the notice of sale may have been published.

Procedure in case of amount lodged being rent due from under-tenant;

Fourth.—If the person or persons making such a deposit, in order to stay the sale of the superior tenure, shall have already paid the whole of the rent due from himself or themselves, so that the amount lodged is an advance from private funds, and not a disbursement on account of the said rent, such deposit shall not be carried to credit in, or set against, future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the taluq so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereupon, in the same manner as if the loan had been made upon mortgage, and he or they shall be entitled, on applying for the same, to obtain immediate possession of the tenure of the defaulter, in order to recover the amount so advanced from any profits belonging thereto.

and in case of amount lodged being advanced from private funds.

If the defaulter shall desire to recover his tenure from the hands of the person or persons who, by making the advance, may have acquired such an interest therein, and entered on possession in consequence, he shall not be entitled to do so, except upon repayment of the entire sum advanced, with interest at the rate of twelve per cent. per annum up to the date of possession having been given as above, or upon exhibiting proof, in a regular suit to be instituted for the purpose, that the full amount so advanced, with interest, has been realised from the usufruct of the tenure.

14. *First.*—Should the balance claimed by a zamíndár on account of the rent of any under-tenure remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve, in the manner provided for in sections 9 and 10 of this Regulation; nor shall it be stayed or postponed on any account, unless the amount of the demand be lodged.

Sale not to be stayed unless arrear claim be lodged.

It shall, however, be competent to any party desirous of contesting the right of the zamíndár to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the zamíndár for the reversal of the same, and upon establishing a sufficient plea, to obtain a decree with full costs and damages.

But suit to lie for its reversal.

The purchaser shall be made a party in such suits, and upon decree passing for reversal of the sale, the Court shall be careful to indemnify him against all loss, at the charge of the zamíndár or person at whose suit the sale may have been made.

Second.—In cases also in which a taluqdár may contest the zamíndár's demand of any arrear, as specified in the notice advertised, such taluqdár shall be competent to apply for a summary investigation at any time within the period of notice; the zamíndár shall then be called upon to furnish his kabuliyat and other proofs at the shortest convenient notice, in order that the award may, if possible, be made before the day appointed for sale.

Defaulter may apply for summary investigation.

Such award, if so made, will of course regulate the ulterior process; but if the case be still pending, the lot shall be called up in its turn, notwithstanding the suit; and if the zamíndár or his agent in attendance insist on the demand, the sale shall be made on his responsibility, nor shall it be stayed, or the summary suit be allowed to proceed, unless the amount claimed be lodged in cash, * * * * * * * * or in Government securities, by the taluqdár contesting the demand; and if such deposit be not made, the alleged defaulter will have no remedy, but by a regular action for damages and for a reversal of the sale.

Sale not to be stayed unless amount claimed be deposited.

15. *First.*—So soon as the entire amount of the purchase-money shall have been paid in by the purchaser at any sale made under this Regulation, such purchaser shall receive from the officers conducting the sale a certificate of such payment.

Delivery of possession to purchaser.

The purchaser shall then proceed with the certificate in question to procure a transfer to his name in the kachahrí of the zamíndár, and upon furnishing security, if required, to the extent of half the jama or annual rent, he shall receive the usual 'amaldastak' or order for possession, together with the notice to the raiyats and others to attend and pay their rents henceforward to him.

The zamíndár shall also be bound to furnish access to any papers connected with the tenure purchased, that may be forthcoming in his kachahrí; and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished or tendered on requisition, the new purchaser shall be entitled to apply direct to the Collector; and he shall receive the orders for possession, and shall be

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(Schedule III.—Summary sale of Patní Tenures.)

put in possession, of the lands by means of the názir, in the same manner as possession is obtained under a decree of Court; * * *

* * * * * * *

Second.—When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the collections of the new purchaser, from the lands composing his purchase, the latter shall be at liberty to apply immediately to the Collector for the aid of the public officers in obtaining possession of his just rights.

Procedure in case of opposition to purchaser.

A proclamation shall then issue under the seal and signature of the Collector declaring that the new incumbent having, by purchase at a sale for arrears of rent due to the zamíndár, acquired the entire rights and privileges attaching to the tenure of the late taluqdár, in the state in which it was originally derived by him from the zamíndár, he alone will be recognized as entitled to make the zamíndárí collections in the mufassal, and no payments made to any other individual will on any account be credited to the raiyats or others in any suit for rent or on any other occasion whatever when the same may be pleaded.

Third.—Should the late incumbent or his late under-tenants continue to oppose the entry of the new purchaser, notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the Police-officers and of all other public officers who may be at hand and capable of affording assistance shall be given to the new purchaser, on his presenting a written application for the same; and in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.

Procedure in case of continued opposition.

* * * * *

17. *First.*—The following rules have been enacted for the disposal of the proceeds of any sale made under the rules of this Regulation.

Disposal of proceeds of sales.

Second.—One per cent. shall first be deducted from the nett proceeds realised, and shall be carried to the account of Government, for the purpose of meeting the expense of any extra establishments which it may be necessary to maintain for carrying into effect the provisions of this Regulation.

Deduction on account of Government.

Third.—The balance on account of which the sale may have been made shall next be made good in full (with interest and all charges incurred in bringing the taluq to sale) to the zamíndár or other person to whom the same may be due; provided, however, that no former balances, beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year), shall be included in the demand to be thus satisfied.

Payment to zamíndárs.

Such antecedent balances, if the zamíndár shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will have become in fact mere personal debts of the individual taluqdár, and must be recovered in the same way as other debts by a regular suit in the Court.

Fourth.—Any excess that may remain after satisfying the demand of the zamíndár, in the manner above described, shall be forthwith sent by the officer conducting the sale to the treasury of the Collector or Assistant Collector of the district, to be there held in deposit to answer the claims of the taluqdárs of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest on the land composing the taluq sold, or on any part of it,

Disposal of remainder.

Fifth.—It shall be competent to any one conceiving himself to possess such an interest to bring forward his claim to the price he may have paid for the same, or for a just compensation for the loss sustained by him in consequence of the sale, by instituting a regular suit at any time within two months from the date of sale.

Under-tenants free to prosecute for price of their interest or compensation.

If the Court shall, on investigation, consider the plaintiff's claim to be an equitable one, the Court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any other amount that may be deemed just and equitable under all the circumstances.

If there be more claimants than one, payment shall not be made from the deposit, until the whole of the claims be settled; and in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately, and the remainder stand as a personal debt against the defaulter, to be realised from him by the usual process for the execution of decrees.

Sixth.—Provided, however, that no taluqdár of the second degree or other possessor of an assigned interest upon the land of the tenure sold, who may

Suit not to lie if under tenant be himself in arrear at time of sale.

Bengal Tenancy Bill.
(Schedule IV.—Limitation.)

be holding under a stipulation for the payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or assignment upon its becoming cancelled by sale of the superior taluq, except after exhibiting proof that the whole amount of the rent demandable from himself has been paid or lodged for the purpose prior to the date of sale.

When defaulter to receive excess unclaimed.

Seventh.—Should no claims upon the purchase-money of a taluq sold as above be brought forward by any under-tenants or assignees, within the period of two months from the date of sale, or should the amount claimed by those who may have sued not equal the entire deposit, the defaulter whose tenure may have been sold shall be at liberty to petition the Court for the amount so held in deposit, or for the excess thereof, as the case may be, and he shall receive a certificate under the seal of the Court, of there being no claims to afford ground of detention for the whole or any part of the deposit; and upon exhibiting such certificate to the Collector, the amount set free thereby shall be paid to his receipt.

In the same manner, upon executing a decree passed in favour of any under-tenants or assignees, they shall receive certificates under the seal of the Court, declaring the amount adjudged to them out of the deposit; and upon exhibiting these certificates, the amount shall be paid severally to their receipts by the Collector.

Substitution of Government securities for cash in deposit.

Eighth.—It shall be competent to any party interested in a deposit, to withdraw the whole or any part thereof, on substituting Government securities, bearing interest, in lieu of the money so held in deposit; such securities to be taken at the rate of discount or premium of the day, as shown by the Government Gazette last received.

SCHEDULE IV.

(See Section 224.)

PART I.—*Suits.*

Description of suit.	Period of Limitation.	Time from which period begins to run.
1. To eject any tenure-holder or raiyat on account of any breach of a condition in respect of which there is a contract expressly providing that ejectment shall be the penalty of such breach.	One year .	The date of the breach.

SCHEDULE IV—continued.

PART I.—*Suits.*—concluded.

Description of Suit.	Period of Limitation.	Time from which period begins to run.
2. For the recovery of an arrear of rent—		
(*a*) when the arrear fell due before a deposit was made on account of the rent of the same holding under section 103.	Six months .	The date of the deposit.
(*b*) in other cases .	Three years .	The last day of the Bengali year in which the arrear fell due, where that year prevails, and the last day of the month of Jeyt of the Amli or Fasli year in which the arrear fell due, where either of those years prevails.

PART II.—*Appeals.*

Description of Appeal.	Period of Limitation.	Time from which period begins to run.
3. From any decree or order under this Act to the Court of a District Judge.	Thirty days .	The date of the decree or order appealed against.
4. From any order of a Collector under this Act to the Commissioner.	Thirty days .	The date of the order appealed against.

PART III.—*Applications.*

Description of Application.	Period of Limitation.	Time from which period begins to run.
5. For the execution of a decree or order made under this Act, or any Act repealed by this Act, and not being a decree for a sum of money exceeding Rs. 500, exclusive of any interest which may have accrued after decree upon the sum decreed, but inclusive of the costs of executing such decree, except where the judgment-debtor has by fraud or force prevented the execution of the decree.	Three years .	(1) The date of the decree of order; or (2) where there has been an appeal, the date of the final decree or order of the Appellate Court; or (3) where there has been a review of judgment, the date of the decision passed on the review.

STATEMENT OF OBJECTS AND REASONS.

THE history of landlord and tenant legislation in Bengal, and of the circumstances which have led to the preparation of the present Bill, is given in full detail in the papers which have been published. A very brief summary of it must suffice here.

Immediately before the Permanent Settlement was made, the Court of Directors, in conveying instructions to the Government here regarding it, wrote as follows*:—

"In order to leave no room for our intentions being at any time misunderstood, we direct you to be accurate in the terms in which our determination is announced. * * * * You will, in a particular manner, be cautious so to express yourselves as to leave no ambiguity as to our right to interfere, from time to time, as it may be necessary, for the protection of the raiyats and subordinate landlords, it being our intention, in the whole of this measure, effectually to limit our own demands, but not to depart from our inherent right as sovereigns of being the guardians and protectors of every class of persons living under our Government."

2. In conformity with these instructions, an article was inserted in section 8 of Regulation I of 1793, by which the Permanent Settlement was effected, expressly saving the right of the Government to legislate for the protection of persons having interests in the soil below those of the zamíndárs. It need hardly be said that any such saving was, strictly speaking, superfluous, inasmuch as the Government of an agricultural country like India would, apart altogether from it, be entitled, or rather bound, to legislate from time to time, as occasion might require, for the protection of the inferior occupants of the soil. But the article is important as showing that the view taken of the relations between the Government, the zamíndárs and the inferior landholders under the Permanent Settlement was the same in 1793 as it is to-day.

The article runs as follows:—

"To prevent any misconstruction of the foregoing articles" (fixing the Government revenue for ever) "the Governor General in Council thinks it necessary to make the following declarations to the zamíndárs, independent taluqdárs and other actual proprietors of land:—*First*, it being the duty of the ruling power to protect all classes of people, and more particularly those who, from their situation, are most helpless, the Governor General in Council will, whenever he may deem it proper, enact such regulations as he may think necessary for the protection and welfare of the dependent taluqdárs, raiyats and other cultivators of the soil; and no zamíndár, independent taluqdár or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay."

3. Again, it was enacted by section 67 of Regulation VIII of 1793 (a Regulation re-enacting, with modifications, the rules for the Decennial Settlement) that proprietors should be bound by the restrictions in their kabuliyats, and the 9th of these, as stated by Harington (Vol. II, page 255), was "that implicit obedience be shown to all regulations which have been or may be prescribed by Government concerning the rents of the raiyats and the collections from undertenants and agents of every description, as well as from all other persons whatever."

4. The most important enactment passed in pursuance of these provisions is Act X of 1859, the substantive provisions of which, either in their original form or as re-enacted in Act VIII of 1869† (of the Bengal Council), still govern the relations of landlord and tenant in Bengal.

The effect of Act X of 1859 is admitted to have been on the whole beneficial; but on certain important points it cannot be considered a success. In particular, as will presently be explained at greater length, it placed the right of occupancy, which it recognized in the tenant, and the right to enhance rent, which it recognized in the landlord, on a most precarious footing. The result of this has been that, as usually happens with a law which is uncertain in its operation, it has added strength to the strong and further weakened those who were already weak. In Bihár, where the social and economical conditions of the country tend to give the landlords the upper hand, we hear of tenants rack-rented, subjected to *quasi*-feudal oppressions and arbitrarily ousted from their holdings; in Eastern Bengal, on the contrary, where circumstances favour the tenants, we hear of landlords who not only cannot obtain the enhancements of rent to which they are entitled, but at times, when tenants combine against them, cannot even recover what is admitted to be due at existing rates.

5. The difficulties connected with Act X of 1859 began to be felt at an early period. It received the assent of the Governor General on the 29th of April, 1859, and before the end of 1863 its amendment had been suggested by Sir Barnes Peacock, the Chief Justice of Bengal, and by the Revenue-authorities of the North-Western Provinces. Of late years, successive Lieutenant-Governors of Bengal have borne witness to the existence of chronic evils, which nothing short of comprehensive legislation could cure. In 1873, Sir George Campbell had no

* Harington II, pp. 191-92.

† Throughout this Statement Act X of 1859 only will be referred to. It will be understood that what is said regarding it applies equally to Act VIII of 1869.

doubt that the Government would be eventually compelled to deal with the whole question of the relations of landlords and raiyats in Bengal. In 1876, in the course of the debates on the Agrarian Disputes Act, a measure devised to meet the difficulties between landlords and tenants in Eastern Bengal, the Hon'ble Kristodás Pál, a representative of the zamíndárs, urged that the indefiniteness of the principles of Act X of 1859 had brought suits for the adjustment of rents to a dead-lock. Sir R. Temple concurred in the opinion that some principle for determining rates of rent should be fixed by legislation, and in August, 1876, proposed to introduce a Bill to define the principles on which the rights of occupancy-raiyats and tenure-holders should be fixed, to simplify the procedure for realizing arrears of rent in undisputed cases, to extend the definition of "occupancy-raiyat," and to render the interest of a raiyat of that class liable to sale for default in paying rent and transferable by private agreement.

These proposals had not, however, been fully considered when Sir R. Temple, early in 1877, made over charge of the Lieutenant-Governorship to Sir Ashley Eden; and it was then arranged that the larger amendment of the law should be deferred, and a Bill providing only for the realization of undisputed arrears introduced at once.

6. It was, however, found, when the Bill was introduced, that it was impracticable to limit its scope in this way. The discussion as to the transferability of the right of occupancy had materially advanced, and it had been recognized that the legislature would have to alter the law with reference to ejectment, distraint, instalments and deposits of rent, and possibly sub-letting. It began to be apparent that many of the proposed provisions would eventually prove to be intimately connected with other portions of the existing law not ostensibly affected by them; and in February, 1879, a majority of the Select Committee on the Bill recommended that the whole subject of a revision of the Rent Law should be once for all fairly faced. This proposal was supported by Sir Ashley Eden; and in April, 1879, the Government of India sanctioned the formation of a Commission to prepare a digest of the existing statute and case law, and to frame the draft of a consolidating Bill.

7. Meanwhile, a separate discussion had been proceeding with reference to the abuses already mentioned as prevailing in the relations between landlords and tenants in Bihár. As far back as the year 1868, Lord Lawrence, then Governor General, had recorded a minute relating to the depressed state of the peasantry in Bihár, in which he had said that he believed "that it would be necessary for the Government sooner or later to interfere and pass a law which should thoroughly protect the raiyat and make him—what he is now only in name—a free man, a cultivator with the right to cultivate the land he holds, provided he pays a fair rent for it." Again, in the years 1875 and 1876, when the condition of Bihár came under consideration, it was acknowledged that some remedies must be applied. Two years later, the Lieutenant-Governor appointed a committee of experienced Bihár officials to advise upon the matter; and on the 8th March, 1879, they submitted their report, proposing so many changes of the existing law that they did not consider that the requirements of the case would be properly met by a mere amending Bill. They were of opinion that the whole rent law should be recast.

8. Thus, two independent committees arrived simultaneously at the same conclusion, namely, that the time for a complete revision of the existing law had arrived.

The report of the Bihár committee was referred to the Rent Law Commission, which was appointed under the sanction referred to above (paragraph 6), and that Commission, on the 19th June, 1880, submitted its report with a draft Landlord and Tenant Bill, which, having been revised by the Government of Bengal, has furnished the basis of the present Bill.

9. Before proceeding to give the explanations usual in a statement of this description, it should be mentioned, first, that these explanations will, as far as possible, be confined to points on which it is proposed to alter the existing law, and secondly, that the Bill is no more than it purports to be, namely, a Bill to amend and consolidate existing enactments.

10. With reference to this latter remark, it will be observed that the Bill prepared by the Rent Commission was intended to be in some sense a code of the law relating to agricultural tenancies. It, in many instances, incorporated portions of the common law or case law which have not hitherto been embodied in any legislative enactment in this country. In this respect the present Bill does not follow that of the Rent Commission; but it must not be inferred from this that the views of the Government of India on the important subject of codification have undergone any change. It may be desirable, at some future time, to carry out the design of the Rent Commission in its integrity, and make the Bengal Tenancy Act a complete and self-contained statement of the whole law; but it has been considered that the work of codification is one to be undertaken at a season of leisure, and not at a time like the present, when those, who are responsible for the framing of our legislative measures, are absorbed in the consideration of important substantive amendments of particular portions of the existing law, and are consequently unable to devote to the law as a whole that amount of attention, which would be required in order to carry out the work of codification with any prospect of success.

In the following portions of this Statement the order of the Bill will, as far as possible, be adhered to.

CHAPTER I.—*Preliminary.*

11. The Bill, it will be observed (section 1), extends by its own vigour to the whole of the territories under the administration of the Lieutenant-Governor of Bengal, except the town of Calcutta, the Division of Orissa and the Scheduled Districts.

The Lieutenant-Governor is specially empowered by section 1 to extend the whole Bill, or any portion of it, to the Orissa Division, with the sanction of the Governor General in Council, and he can, with like sanction, extend the whole, or any portion of it, to any Scheduled District under the power conferred on him by the Scheduled Districts Act.

12. The classes of tenants, to which the provisions of the Bill apply, are (section 3 (8)) tenure-holders, raiyats, under-raiyats and persons having a certain interest in *bastu* land, which will be found explained further on under the head of Chapter VII.

13. The term "tenure-holder" as used in the Bill is defined (section 3 (3) and (4)) to include what are commonly known as undertenure-holders, that is to say, darpatnídárs, sepatnídárs, darijaradárs and such like; and also tenants of the class hitherto known as raiyats at fixed rates. The inclusion of tenants of this latter class in the definition is convenient from the draftsman's point of view, but is, it is believed, otherwise of little importance, inasmuch as the incidents which are attached to their holdings place them to all practical intents and purposes on the same footing as tenure-holders.

14. The term "raiyat" has, following the Bill prepared by the Rent Law Commission, been limited to tenants holding land for purposes of agriculture, horticulture or pasture, or who have come into possession for such purposes, except where *bastu* or homestead land is included in a raiyat's agricultural holding, in which case it will be treated in the same way as the rest of the holding, and he will be deemed to hold it as a raiyat.

15. Except as just stated, no attempt has been made to define the terms "tenure-holder" and "raiyat," or to settle the distinction between these two classes of tenants.

The importance of this distinction for the purposes of the Bill has not been overlooked, nor has the possibility that cases may occur near the line of separation between the two classes, in which a doubt will arise as to whether the tenant is a tenure-holder or a raiyat; but it is believed that the distinction is generally well understood, and that, save in exceptional cases, no difficulty will arise. However this may be, no complete definition has as yet been suggested which would not be certain to give rise to difficulties greater than those which it is intended to remove.

16. Under-raiyat, as defined in the Bill, includes all tenants holding whether immediately or mediately below a raiyat.

17. Section 4, besides saving certain special laws which would, as a matter of course, be saved in a general enactment of this description, provides that nothing in the Bill "shall affect any custom or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions."

A saving of this description is unavoidable in a measure which, as already observed, does not purport to be an exhaustive code, and its importance will be seen from the illustration appended, which shows that it will protect such rights as rights of occupancy enjoyed under a custom by under-raiyats, a class of tenants protected only to a limited extent by the Bill.

CHAPTER II.—*Of the distinction between khámár and raiyatí land.*

18. The second chapter of the Bill deals with the distinction between "khámár land," or the private land of the proprietor, and raiyatí land, or the land destined for occupation by raiyats. The importance of this distinction arises chiefly from the circumstance that raiyats occupying land of the latter class will, under the Bill, enjoy a much larger measure of protection than those occupying land of the former class. Bearing this in mind, and having regard to the efforts made by landlords in some parts of the country, under the existing law, to get into their own hands as large an amount of the raiyatí land as possible and convert it into khámár land, it has been thought necessary to make it clear by the definition that the existing stock of khamar land cannot hereafter be increased, and further to enact (section 6) that all land which is not khamar land shall be deemed to be raiyatí land, and that all land shall be presumed to be raiyatí land until the contrary is proved.

19. In Bihár, owing to the large extent of the khámár, or, as it is there termed, "zeraat", land, and the persistent efforts made by the landlords and their lessees to increase its extent, the question is one of cardinal importance; and there may be other exceptional tracts where the necessity of distinguishing clearly and finally between khámár and raiyatí land may prove to be pressing. To meet such cases, it is further thought necessary to provide (sections 7 to 13)

for making a complete survey and record of the existing khámár or zeraat, and thus preclude all possibility of future disputes on the point.

CHAPTER III.—*Of Tenure-holders generally.*

20. The alterations which it is proposed to make in the existing law regarding tenures, are not of great importance.

Section 14 converts the present raiyats at fixed rates into tenure-holders, but, as already explained (*supra*, paragraph 13), the change is unimportant.

21. Section 20, which saves to a landlord in a temporarily-settled tract a right to raise the rent of any tenure when a new settlement of the revenue is made, is new; but it may be defended as being in accordance with the views that prevail as to the relative position of the landlord, the tenant and the Government in such tracts. The Government has an undoubted right to raise its revenue on the occasion of a fresh settlement. Of this right no act of the landlord can deprive it; and accordingly, if the landlord were to be bound by a grant at fixed rates, made by him so as to extend beyond the term of the settlement, the result would be that, on the occasion of a new settlement, he might be exposed to the risk of having to pay an enhanced revenue without the possibility of recovering it from his tenant.

22. The Rent Commissioners observe that there are in the existing law no express provisions for the enhancement of the rents of tenures, and that the want of a definite enactment on the point has given rise to much expensive litigation. The sections of the Bill relating to this matter are based on those drafted by the Commissioners, and the grounds on which they rest will be best seen from the following extract from the Commissioners' report:—

"We have," they say, "provided for the enhancement of the rent of tenures and under-tenures, by enacting that, in any case in which such rent is liable to enhancement,—there are cases in which it is not so liable,—it may be enhanced up to the limit of the customary rate payable by persons holding similar tenures or undertenures in the vicinity, or, where no such customary rate exists, up to such limit as to the Court shall appear fair and equitable, but so that the profit of the tenure-holder or undertenure-holder shall not (in the absence of certain special circumstances, to be noticed hereafter) exceed thirty per centum of the balance which remains after deducting, from the gross rents payable to him, the expenses of collecting such rents. It may be observed that, according to the rule contained in section 8 of Regulation V of 1812, ten per cent. of the balance just mentioned was allowed to the tenure-holder. This section was repealed by Act X of 1859, but, by some oversight, no provision was substituted by this Act, though the principle, as being fair and equitable in itself, and usual by reason of the provisions of the Regulation, was, on several occasions, acted upon by the Courts after that Act was passed. It appears to a majority of us, after careful consideration, that the limit of *ten* per cent. is too low, and we have accordingly allowed a higher limit, namely, that of a maximum not exceeding *thirty* per cent. in ordinary cases.* We have provided for the special and well-known case of *jangalbari* holdings by enacting that, when more than one hundred bíghás of land have been demised for reclamation purposes, more than half being at the time unreclaimed, and the whole having been subsequently reclaimed, the rent of the tenant may not be enhanced so as to leave him a profit of less than twenty per cent. of the net balance above-mentioned, and the Court may allow him such profit in excess of twenty per cent. as to it appears fair and equitable. In order to prevent these new provisions from working hardship by any sudden and great change, we have annexed the following checks:—(*a*) the enhanced rent shall not in any case be more than double the previous rent: (*b*) the Court may direct that the enhancement shall take effect gradually, or, in other words, that the rent shall increase yearly during any number of years not exceeding five, until the limit of the enhancement allowed has been reached: and (*c*) that rent once enhanced shall not be altered for ten years unless on account of alluvion or diluvion."

23. The only further points calling for notice in connection with these sections are, that it has been provided that the tenure-holder's profits shall never be less than 10 per cent. of the net balance, that the provision regarding jangalburi tenures has been made applicable to all such tenures irrespective of the area comprised in them, and that a clause has been added providing that, when a tenure-holder has made improvements other than those referred to by the Commissioners, the Court may allow him such amount, by way of profit, as it thinks fit, provided it be not less than 10 per cent.

* Mr. Justice Levinge mentions, in his Minute on Act X, a case in which *two-thirds* (he does not say, whether of the gross or net collections) were given to the landlord and the residue to the middleman. If the calculation was here made on the net collections, the collection expenses being at ten per cent., the middleman got 30 per cent., being $100-\frac{2(100-10)}{3}-10$.

24. In section 26, it is enacted that a permanent tenure-holder shall not be ejected by his landlord except under a decree of Court passed on the ground that he has broken a condition, on breach of which he is, under a written contract between him and his landlord, liable to be ejected.

25. The alterations which are made in the existing law by sections 27 to 35, relating to the registration in the landlord's serishta of transfers of, and successions to, permanent tenures, are (so far as they seem to call for notice) as follows:—

(*a*) A fee is made payable in respect of the registration of every succession and every transfer other than a transfer on a sale for arrears of rent.

(*b*) An application for the registration of a voluntary transfer or a succession may, instead of being made to the landlord, be made to a Revenue-officer, who will serve a notice on the landlord requiring him to register.

(*c*) Where a tenure is sold in execution of a decree other than a decree for arrears of rent, the Court will cause a notice to be served on the landlord requiring him to register the transfer.

(*d*) If a landlord refuses or neglects to register for one month after he is bound to do so, the persons interested may apply to the Civil Court to compel him to register.

(*e*) Similarly, if the party or parties concerned do not apply for registration within six months from the date of a voluntary transfer or a succession, the landlord may apply to have him or them compelled to allow the registration and pay the requisite fee.

(*f*) The landlord is required to give to the parties concerned copies of entries in his register; the first copy to be given free of charge, subsequent copies on payment.

(*g*) The Board of Revenue is empowered to make rules regulating registration.

26. The proposal of the Rent Commission to extend the registration system to occupancy-holdings has not been adopted, as it is feared that there would be great difficulty in bringing home to persons of the raiyat class the details of such a system.

CHAPTER IV.—*Of Patní Tenures.*

27. The law relating to patní tenures is left substantially unchanged. The various proposals which have been made for the amendment of the summary sale procedure have not been overlooked; but it is thought that, as they touch only matters of detail relating to an institution of a very special nature, they would be best considered at the Select Committee stage of the Bill, when it is hoped it may be found possible to simplify the form of the law very much without materially changing its substance. Meantime, the existing enactments have been thrown into Schedule III of the Act, and are made operative by section 42.

CHAPTER V.—*Of Raiyats with a Right of Occupancy.*

28. Chapter V, which treats of the acquisition of the occupancy-right and of the incidents generally of that right, is one of the most important chapters in the Bill.

It will be seen, from the papers that have been published in connection with this measure, that a controversy has arisen, and has been conducted on both sides with much ability and research, as to whether some such right as that which we usually term a right of occupancy did not originally belong, and ought not now to be recognized as belonging, to all raiyats in Bengal except those whose occupation of the land is of a merely transitory nature. It is unnecessary now to enter upon the merits of that question, inasmuch as, after a full consideration of the position, it has been determined that the legislation to be undertaken by the Government shall proceed on the assumption that the occupancy-right is to be recognized as appertaining only to such tenants as may be shown to be in some special sense settled or permanent. But the problem of defining the class of tenants in whom such a right should be recognized is, when limited by this assumption, one of considerable difficulty.

29. The conditions requisite to confer the status of the "khudkásht raiyat," so frequently referred to in our revenue enactments and records, may in earlier times, and especially when thoroughly organized village-communities prevailed, have been to a certain extent definite and ascertainable; but, in spite of all the learning and research which have been brought to bear, they are not now to be discovered. The probability is that they were always very vague; that, notwithstanding their vagueness, no difficulty arose so long as land was abundant, the pressure of the Government revenue heavy and the status of a privileged cultivator of little value; and that it was only with the progress of agriculture, the increase in the value of landed property and the consequent disputes regarding interests in land, that the need of some more precise definition came to be felt.

30. A definition framed under such circumstances would necessarily be to a great extent artificial, and in moulding its details there would necessarily be a good deal of room left for considerations of equity and expediency. We find accordingly, on referring to the proceedings connected with Act X of 1859, that those who framed that Act assumed a considerable latitude in settling the conditions on which the occupancy-status should be acquired. In the Bill

as read a first time, they proposed to confer on every "resident" raiyat a right of occupancy in the "land held by him," and they justified this on the ground that the word "khudkásht," as used in the Regulations, seemed to be synonymous with "resident"; but subsequently, it having been pointed out to them by the Revenue-authorities of the North-Western Provinces that "residence was not always a condition of occupancy," they adopted the rule embodied by them in the Act, namely, that twelve years' holding of the same land shall give a right of occupancy in that land. This rule, which was obviously to a large extent artificial, was copied by them from a similar rule which was issued by the North-Western Provinces Government, apparently as a mere executive suggestion to its officers, in the year 1836, as that "most consistent with the existing practice and recognized rights" in those provinces. The only feature common to the two rules is that of a raiyat in some sense permanent in, or settled in, the locality, and it would seem that the persons who framed those rules considered that as long as they maintained this feature, they were at liberty to define, in such manner as they might think equitable and expedient, the circumstances which should be taken to constitute the requisite degree of permanency or settlement. This is quite intelligible in the view above suggested, that, though the status of the khudkásht raiyat was still a recognized institution, the conditions requisite to establish it were so vague that they could not be described otherwise than as resting on a certain ill-defined degree of permanency in a particular locality.

31. Act X of 1859 is admitted to have done much towards improving the relations between landlord and tenant, but, in this particular matter of defining the conditions requisite to the establishment of a right of occupancy, it cannot be pronounced a success. It would be unjust to charge this want of success altogether against the Act itself. It has been held by the highest judicial authority that the provisions of the Act with respect to the establishment of the right of occupancy should be construed as cumulative and not as exhaustive or exclusive of all other modes of establishing that right; but, as a matter of fact, the Act has come to be regarded as a Code complete in itself, and as superseding all other modes of establishing the right. Its effect has consequently been to injure seriously the rights of the old established raiyats, by throwing upon them the burden of proving, not merely that they have held for twelve years in the village or estate, but further that they have so held in every one of the particular fields or plots, in respect of which they claim to have rights of occupancy, a burden which, it need hardly be said, it is impossible for them, in the absence of any trustworthy agricultural records, to discharge. And, as regards the acquisition of rights of occupancy by new comers,—a matter which is always regarded as absolutely necessary for the prosperity of the agriculturist class in this country,—it becomes almost impossible under a law which enables the landlord to prevent it by the simple device of shifting the tenant from one holding to another before the period of twelve years has run out.

32. It is unnecessary to state here the various remedies which have been proposed for these evils. They will be found described and discussed in paragraph 61 of the letter of the Government of India to the Secretary of State, No. 6, dated 4th March, 1882. It is enough to state the amendment of the law which the Government, after a very full discussion of the question, has resolved to propose. That amendment follows with certain modifications a suggestion of the Famine Commissioners, and consists in making the acquisition of the status of the khudkásht raiyat, or, as he is termed in the Bill, the "settled raiyat," depend not on the holding of one and the same plot of land for twelve years, but (section 45) on the holding of any raiyatí land (whether the same or not it does not matter) in the same village or estate for a period of twelve years whether before or after the passing of the Act. The raiyat may, by ceasing for one year to hold land as a raiyat in the village or estate (section 46), lose the status so acquired, but while it continues to adhere to him, he will, notwithstanding any contract to the contrary, be deemed to have acquired a right of occupancy in any raiyatí land held by him as a raiyat in the village or estate after the 2nd March, 1883, the date on which it is proposed to introduce the Bill. It should be added that, in order to obviate the effect which the minute partitions of estates, so common of late in certain parts of the country, would have in reducing the area in respect of which a settled raiyat of an estate would enjoy his status as such, it is in effect provided by section 43 that the estate shall, for the purposes of this portion of the Act, be taken to be the estate as it would have existed if no partition had taken place since the 1st of January, 1853.

33. It will be observed from the above that a right of occupancy is acquired by a settled raiyat holding raiyatí land "*notwithstanding any contract to the contrary*." It is considered essential to carry the enactment to this extent. As observed by the Government of India in paragraph 85 of their letter No. 6 of the 21st March, 1882, "such is the power of the zamíndárs, so numerous and effective are the means possessed by most of them for inducing the raiyats to accept agreements which, if history, custom and expediency be regarded, are wrongful and contrary to good policy, that to uphold contracts in contravention of the main purpose of the Bill would be, in our belief, to condemn it to defeat and failure. It is absolutely necessary that such contracts should be disallowed, and in this conclusion we have the support not only of the Bengal Government but also of the almost unanimous opinions of the Bengal officers."

34. These provisions apply only to raiyatí land. The acquisition of a right of occupancy in the landlord's khamar land is, by section 49, kept on the same footing as under the existing law

35. It is only necessary to add, as regards the acquisition of the right, that it is provided by section 44 of the Bill that every raiyat, who immediately before the commencement of the Act has, by the operation of any enactment, by custom or otherwise, a right of occupancy in any land, shall, when the Act comes into force, become an occupancy-raiyat of that land for the purposes of the Act, and that (section 48) a right of occupancy may be acquired by a grant from h e landlord.

36. As regards the probable effect of the new provisions regarding the acquisition of the right of occupancy, it should be stated that no great increase of the area at present subject to that right is looked for from them; indeed, if the statement which has been made by a high authority, that 90 per cent. of the raiyats in Bengal already have that right, is correct, any such increase would scarcely be possible; but what is hoped for is, first, that a stop may be put to the vigorous efforts, which are at present being made by landlords in some parts of the country, to withdraw land from the operation of the right by preventing the natural growth of a fresh occupancy-right in the place of an old right which has determined; and secondly, that, where occupancy-rights do as a matter of fact exist, the proof of their existence may be a matter of less difficulty than it is at present to the ignorant and helpless raiyat.

37. Section 50 states in general terms the more important incidents of the occupancy-right. They attach to the tenancy notwithstanding any contract between the landlord and raiyat, and are briefly as follows:—

(1) the raiyat may use the land in any manner which does not render it unfit for the purposes of the tenancy;

(2) he may make improvements on it as provided by the Bill;

(3) he must pay rent at fair and equitable rates as determined by the Bill;

(4) he cannot be ejected except under a decree passed for breach of certain conditions, or for using the land in such a way as to render it unfit for the purposes of the tenancy;

(5) he may sublet the land;

(6) his interest is to be transferable subject to certain rights reserved to the landlord; and

(7) his interest is to descend as if it were land.

38. Several of these incidents will be referred to at greater length in connection with the portions of the Bill specially relating to them. The sixth falls to be considered here, inasmuch as most of the remaining sections of the chapter are occupied with the rules regulating the rights reserved to the landlord when an occupancy-holding is transferred by sale, mortgage, gift or bequest.

The question whether the right of occupancy should be made by express enactment freely transferable everywhere, as it is at present held to be by custom throughout a very large portion of the area to which the Bill applies, has been most fully and carefully considered. It has to be looked at from two points of view, namely, first, from the point of view of the landlord, and secondly, in the interests of the tenant.

39. From the former point of view the question presents comparatively little difficulty. The landlord is concerned only to see that we do not allow an objectionable tenant to be forced on him against his will, and this we can readily guard against by giving him a right of pre-emption, or something equivalent thereto, in every case of transfer. It has accordingly been provided that, in cases of voluntary sale, gift or bequest, the landlord shall have a right to purchase at a price to be fixed by the Civil Court; that in the case of a sale in execution of a decree, when the landlord and any other person bid the same amount, the landlord shall have the right of pre-emption; and that, when an order is passed for foreclosing a mortgage of an occupancy-right, the landlord shall be allowed an opportunity of paying in the amount of the mortgage-debt and taking the place of the mortgagee. The only doubt that has been felt about these provisions is whether, in the case of a voluntary sale, the landlord should not be required, if he exercised his right of pre-emption, to pay the price at which the raiyat has actually agreed to sell the occupancy, right instead of a price to be fixed by the Court; but, on considering the difficulties, by which the right of pre-emption would be clogged in cases of collusion between the vendor and purchaser, and in cases in which a spiteful neighbour might be willing to pay an exorbitant sum for an occupancy-right with a view to harassing the landlord, it has been thought best to put the case of voluntary sale on the same footing as those of gift and bequest.

40. Looking at the question of transferability next from the point of view of the occupancy-raiyat's interest, the Local Government and the Government of India have come to the conclusion that, in the absence of evidence of any evil consequences which have already followed from such transfers, or which may be anticipated as likely to occur in the near future, it would be unwise to oppose the growth of the very strong tendency towards transferability, which the prevailing customs show to existin rights of this class in almost all parts of the country.

The existence of such a tendency indicates—what, indeed, is clear from other evidence—that those most concerned regard the quality of transferability as an important incident of the right; and it cannot be doubted that the enactment of a law absolutely forbidding transfer would, even if it saved existing customs, be regarded as a hardship. It may be added that, if the custom of transferability is so widely established as is stated by some very competent authorities, the operation of a law of this sort would be so limited as to be of but little importance.

41. That the powers of transferring and sub-letting which the Bill recognizes may in time lead to a state of things, in which the great bulk of the actual cultivators would be not occupancy-raiyats but under-raiyats with but little protection from the law, is indeed within the range of possibility; but, if such a state of things should ever arise, we may rest assured that the Government of the day will know how to deal with it. There is nothing in the present Bill which ought in any way to hamper them in doing so—nothing to affect the principle that, in an agricultural country like India, the great mass of the actual cultivators of the soil whoever they may be, and however they may have come into the possession of the land, must be protected by the law.

42. The only other provision of Chapter V which appears to call for notice here is that contained in section 56, and is to the effect that, where a landlord, by way of pre-emption under the foregoing sections or otherwise, acquires an occupancy-right in his own land, any tenant, who subsequently takes the land from him, shall have a right of occupancy in it, and if the rent of the land was previously payable in money, shall be entitled to hold it at a money-rent to be fixed under the Act. There is nothing in the Bill to prevent a landlord, so acquiring an occupancy-right in land, from keeping the land in his own hands and cultivating it by his servants or by hired labourers. All the section would enact is that, if he chooses to let it to a tenant, that tenant shall at once acquire an occupancy-right. This seems necessary in order to guard against the possibility of a landlord buying up on a great scale the occupancy-rights existing on his estate or tenure with a view to locating ordinary raiyats on the land. To a landlord, who buys an occupancy-right, as contemplated by the pre-emption sections of the Bill, merely with a view to excluding an intending purchaser whom he objects to have as his tenant, there would be no appreciable hardship in the restriction.

CHAPTER VI.—*Of the Rent payable by Occupancy-raiyats.*

43. Chapter VI is devoted to the important subject of the rents payable by occupancy-raiyats. In regard to this particular matter, as in regard to that of the acquisition of the right of occupancy, Act X of 1859, whether owing to its inherent defects or to the peculiar construction put upon it by the Courts it is unnecessary now to enquire, has not proved a success. Leaving out of consideration the matter of additions to the rent of a holding on account of an increase of its area, a matter which is relegated to a completely separate division of the present Bill, Act X of 1859 provided by its 17th section that the rent payable by an occupancy-raiyat should be liable to enhancement only where—

1st—its rate was below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in places adjacent, or

2nd—the value of the produce or the productive powers of the land had been increased otherwise than by the agency or at the expense of the raiyat.

44. Having thus stated the cases in which the rent was to be liable to enhancement, the Act stopped, giving no indication, except such as might be gathered from the statement of those cases, as to the extent to which the Courts were to enhance the rent. In the first of the two cases, no difficulty would arise from this, as the intention of the Act in respect of that case was clear enough; but in the second of the two cases, the question as to the limit of enhancement gave rise to an important discussion, which was at length brought to a close in what is known as "the great rent case." The rule laid down in that case is commonly spoken of as "the rule of proportion," and is to the effect that the enhanced rent should bear to the previous rent the same ratio as the increased value of the produce or increased productive power bears to the value or productive power at the time the previous rent was fixed.

45. This rule, whatever may be said for it on theoretical grounds, has proved to be absolutely unworkable by the Courts in practice, inasmuch as it throws on them the necessity of undertaking elaborate and laborious inquiries into economical questions, with which they are altogether incompetent to deal, and which have reference not merely to the present time but also to past and possibly very remote times, for which no such evidence as could be acted on by a Court of justice is likely to be forthcoming. Moreover, it necessitates enquiries, which are of such a nature that they could with advantage be undertaken only generally, on a great scale, and once for all, being, instead of this, undertaken over and over again in a most imperfect and unsatisfactory manner in individual cases.

46. The result of this is that, though the right of the landlord to enhance is distinctly recognized by the law, and though definite rules are laid down for its enforcement, the law has become to a great extent a dead letter.

The most important object of the chapter we are now considering is, while guarding and limiting the right to enhance in certain respects, which will be presently noticed, to put it on such a footing that it will be readily enforceable in practice; and the chief means adopted for attaining this object is that of separating off the statistical and economical inquiries of a general nature, which have just been referred to, and providing for their being undertaken once for all on a large scale by Revenue-officers.

47. Passing from these preliminary observations to the details of Chapter VI of the Bill, it will be seen that section 60 provides that, except on account of an addition to the area of the holding by alluvion or otherwise, a money-rent payable by an occupancy-tenant shall not be enhanced except by a decree of a Civil Court under the Bill, or by a contract of the nature described in the foregoing section.

48. It is considered, for reasons similar to those stated above in paragraph 33, that it would be destructive of the objects of the Bill if occupancy-raiyats were left perfectly free to deprive themselves by their contracts of the right to hold at fair and equitable rates secured to them by the law. But, on the other hand, absolutely to prevent such contracts would, it is thought, involve too great an interference with the freedom of the parties. A middle course has accordingly been adopted in section 59, which provides that a money-rent payable by an occupancy-raiyat may be enhanced by a contract in writing, approved of and registered by a Revenue-officer appointed by the Local Government in this behalf, and which goes on in its second sub-section to enact that a Revenue-officer shall not approve or register such a contract until he has satisfied himself that it is fair and equitable, and that he shall be absolutely debarred from registering any contract, by which a raiyat engages to pay a rent more than six annas in the rupee higher than the existing rent, or more than one-fifth* of the estimated annual value of the gross produce of the land.

49. This 59th section, which, it will be remembered, relates only to the enhancement of the rents of existing tenancies, is supplemented in section 61 by a somewhat similar provision applicable to cases in which a settled raiyat comes in as a new tenant on land previously held by another tenant at a money-rent. Here, too, it is considered that the objects of the law might be defeated if the parties were left absolutely free to contract; and it is accordingly provided that a settled raiyat, taking land under the circumstances referred to, shall not be bound to pay for it a higher rent than that paid by the previous tenant, unless that higher rent has been fixed by a contract registered and approved as already described.

50. Turning now to the matter of enhancement by a decree of the Civil Court, the sub-divisions of Chapter VI which are marked B and C proceed on the assumption that there are, at least in some parts of the country, certain rates of rent generally recognized as the rates payable by occupancy-tenants for the various classes of land held by them. Where this is so, it would, it is presumed, be not very difficult for a Revenue-officer to ascertain those rates, and then, starting from them as a basis, and taking into account such changes in the productive powers of the soil and in the prices of produce as may have occurred since they were fixed, to prepare tables of the enhanced rates, which, subject to allowance in exceptional cases, might fairly and equitably be demanded by the landlord for each class of land under the existing conditions. The Revenue officer, it is thought, might further show in his tables the average gross produce of each class of land and its estimated value. Supposing this to be done, the Civil Courts would be relieved almost entirely of those economical and statistical enquiries, which at present are involved in enhancement-suits. They would accept the rates and produce-statistics shown in the tables as *primâ facie* correct for lands of the classes to which the tables referred, and might restrict themselves to considering the comparatively simple and limited questions as to whether the particular lands in question in the suit belonged to the class alleged, and whether there were any exceptional circumstances connected with them which would require the rent to be fixed at a different rate from that set down in the table.

51. It is, of course, well understood that there would be many parts of the country for which, owing to the non-existence of recognized rates of rent or to the great varieties of the soil, no such tables could be prepared, and further that, even where it is possible to prepare such tables, their preparation must be a work of time. With a view to these considerations, the Bill has been so drawn as to provide, first, in sub-division B of Chapter VI, for suits to enhance money-rents where a table of rates has been prepared, and secondly, in sub-division C, for such suits where a table of rates has not been prepared.

52. It will be convenient, in explaining the details of these portions of the Bill, to begin with the latter set of provisions. The cases, in which a suit may be brought to enhance the money-

* See as to this limitation, para. 54 *infra*.

rent of an occupancy-holding situated in a tract, for which a table of rates has not been prepared, are stated in section 74. They will be found to be in the main the same as those provided for in the section of Act X of 1859 referred to in paragraph 43, the only difference of sufficient importance to call for notice here being, that, for the purpose of estimating the increase in the productive powers of the land or in prices, on which a right to enhance depends, the Court is not compelled, as under the present law, to look to the time at which the rent was fixed, but, when that time cannot be ascertained (as it frequently cannot), or when the productive power and the prices prevailing at that time are undiscoverable, may take, for the purposes of comparison, any other time which may appear to it fair and equitable.

53. Section 75, supplying the defect in Act X of 1859 referred to above (paragraph 44), fixes the limits up to which the Court is to enhance in cases, in which the enhancement is claimed on the ground of an increase in the productive powers of the land or of prices. It provides that, if the increase has been effected wholly by the agency or at the expense of the landlord, he shall be entitled to the whole benefit of it; that, if it has been effected partly by the agency or at the expense of the landlord and partly by the agency or at the expense of the tenant, the benefit shall be divided between them in such shares as, having regard to all the circumstances of the case, the Court thinks fair and equitable; and that, if it is not proved that the increase has been effected by the agency or at the expense either of the landlord or of the tenant, each of them shall be entitled to one-half the benefit: provided in this last case that the enhanced rent shall not bear to the previous rent a higher proportion than the increased productive powers or increased prices bear to the former productive powers or former prices, as the case may be. Thus the rule of proportion, instead of being, as it is at present, under the decision in the "great rent case," the measure of enhancement in all cases, will merely supply a maximum limit in one of the three cases dealt with by section 75; and, as it is not apprehended that landlords will often seek to press their rights of enhancement to the full extent, it seems unlikely that it will give rise to any considerable difficulty.

54. The only other rule relating to the limit of enhancement contained in section 75 is the concluding provision, that the enhanced rent shall not in any case exceed one-fifth of the estimated average annual value of the gross produce of the land in staple crops calculated at the price at which raiyats sell at harvest-time. This limit has been substituted for that of one-fourth originally proposed, as the present Lieutenant-Governor of Bengal considers that one-fourth of the value of the average crop would be too high a limit. It is to be understood, however, that the point is still under the consideration of the Government.

55. Coming next to the scheme for enhancement by means of a table of rates, it will be seen that section 62 empowers the Local Government to direct a Revenue-officer to prepare for any local area, with the aid of assessors, a table showing, for each class of land comprised in that area, the rate of rent fairly and equitably payable by occupancy-raiyats, the average gross produce of the land, and the average value of that produce. The land is to be classified (section 63 (*a*)) according to the nature of the soil, situation, means of irrigation and other like considerations, and section 64 enacts that, in fixing the rates for each class, regard is to be had—

(*a*) to the rates of rent ordinarily payable by occupancy-raiyats for land of that class at the time the table is prepared;

(*b*) to the value of the average gross produce of land of that class, and the cost of raising that produce, about the time those rates were fixed, or, where these matters cannot be ascertained for that time, about such other time as it may be fair and equitable to take for the purpose of comparison;

(*c*) to the value of the average gross produce and the cost of raising that produce at the time the table is prepared; and

(*d*) to the following rule, namely, that, where the rate of rent for any class of land is raised on account of an increase in the value of the produce, the new rate shall not bear to the old rate a higher proportion than the increased value of the produce bears to the former value.

The section concludes with a proviso, corresponding to that mentioned above in connection with section 75, limiting the enhanced rate of rent fixed for land of any class to one-fifth of the average gross produce of land of that class.

56. Sections 65 to 69 provide for a preliminary publication in the vernacular language of the table prepared by the Revenue-officer; for the consideration of objections urged against it by those interested; for the submission to the higher Revenue authorities, and by them to the Government, of the table, with a report setting forth the grounds of the Revenue-officer's decision on each point, and of all objections preferred; and for the further publication of the table when finally settled and approved of.

A table prepared under these provisions will remain in force for such period, not less

than ten years or more than thirty years, as the Local Government may direct, and while it remains in force it will (section 71) be conclusive evidence—

(*a*) that, except as provided by certain clauses to be presently referred to, the rates shown in it for each class of land are the fair and equitable rates payable for land of that class by occupancy-raiyats within the local area to which the table applies; and

(*b*) that the statistics of gross produce and value given in the table are correct.

58. Section 72 empowers the Local Government to charge the expenses connected with the preparation of a table for any local area to the raiyats and their landlords in that local area in such proportions as it thinks fit.

59. Section 73 contains the rules for the guidance of a Court in suits instituted to enhance the rent of an occupancy-raiyat in a local area, for which a table of rates has been prepared, and a glance at it will show what an important simplification of the work of the Court will be effected by the table. The general rule is that the Court shall enhance up to the rate shown in the table for the class of land in question, or, where maximum and minimum rates are shown for land of that class (as will occasionally be the case) to such rate, not higher than the maximum or lower than the minimum, as it thinks fit. It is only in certain exceptional cases that the Court will be required to go behind the rates. Those exceptional cases are of two classes.

60. The first class comprises cases, which may be described with sufficient accuracy for our present purpose as cases in which, owing to some improvement having been effected or having taken place in reference to the land since the commencement of the tenancy, the land has been raised from a lower to a higher class of the table. The rules laid down for cases of this class by the first clause of the proviso to section 73 closely follow the corresponding rules laid down in section 75 and referred to above, paragraph 53. They are to the effect that, if the improvement has been effected solely by the agency or at the expense of the raiyat, the rent shall be fixed as if the land belonged to the lower class; that if the improvement has been effected partly by the agency or at the expense of the landlord, and partly by the agency or at the expense of the raiyat, the rent shall be fixed at such rate intermediate between that of the higher class and that of the lower class as the Court, having regard to all the circumstances of the case, thinks fair and equitable; and that, if it is not proved that the improvement has been effected by the agency or at the expense either of the landlord or of the raiyat, the rent shall be fixed at a rate half-way between the rate of the higher and that of the lower class.

The effect of these rules will be best seen from the illustrations appended to section 73 of the Bill, which are as follows:—

Illustrations.

(*a*) The rates shown in the table for land of a certain description are—

When the land is irrigated from a well . . . . . Rs. 4 per acre.
When the land is not so irrigated . . . . . „ 2 „

The holdings of A, B, C and D, occupancy-raiyats, are composed of land of that description irrigated from wells constructed on these holdings respectively.

The well on A's holding is an ancient one, existing from a time anterior to the tenancy; that on B's holding has been constructed by the landlord since the commencement of the tenancy: that on C's holding has been constructed by the raiyat: that on D's holding has been constructed by the landlord and raiyat, each contributing some portion of the labour and materials. The rents of the holdings of A and B must be fixed at Rs. 4 per acre, that of C's holding at Rs. 2 per acre, that of D's holding at such rate intermediate between Rs. 2 and Rs. 4 as the Court thinks fair and equitable.

(*b*) The rates shown in the table for land of a certain description are as follows:—

When such land is irrigated from a branch of a river . . . Rs. 4 per acre.
When such land is not so irrigated . . . . . „ 2 „

The holdings of E and F, occupancy-raiyats, are composed of land of that description, and were not irrigable until 40 years ago, when, owing to a change in the course of a neighbouring river, a new branch established itself contiguous to them. E has been in occupation of his holding 50 years, F only 30; the rent of E's holding must be fixed at Rs. 3, that of F's holding at Rs. 4.

61. The other class of exceptional cases in which the Court will have to go behind the rates is that referred to in the second clause of the proviso to section 73, where the raiyat proves that by contract, or by custom, or on some equitable ground, he is entitled to hold at a rate lower than that fixed by the table for land of the class to which his land belongs; and in cases of this class, the Court is required to fix the rent at the lower rate at which the raiyat proves that he is entitled to hold.

62. To complete this portion of the subject it is only necessary to add that all suits for enhancement, whether under a table of rates or otherwise, are by sections 76 to 78 of the Bill made subject to the three rules already referred to under the head of tenures, namely, that a rent shall not be enhanced so as to be more than double the previous rent; that the Court may

order the enhancement to take effect by degrees for any number of years not exceeding five; and that, when rent has been enhanced, it shall not be again enhanced for 10 years.

63. How far it will be possible to give effect to the provisions of this chapter regarding the preparation of a table of rates it would be difficult to predict. The members of the Rent Law Commission entertained hopes of those provisions being largely used, and they appear to have thought that, in some cases, if the rates were once settled by authority, landlords and tenants would soon be able to adjust their differences. On the other hand, the result of recent inquiries would seem to show that, in some parts of the country, the rates vary so much from holding to holding as to render the preparation of a table impossible or practically useless. It must, however, be pointed out that it will not follow that, because a table of rates has not been, or cannot be, prepared for a local area, the landlords of that area will necessarily be reduced to the ordinary procedure by civil suit. They will, in many cases, be able to invoke the aid of a Revenue-officer for the settlement of their rents under the provisions of Chapter XI, which will be noticed in their proper place.

64. Section 79 contains the provisions relating to the reduction of money-rents payable by occupancy-tenants. The cases, in which a claim for reduction is allowed are, with certain modifications in detail, which it is unnecessary to notice here, the same as under the existing law, that is to say, a reduction can be claimed only where there has been a decrease of productive power or of prices; and such cases are so rare that it has been thought unnecessary to lay down any elaborate rules for their treatment. Section 79 therefore simply provides that, when a case for reduction is made out, the Court may direct such reduction as it thinks fair and equitable.

65. The case of rents payable for pasture lands, which is provided for in section 80, is likewise one of no great practical importance, inasmuch as such lands are but rarely let to a tenant in this country. Accordingly, no provision for the reduction of rent has here been considered necessary, and it has been thought sufficient, as regards enhancement, to provide that a suit to enhance may be instituted on the ground that the rent is below the prevailing rate paid by raiyats of the same class for similar lands in the vicinity, or that, having regard to the increase of rent on arable land in the vicinity, an enhancement would be reasonable. In either of these cases, the Court is empowered to fix the rent at such rate as it thinks fair and equitable.

66. The next sub-division of the chapter relates to rents payable in kind or varying with the crop, and is of greater importance. Section 81 provides that, when the rent is of this nature, the following rules shall apply, namely :—

(*a*) notwithstanding any contract or custom to the contrary, the landlord shall not be entitled to recover, in respect of any portion of the holding on which staple crops (such as rice, wheat, and so forth) are grown, more than half the gross produce or its value; and

(*b*) the landlord shall not, except under a contract in writing, be entitled to recover, in respect of any portion of the holding, on which other crops are grown, any other description or any greater amount of rent than a sum equal to one-half of the estimated average value of the produce of that portion of the holding, supposing staple crops to be grown on it.

67. The only objection which it is apprehended might be taken to these provisions is that in some cases a landlord, whose rent is payable in kind, contributes in the shape of seed, labour or otherwise, towards the production of the crop, recovering the price of his assistance in the form of an additional rent, and that, in such cases, the limits which it is proposed to fix might be too low. To meet this, a sub-section has been added, providing that nothing in the section shall prevent a landlord recovering from the tenant the value of assistance so rendered. The result accordingly will be that, though the landlord can no longer include the value of such assistance in the rent, where, by so doing, he would bring the rent above the prescribed limit, he can recover the same amount under another name.

68. Section 82 provides for the commutation into fixed money-rents of rents payable in kind or consisting of the value of a certain share of the actual gross produce.

It provides that an occupancy-raiyat, paying such a rent may, notwithstanding any contract to the contrary, sue to have his rent commuted, and that the Court shall fix the money-rent at its discretion either—

(*a*) according to the prevailing money-rent payable by raiyats of the same class for similar land in the vicinity, or

(*b*) according to the average value of the rent actually received by the landlord during the preceding five years, subject, however, in this latter case, to a deduction of such

amount as the Court thinks reasonable, in consideration of the whole risk of cultivation being taken by the raiyat.

69. The remaining provisions of Chapter VI are merely of a supplementary or subsidiary nature. Section 83 provides for the preparation of price-lists, which, when published with the sanction of the Board of Revenue, will be deemed to be conclusive evidence in proceedings under Chapter VI, and will thus save the Courts a certain amount of work, for the performance of which they are but ill-suited.

Section 84 empowers the Board to make rules for the guidance of officers and (as regards certain matters) of Courts acting under Chapter VI, in particular for determining what crops are to be deemed staple crops for the purposes of the chapter.

CHAPTER VII.—*Of the Right of a settled Raiyat in Bastu Land.*

70. The Bill prepared by the Rent Commission contained elaborate provisions regarding the use of land for building purposes, which were justified at length in paragraphs 108—113 of their Report. It is unnecessary here to discuss those provisions on their merits. It is enough to say that the present measure is strictly confined to the amendment of the law regarding agricultural tenancies, and can properly deal with the holding of land for building purposes only where the holding of such land is in some sense ancillary to an agricultural tenancy, as *e.g.*, where an occupancy-raiyat has built himself a house in a village with a view to living near his agricultural holding. In such a case there is so close a connection between his house and his agricultural holding that it would in many cases be vain to protect him in the possession of the holding without, at the same time, protecting him in the possession of the house. Besides the inconvenience he might be put to in being ejected from his house and compelled to reside at a distance from his work, it is clear that, if he were left at the landlord's mercy as regards the house, he would be liable at any time to have pressure brought upon him in regard to the holding also, which he might be unable to resist.

71. When the site of the house is included in an occupancy-holding, the raiyat is sufficiently protected under Chapters V and VI, but, when it is a separate holding, some special provision seems necessary; and it is thought that the requirements of the case will be best met by enacting that every settled raiyat of a village or estate shall, notwithstanding any contract to the contrary, have a permanent heritable and transferable right in any *bastu* or other homestead land in that village or estate which is held by him as the site of a dwelling-house for himself and his family; that a person having such a right shall not be ejected except under a decree of the Civil Court for breach of a condition; that, if so ejected, he shall be entitled to compensation; and that his rent may be enhanced at intervals of ten years, so that it may be equal to the rent paid for similar lands in the neighbourhood, or, at the option of the landlord, so that it may be equal to five per centum of the market-value of the land.

CHAPTER VIII.—*Of Ordinary Raiyats.*

72. Chapter VIII deals with ordinary raiyats, that is to say (section 88) raiyats holding raiyati land but not having a right of occupancy in respect of it. The principle on which this chapter is based is that, while it is desirable to interfere as little as possible between tenants of this class and their landlords, they should not be exposed to arbitrary rack-renting and eviction at the hands of their landlords, and, further, that the acquisition by them of the status of settled raiyat should in every reasonable way be promoted.

73. Section 89 accordingly provides that, subject to a certain maximum fixed for the rents of all raiyats and under-raiyats, which will be presently referred to, an ordinary raiyat shall pay such rent as may from time to time be fixed by agreement between him and his landlord; but, in order to check extravagant enhancements by the landlord, it is provided in the following sections that, if the landlord proposes an enhancement of the rent, to which the raiyat does not agree, the landlord shall not eject him without paying him, besides any amount that may be due to him as compensation for improvements under the provisions of the Bill, a further sum, by way of compensation for disturbance, equal to a certain multiple of the yearly increase of rent demanded. *Ten* times the increase is the amount provided for in the Bill as it stands; but it need hardly be said that a figure of this sort is, at this stage of a Bill, entered only tentatively and subject to future consideration. The object in view, it will be understood, is to fix a multiple of the increase high enough to deter the landlord from making an extravagant demand, but not so high that the raiyat would be induced by the prospect of obtaining it to refuse to accede to a reasonable enhancement.

74. The details of the procedure requisite to give effect to this important provision occupy the greater part of the chapter, but they are not such as to call for notice here. The only other provision of the chapter to which it seems necessary to refer is the rule in section 90

limiting the landlord's right to eject, and which is to the effect that a landlord shall not eject an ordinary raiyat except—

(*a*) for arrears of rent;

(*b*) on the ground that the raiyat has used the land in a manner, which renders it unfit for the purposes of the tenancy, or that he has broken some condition, on breach of which he is, under the terms of a written contract, liable to be ejected; or

(*c*) that he has refused to agree to an enhancement of rent on which the landlord insists.

It is in this last case that the provision as to compensation for disturbance will apply.

CHAPTER IX.—*Provisions regarding Rent applicable to several classes of Tenants.*

75. We now pass from the chapters dealing with particular classes of tenants to those dealing with matters common to several classes. Chapter IX, which is the first of these, contains most of the general provisions of the Bill regarding rent. It begins with a section (96) providing for such additions to, and deductions from, the rents of tenure-holders and occupancy-tenants as are made on account of an alteration in the area of the holding by alluvion or diluvion, by encroachment, eviction by title paramount to that of the landlord, and so forth. This section applies, in the case of a tenure-holder, only in the absence of a contract to the contrary, but, in the case of an occupancy-raiyat, it overrides any such contract.

76. In the case of land being added to the area of a holding, it provides that the amount added to the rent shall be calculated on the rates payable by occupancy-raiyats for land of a similar description, less a deduction, in the case of a tenure-holder, of thirty per cent. for profits, risk and cost of collection. This seems to be the fairest rule to apply in such a case, and it is, moreover, as observed by the Government of Bengal, in harmony with the law regulating additions to the Government revenue in alluvion cases.

77. On the other hand, in the case of a loss of a portion of an area, for the whole of which a single rent has been payable, the only equitable principle to adopt seems to be that the abatement from the rent should bear to the rent previously payable the same proportion as the yearly value of the land lost bears to the yearly value of the holding prior to the loss, and this is what sub-section (3) of section 96 enacts, adding, however, that, when the yearly value of the land lost cannot be satisfactorily proved, the abatement shall bear to the previous rent the same proportion as the area lost bears to the area of the holding prior to the loss.

78. Sections 97 to 99 give power to the Board of Revenue to fix the instalments in which rents are to be paid. The power is of little importance in the case of tenures, inasmuch as it can be exercised in respect of them only in the absence of any agreement or custom regulating the matter. In the case of raiyats' holdings, however, it is of considerable importance. Much of the harassment, to which the raiyats are subjected, is said to arise from the number of instalments in which their rents are payable, and, to remedy this, the Board is empowered, subject to certain reservations regarding agreements entered into and customs prevailing before the commencement of the Act, to fix the instalments, in which the rents of raiyats are to be payable, so that there may not be more than four in each year.

79. Section 100 requires every landlord to give to a tenant paying him rent a receipt, containing much fuller details than those prescribed by the existing law, and to keep a counterpart of every receipt so given. It also provides that, when a receipt does not contain the requisite particulars, it shall be deemed to be an acquittance in full up to date.

Section 101 requires every landlord to furnish to his tenant, for each agricultural year, a detailed statement of the account between them for that year, and to keep a counterpart of every statement so furnished.

Section 102, following the existing law regarding receipts, imposes penal damages for refusal or neglect to give receipts or furnish accounts, and further makes it an offence punishable with a fine, not exceeding fifty rupees, to neglect to keep a counterpart as required by the preceding sections.

It is believed that, if these provisions are fully enforced, much advantage will result to both parties. Not only will the tenants be supplied with proper evidence of the payments made by them and of the state of their accounts, but the landlords, if they keep their counterpart statements in a proper manner, will find them useful as evidence before the Courts.

80. Under the existing law, there is but one case, in which a tenant can deposit his rent in a public office, so that the deposit may operate as a payment to his landlord, namely, when he is prepared to declare solemnly that he has tendered the rent to his landlord, and that the landlord has refused to receive it.

It has been found that this declaration has become a mere form, and it is thought better to allow the tenant to deposit his rent whenever he has reason to believe that the landlord will not receive it and grant a receipt. It is also thought advisable that a tenant should be allowed to deposit his rent in two other cases, namely:—

(1) when it is payable to co-sharers jointly, and he is unable to obtain their joint receipt, and no person has been empowered to receive the rent on their behalf; and

(2) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent.

81. This extension of the right to deposit rent necessitates our conferring on the officer empowered to receive deposits a certain discretion not allowed by the present law. He is accordingly given by section 104 a discretion to refuse the deposit, if he does not think the circumstances of the case warrant its being made, and he is further given by section 106 a discretion to pay away the deposit, if he thinks fit, to such one of several rival claimants as may seem to be entitled to it, but subject, of course, to the right of any person actually entitled to it to recover the amount from the person, to whom it is so paid. As regards this last point, however, it will be seen that the officer will have power to retain the deposit if he thinks fit, pending the decision of the Civil Court as to the person entitled to it; and this latter course is doubtless that which he would adopt in all cases in which there might be any reasonable doubt as to the person entitled.

82. The provisions, contained in sections 112 to 116, for the division or appraisement of a crop by a public officer in cases, where the rent is paid in kind or is the value of a certain share of the gross produce, and a dispute arises between the parties, are based on the proposals made for Bihár by the Bihár Committee and the Rent Law Commission; but they are made generally applicable, and their details are taken, for the most part, from enactments in force in Upper India, where rent is very commonly paid in kind or in appraisement of the crops. They enact that, if either party neglects to attend at the proper time for making the division or appraisement, or if there is a dispute regarding the division or appraisement, the Collector may, on application made to him, issue a commission to such person as he thinks fit, directing him to divide or appraise the crop, and may further direct him to associate with himself any other persons as assessors for this purpose. If, in a division made in this way, either party receives less than his proper share, he may, within three months from the date of the division, sue the other party to recover the value of the additional portion of the crop due to him, and, if he does not so sue, the division will be deemed to have been rightly made. When the case is one of appraisement, the commissioner is required to submit his appraisement in writing to the Collector, who shall, after such hearing and enquiry as he thinks necessary, pass an order either confirming or varying it, and that order will be final.

It will be seen that these provisions proceed upon the principle, already referred to in connection with the subject of enhancement, of entrusting to the Revenue authorities the duty of inquiring into, and adjusting, matters, which they are presumably more competent to deal with than the Civil Courts. It is, it will be observed, only the mechanical act of division and the mere framing of the estimate of the crops that, in the cases now in question, are to be entrusted to the Collector and the persons appointed by him, all questions of right being reserved for the Civil Court.

83. Section 117 provides that, if the landlord of any land, of which the rent is payable by division or appraisement of the crop, or any other person, interferes in any way, without the tenant's consent, with the cutting or harvesting of a crop, except by an application to the Collector, under the provisions just referred to, he shall be deemed to have committed criminal trespass within the meaning of the Penal Code. This is considered necessary in order to put a stop to the oppressive action of landlords in certain parts of the country, who are found to assume a power to prevent the cutting or harvesting of the crops, and to use it as an engine of extortion against their tenants.

84. Section 118, which applies only to Bihár, provides that all danabandi papers shall, within 15 days after the making of an appraisement, be filed in the Collector's office.

85. Section 119 provides that, notwithstanding any contract made after the 2nd March, 1883, the date on which it is proposed to introduce the Bill, a raiyat or under-raiyat shall not, in any case, be bound to pay a money-rent exceeding five-sixteenths of the estimated gross produce of his holding. The limit originally proposed was thirty-five per cent. It has now been lowered at the suggestion of the Lieutenant-Governor; but the figures must be regarded as merely provisional and subject to reconsideration.

86. Section 120 in effect enacts that contracts fixing rents shall, in temporarily-settled tracts hold good only until a fresh settlement is made. The reasons for this provision are similar to those stated above (paragraph 21) in connection with section 20.

87. Section 124 makes the rent of a transferable holding the first charge on that holding.

CHAPTER X.—*Other provisions applicable to several classes of Tenants.*

88. The question as to the right of a raiyat to make improvements, and to claim compensation therefor on ejectment will, if the proposal to make occupancy-rights freely saleable in execution

of a decree is adopted, be of less importance in Bengal than in some other parts of British India. The great mass of the raiyats having a right of occupancy, and not being liable to be ejected except under peculiar circumstances of rare occurrence, and the question of compensation adjusting itself when an occupancy-right is sold in execution of a decree, claims for compensation for improvements will be comparatively few. But the importance, from an economical point of view, of encouraging improvements is so great in this country, that special provision has been made for the matter to meet the case of ordinary raiyats, and such cases as may, from time to time, occur of occupancy-raiyats being ejected from their holdings.

The principle on which the sections of the Bill relating to this subject proceed is that that party to a tenancy whose interest in the land preponderates should have the preferential right to improve and take the full benefit of his improvements; but that, if the party having this preferential right is unable or unwilling to avail himself of it, it should be open to the other party to make an improvement and reap the benefit of it.

Section 127 accordingly confers upon an occupancy-raiyat the preferential right to improve, and provides (subject to one exception to be presently noticed) that, if he does not avail himself of this right and the landlord desires to have any improvement made, he may call upon the raiyat to make it, and that, if the raiyat does not within a reasonable time comply with the request, the landlord may make the improvement himself. Section 128 enacts what may be termed the inverse of these provisions for the case of the ordinary raiyat, that is to say, it gives the preferential right to the landlord, and allows the raiyat to improve only if the landlord, upon being requested by the raiyat to make an improvement, neglects to do so within a reasonable time.

89. There is however, as has been intimated, an exception made to these rules in the case of one sort of improvement, namely, a dwelling-house for the raiyat and his family. This, it is considered, is an improvement which every raiyat, an ordinary as well as an occupancy-raiyat, should be entitled to make; and it is further considered that it is not an improvement, which a landlord should be empowered to force on a raiyat against his will. As regards this improvement, accordingly, it is provided simply that any raiyat may make it; no right to make it, whether preferential or otherwise, being conferred on the landlord.

90. When a landlord makes an improvement under these sections, he will be entitled to reap the full benefit of it in the shape of an enhancement of the rent under the provisions of the Bill relating to that subject. When a raiyat makes an improvement under these sections, he will, if ejected, be entitled, under section 129 of the Bill, subject to certain exceptions which it is unnecessary to notice here, to receive compensation for it. An occupancy-raiyat will further, while he continues to hold, reap the full benefit of his improvements, inasmuch as his rent cannot, under Chapter VI, be enhanced on account of an improvement made by him. An ordinary raiyat under similar circumstances may possibly not be able, in all cases, to retain the full benefit of his improvements, but the check placed on the landlord by the provisions of Chapter VIII will, as a rule, amply protect him in the enjoyment of that benefit.

91. The only other provisions of the Bill, relating to improvements, which seem to call for notice here, are the last clause of section 129, which enacts that improvements made by a raiyat before the commencement of the Act shall be deemed to have been made in accordance with the Act (and therefore to give a claim to compensation), unless it is shown that the landlord forbade the raiyat to make them and was ready to make them himself, and section 132, which makes void all stipulations in contracts providing (*a*) that a landlord may prevent a raiyat from improving or eject him for improving, or (*b*) that a raiyat when ejected shall not be entitled to compensation for improvements.

92. In section 133, providing for the landlord's right to measure lands comprised within an estate or tenure the rents of which are payable to him, the existing law has been modified so as to give a landlord the right to measure all lands lying within the estate or tenure, whether rent-paying or not. As observed by the Government of Bengal, "a landlord has at present no right to measure lákhiráj, and a rent-free holder may, in virtue of a valid grant of ten bighás, be holding double as much or more. The mere measuring by the landlord cannot harm him, as he could not be ousted from possession save through the Civil Court. But the landlord seems entitled to make a complete survey of his estate." (*Letter from Government of Bengal, No. 849T, dated 27th July, 1881, page 25.*)

93. The proviso to section 133 enacts that, when land has been measured under that section, it shall not again be measured for ten years without the written permission of the Collector. This seems but reasonable, a right to measure once in ten years being sufficient in all ordinary cases.

94. The only other provisions of this sub-division of the chapter, which deviate in any material respect from the existing law, are those of sections 137 and 138, relating to the standards of measurement. They adhere so closely to the corresponding provisions of the Bill prepared by the Rent Law Commission that the following extract from the Commission's Report (para 140) will best explain them :—

"The length of the local standard pole, with which a measurement of land should be made, is a fertile subject of dispute and litigation. It is not uncommon for a landlord to make a measurement of his lands with a pole of his own selection, the actual length of which must be a subject of doubt upon the evidence, while the raiyats concerned aver not only that the standard pole of the pargana is different, but that during the measurement a third pole has occasionally been substituted for that which the landlord claims to be the standard. In order to remedy these difficulties as far as possible, we have enacted that all measurements made by order of the Civil Court or Collector shall be made according to the Government measure of 14,400 square feet to one standard bíghá. It it be shown that the rights of the parties to the suit are regulated by any different local measure depending upon a pargana standard pole, the Government measure shall be converted into local measure for the purposes of the suit. In case of dispute as to the standard pole, the Collector shall, in any suit before himself, or in any suit before a Civil Court, on a reference made for this purpose by such Court, determine the proper length of such pole. We have followed the present law, as settled by the decisions, in enacting that an appeal shall lie from the Collector's decision to the District Judge, but that, if no such appeal be preferred, the decision of the Collector shall be final."

95. It is stated in Mr. Field's digest, section 12 (4), as the result of decided cases, that a raiyat's interest in the land determines when he ceases to cultivate the land and leaves the neighbourhood without arranging for the payment of the rent. Mr. Field observes that the cases leave the matter thus indefinite, and that, if the proposition is adopted by the legislature, it should be made more precise. Section 140 of the Bill, following this suggestion, provides that, when a tenant of a non-transferable holding leaves the holding uncultivated and the rent of it unpaid for a period of one year, he shall be deemed to have surrendered, except in cases in which, owing to an inundation or any other accident to the land beyond his control, it may have been impossible for him to cultivate.

96. Section 141, relating to the doctrine of merger, follows the corresponding provisions (sections 43 and 44) of the Bill prepared by the Rent Commissioners, who state in their Report that some such enactment is needed to settle the law in Bengal. It provides, subject to certain exceptions and qualifications which it is unnecessary to specify here, that, when, in the case of any tenancy, the interest of the landlord and that of the tenant become by transfer, succession or otherwise united in the same person, so as to be owned by him in the same right, the interest of the tenant shall, during the three months following, be presumed to be merged in that of the landlord, unless the person shows that he has not intended it to be so, and shall, after the expiration of the three months, be conclusively deemed to be so merged, unless, within the three months, the person has executed an instrument declaring his intention that a merger should not take place, and the instrument has been registered and published in a certain prescribed manner.

97. Sections 142 to 148, relating to the appointment of a manager on behalf of co-owners of an estate or tenure, are taken, with slight alterations in the drafting, from the Bill framed by the Rent Law Commission. Their history and the nature of the provisions they contain will be best seen by an extract from the Commission's report. After describing at some length (paragraph 134) the complications, litigation and even riots which arise when co-owners of an estate or tenure (or, as they are sometimes termed, coparceners) quarrel among themselves, and the grievous harassment, to which the tenants are exposed, in such cases, the report proceeds as follows :—

"135. The necessity of a remedy for this state of things was felt at an early period of British administration, and in 1812 it was enacted that, inasmuch as inconvenience to the public and injury to private rights had been experienced in certain cases from disputes subsisting among the proprietors of joint undivided estates, whenever sufficient cause shall be shown by the Revenue-authorities, or by any of the individuals holding an interest in such estates, for the interposition of the Courts of Judicature, it shall be competent to the Zila Judges to appoint a person duly qualified and under proper security to manage the estate; that is, to collect the rents and discharge the public revenue, and provide for the cultivation and future improvement of the estate (Regulation V of 1812, section 26). The Judge was also competent, upon the representation of the Revenue-authorities, or of any such person as aforesaid, to remove any manager so appointed (*ib.*, section 27). A subsequent Regulation (V of 1827) enacted that, when the Zilla Court thought it just and proper under the provision of that Regulation to provide for the administration or management of landed property, it should issue a precept to the Collector, directing him to hold the estate in attachment and appoint a person for the due care and management thereof, under good and adequate security for the faithful discharge of the trust in a sum proportionate to the extent thereof. The reference in Regulation V of 1827 to Regulation V of 1812 was repealed by Act XVI of 1874, so that it is not now competent to a District Judge to send a precept to the Collector directing him to provide for the management of an estate belonging to a joint undivided family. The fragment of Regulation V of 1812 which is still in force is incomplete, and in consequence almost inoperative.

"136. Such being the present state of the law, a majority of us have thought that this fragment might well be repealed and a complete set of effective provisions substituted

therefor. We have accordingly enacted that, when coparceners, who jointly own an estate, tenure or under-tenure, disagree as to the joint management thereof, and in consequence there has ensued, or is likely to ensue, (*a*) inconvenience to the public, (*b*) injury to private rights, the District Judge may, upon the application in case (*a*) of the Collector, and in case (*b*) of any one having an interest in such estate, tenure or under-tenure, direct a notice to be served upon the coparceners, calling upon them to show cause why they should not appoint a common manager. If the coparceners do not, within a month, show cause why they should not appoint a common manager, the District Judge may direct them to do so. If they fail to obey that direction, the District Judge may either appoint a manager, or direct that the estate, tenure or under-tenure be managed by the Court of Wards, if it is willing to undertake the charge. We have thought it advisable to give the coparceners an opportunity of appointing a manager of their own selecting, before the District Judge proceeds virtually to depose them. When the Court of Wards undertakes the charge, it will govern itself by the provisions of *the Court of Wards Act*, IX (B.C.) of 1879. It is discretionary with the Court of Wards to undertake the charge or not. A majority of us have thought it advisable to render this system of management possible, as there may be cases in which no other management will be available. Mr. O'Kinealy doubts if it is advisable to extend the exceptional jurisdiction of the Court of Wards and empower it to manage the estates of persons who happen to disagree amongst themselves. When the District Judge appoints a manager, he is empowered to settle his remuneration, and the manner of it, whether, that is to say, by a fixed salary or a percentage of the collections. He is also empowered to require reasonable security for the proper discharge of the duties of the office. The manager is authorized to exercise the same powers as the coparceners jointly might, but for his appointment, have exercised. He is required to keep regular accounts and to allow the coparceners to inspect and take copies of them. He may be removed upon the application of the Collector, or of any person interested in the estate, tenure or under-tenure. The District Judge may at any time direct that the management be restored to the coparceners, if he is satisfied that they will conduct it without inconvenience to the public or injury to private rights."

98. The only other section in this chapter which calls for notice is section 149, which enacts that no tenant shall be ejected from his holding except in execution of a decree.

CHAPTER XI.—*Of the Settlement of Rents by a Revenue-officer.*

99. It has been stated, in the remarks above made on Chapter VI, that it is apprehended that, in many parts of the country, the framing of a table of rates will be impossible. It should be added that, in many instances, the mere framing of a table of rates will not suffice to settle the disputes between landlords and tenants. In either case the only satisfactory remedy may be a settlement of individual rents by a Revenue-officer, conducted somewhat in the same manner as in a Government estate at present; and it is with a view to providing such a remedy that Chapter XI has been framed.

100. There is, however, one cardinal difference between the provisions of this chapter and those of the existing settlement law which should be noted at the outset. Under the existing settlement law, when a Settlement-officer has, after the most careful and protracted inquiry, settled the rents of an estate, and his proceedings have been scrutinized and checked by the superior Revenue-authorities, every individual rent fixed by him is liable to be called in question in the Civil Courts, and that not merely on the ground of error in respect of some matter, such as the status of a tenant or the validity of an alleged lease, falling most appropriately within the cognizance of a Civil Court, but also on the ground of an error in regard to the quality of the soil, the estimated amount of the produce, or some other such matter with which the Revenue-authorities, conducting their inquiries on a great scale, are far more competent to deal than any Civil Court trying a suit relating to a single holding can possibly be; in other words, an important portion of the work, after being done by those authorities, who are most competent to perform it, is liable to be pulled to pieces by another set of authorities, who are far less competent to perform it. The enormous amount of unnecessary expense, trouble and vexation, which this system entails on all concerned can be estimated from the fact, stated by the Board of Revenue in referring to a recent settlement, that out of 2,891 decisions in suits brought to contest the Settlement-officer's rates, 2,202 were absolutely adverse to the plaintiffs. An attempt has been made to avoid this in Chapter XI of the Bill by distinguishing, among the various questions which may arise in a settlement of rents, those which the Revenue-authorities are most competent to determine, and those which a Civil Court is most competent to determine, making the decision of the Revenue-authorities final on the former, and providing that the latter may ultimately be brought for decision before the Civil Court.

101. The procedure of this chapter, besides being available for the purpose of Government settlements, may be made applicable by the Local Government—

(*a*) when a large proportion of the tenants or of the landlords desires that it should be applied, and

(*b*) when a resort to it is likely to settle or avert a serious dispute, existing or likely to arise, between landlords and tenants generally.

It is applicable to tenants of any class, but would probably be made use of chiefly for settling the rents of occupancy-tenants.

102. When the rents to be settled are rents, which are subject to alteration by order of a Court, they will be *fixed* according to the principles embodied in the Bill, and so that they shall not exceed the maximum prescribed by the Bill in cases of enhancement. When, on the contrary, the rents are not of this description, they will be merely ascertained and recorded as rents are under Regulation VII of 1822.

103. The Revenue-officer, having settled the rents, will prepare a jamabandi, showing the status of each tenant, the land held by him, the name of his landlord, whether the rent has been fixed or ascertained, and the amount of the rent fixed or ascertained. This jamabandí will be published, and, after an opportunity for urging objections against it has been allowed, will be submitted to the higher Revenue-authorities with the objections and a report setting forth the grounds, on which the Revenue-officer has proceeded. If ultimately sanctioned by the Local Government, it will be again published, and will then continue in force for 10 years.

104. While it remains in force it will be conclusive (except as will be presently explained) as to the rents payable by those tenants, whose rents are shown in it as fixed. As regards rents shown in it merely as ascertained, and as regards all other matters contained in it, it will be merely presumed to be correct until the contrary is proved.

105. It will be observed that, in thus empowering a Revenue-officer to fix rents so as to bind the parties, we necessarily empower him to decide certain questions (as, *e.g.*, that of the status of a tenant) which more properly appertain to the jurisdiction of the Civil Courts and ought not to be finally decided by any other authority. It is not, however, intended that the Revenue-officer should finally decide such questions. He may, if he thinks fit, when such a question arises, abstain altogether from deciding it, and, under section 155, refer it to a Civil Court, or leave it to be raised before a Civil Court in a suit instituted by any party interested.

In most cases, he would probably decide the question on such evidence as might be readily available; but, whenever he takes this course, his decision will be liable to be challenged in a Civil Court under section 160, which provides that nothing contained in it shall prevent the rent fixed being called in question on the ground—

(*a*) that the tenancy does not exist, or that the tenant is not liable to pay rent, or

(*b*) that the tenant belongs to a class different from that to which he is shown in the jamabandi to belong, or

(*c*) that the land comprised in the tenancy is different from, or more or less than, that shown in the jamabandí, or

(*d*) that a rent different from that shown in the jamabandi has been fixed by contract.

It is believed that the above list exhausts all the matters, in regard to which a Civil Court may be regarded as a better tribunal than the Revenue-authorities, and, if this is so, the determinations of the Revenue-authorities in regard to all other matters may safely be made final and conclusive.

106. It only remains to add that, by section 163, the Local Government is empowered to charge the expenses of all proceedings, other than Government settlements, under this chapter to the landlords and tenants concerned, in such shares as it thinks fit.

CHAPTER XII.—*Of the Preparation of a Record-of-rights by a Revenue-officer.*

107. The provisions of Chapter XII are somewhat similar to those of Chapter XI, and have been introduced into the Bill with a similar object, but are more limited in their scope, inasmuch as the operations to be undertaken under them do not, like those under Chapter XI, embrace the *fixing* of rents, but are confined to the ascertaining and recording of existing rights and existing rates of rent. Moreover, as existing rights and existing rates of rent are matters the determination of which properly belongs to the Civil Courts, an entry in the record-of-rights prepared by a Revenue-officer under this chapter, is in every case merely to be presumed to be true until the contrary is proved.

108. The only other points calling for notice under this chapter are, first, that the Local Government may apply its provisions not only in the cases, in which it is empowered to apply those of Chapter XI, but also in any other case, in which the Governor General in Council may sanction their being applied, and secondly, that the provisions of this chapter being considered a sufficient substitute for those contained in Act VIII (B. C.) of 1869, sections 38-40, these latter are not reproduced in the present Bill.

CHAPTER XIII.—*Of the Recovery of Rents from Raiyats and Under-raiyats by distraining the produce of the Holding.*

109. This chapter may be said to be the result of a compromise. The Rent Commission, concurring with the Bihár Rent Committee, proposed to abolish the existing law of distraint as an offset of English law, of which the efficacy was impaired by the legislation of 1859, and which had been abused in Bihár and not always applied in a regular manner in other parts of the country. To this strong objections were urged, and the procedure provided by this chapter was then devised by the Government of Bengal, as being likely to secure to the landlords most of the advantages afforded by the existing law, without exposing their tenants to the evils now complained of.

110. The modified power of distraint, which it is now proposed to allow, can be used by any landlord of a raiyat or under-raiyat for the recovery of an arrear of rent, which has not been due for more than a year. It extends, as a rule, to all the produce of the holding, including what may have been grown by, and be the property of, a sub-lessee of the tenant, and it may be exercised though the produce has been stored, provided it has not passed out of the possession of the cultivator. The landlord cannot himself interfere with the produce to be distrained, but must apply to a Civil Court to distrain it. The Court, after a brief examination of the case, will depute an officer to distrain and sell the produce, and nothing will stay the sale except the payment into court of the amount of the demand. Any sum paid into court will be retained for one month, with a view to the possibility of the owner of the distrained property claiming compensation as for a wrongful distraint, and on the expiration of that period it will be paid to the landlord.

111. Sections 185 and 186 are directed against illegal distraint and interference with crops. Section 185 provides, in effect, that any person who, otherwise than in accordance with the provisions of the Bill, or some other enactment for the time being in force, distrains any produce of a tenant's holding, or interferes with the harvesting of a crop, shall be deemed to have committed criminal trespass within the meaning of the Penal Code; and section 186 imposes a penalty which may extend to three months' imprisonment, or two hundred rupees fine, upon any person who benefits by, or is interested in, the commission of an offence under section 185 if, having reason to believe that the offence was likely to be committed, he has not used all lawful means in his power to prevent its commission.

112. Section 187 empowers the Local Government to suspend in any local area, for such time as it thinks proper, the sections which entitle a landlord to distrain.

CHAPTER XIV.—*Special rules of procedure applicable to Suits between Landlord and Tenant.*

113. Sections 191 to 198 are intended to embody all those modifications of the ordinary procedure proposed by the Rent Commission and the Government of Bengal, which seem likely to expedite, in any material way, the disposal of suits between landlords and tenants.

Sections 191 to 197 apply to—

(*a*) suits for recovery of rent;
(*b*) suits for penalties claimable under any provision of the Bill; and
(*c*) suits to recover possession of land.

They provide that, in such suits, the summons shall, as a rule, be issued for the final disposal of the case; that the summons may be served by a registered letter; that no written statement shall be filed without the leave of the Court; that the provisions of the Code of Civil Procedure relating to interrogatories, discovery and affidavits shall not apply; that, whether an appeal lies or not, a simple memorandum of the substance of the evidence, such as is prescribed by the Code for unappealable cases, shall suffice; that, as a rule, execution may issue on the oral application of the decreeholder at the time the decree is passed; and that section 305 of the Code, which enables a judgment-debtor to obtain a suspension of an order made for the sale of his immoveable property, and sections 320 to 325C, which provide for the transfer of decrees to the Collector for execution, shall not apply.

114. A further simplification of the procedure is effected in suits for arrears of rent and for penalties (involving no question of title or of a right to enhance or vary rent) by taking away (section 198) the appeal in such cases from—

(*a*) a decree or order passed by a District Judge, Additional Judge or Subordinate Judge, where the amount claimed does not exceed Rs. 100; and

(*b*) a decree or order passed by any other judicial officer specially empowered by the Local Government, where the amount claimed does not exceed Rs. 50.

In so far as regards the class of cases marked (*a*), the Bill merely reproduces the existing law, with this difference, that it extends the rule to decrees and orders of Subordinate Judges, who, it is thought, may now safely be entrusted with final jurisdiction in cases of this class.

The extension of the provision to the class of cases marked (*b*) is based on a proposal of the Rent Law Commissioners supported by the Local Government. The Rent Commissioners would have fixed the limit of value in such cases at Rs. 10, but the Lieutenant-Governor, who must be regarded as the best judge of the qualifications of his officers, has recommended that it should be raised to Rs. 50, the limit fixed by the present Bill.

115. It will be observed that the final jurisdiction in this class of cases will be exercised only by specially selected officers, and that a power of revision is reserved to the District Judge by the proviso to the section.

116. Section 199 is completely new. It is intended for the benefit of a landlord in a suit for an arrear of rent, when, as sometimes happens, the defendant admits that the arrear is due, but pleads that it is due not to the plaintiff but to some rival claimant. In such a case, it seems only reasonable that the tenant should pay the amount of the rent into court; and the Bill accordingly provides that the Court shall refuse to take cognizance of his plea unless he does so.

117. It is hoped that, when the measure comes to be fully discussed, other expedients for simplifying the procedure in rent-suits may be discovered, but, with the exception of those above referred to, none have hitherto been suggested which the Government of India would be prepared to accept. As regards the possibility of devising any effectual procedure analogous to that on negotiable instruments under Chapter XXXIX of the Code of Civil Procedure, or any other form of summary or provisional remedy, the whole history of such remedies both in this country and elsewhere is against it.

A summary form of procedure can scarcely help a plaintiff unless his case is of the simplest description, admitting of being answered only in the simplest way, and he comes into court armed with documentary evidence of so reliable a character that the presumption against any defence being possible is extremely strong. In such cases the Court may very properly, and with great advantage to the plaintiff, be empowered to decline to hear the defendant, and to decide against him summarily and provisionally, unless he pays the amount of the claim into court or gives security for it. But what advantage could be hoped for from a procedure of this description in rent-suits in Bengal, which admit of the most varied and complicated defences, in which the evidence on both sides is usually of the most worthless character, and charges of forgery and perjury almost common forms in the pleadings? If the legislature consented to provide such a procedure for rent-suits, it would probably feel bound to surround it with so many safeguards that the plaintiff would gain nothing by adopting it; and, even if such safeguards were dispensed with in the Act, the Courts would naturally be so cautious about refusing leave to defend or requiring security from a penniless raiyat, that the so-called summary remedy would cease to be summary, and, like the summary suits of former days in some parts of India, become as lengthy and complicated as an ordinary suit, with the further disadvantage of not being final.

118. The truth would seem to be that facilities for recovering rents in Bengal should be sought for, not so much in novel forms of procedure as in a reliable record of tenancies and their incidents, and a simple mode of adjusting rents; in other words, by going to the root of the disputes which, though they may not always come to the surface, are believed to underlie a very large proportion of the contested rent-suits. If this view is correct, the provisions of the Bill regarding the preparation of tables of rates, settlement of rents and framing of records-of-rights, and those regarding receipts and accounts, may reasonably be expected to remove most of the difficulties of which the landlords now complain.

119. Section 200, following the Bill proposed by the Rent Law Commission, enacts that an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree, unless the landlord's interest in the land has become vested in that assignee.

120. Section 202, relating to relief against forfeitures, is based on section 14 of the Conveyancing and Law of Property Act, 1881. It enacts that a suit for ejectment of a tenant, on the ground of his having forfeited his interest by breach of a condition, or the like, shall not be entertained unless the landlord has given the tenant an opportunity of paying compensation and remedying the breach when it admits of remedy, and that, when a decree is passed in such a suit, it shall not be executed until the defendant is allowed a similar opportunity of repairing or atoning for his wrongful act.

121. The Rent Law Commissioners observe that "there are in the existing law no provisions regarding the away-going crop, and, as a natural consequence, when a tenant is ejected while the crop is on the ground, the right to this crop is a constant source of dispute and litigation." Sections 203 and 204 of the Bill have been framed to meet such cases. They provide, in effect, that it shall be in the option of the landlord to purchase the crop from the raiyat at a valuation, or to allow him to retain possession of the land at a reasonable rent till he gathers the crop. Similarly, when the raiyat has prepared the land for sowing before the date on which he is ejected, section 203 provides that he shall be entitled to receive from the landlord the esti-

mated value of the labour and capital expended by him in preparing the land, together with reasonable interest on the same. These sections are, however, guarded by a proviso that a raiyat shall have no claim under them when, after the commencement of the ejectment-proceedings, he has cultivated or prepared the land contrary to local usage.

122. Sections 205 and 206 require the Court in all suits and proceedings for ejectment to inquire into and adjust all claims between the landlord and the tenant. This provision will, it is believed, be found useful as tending to prevent a multiplicity of suits.

123. The origin and object of section 207, which provides for the institution of suits to determine the status of a tenant or the incidents of a tenancy, will be best explained by an extract from the report of the Rent Commissioners. After referring to the provisions of the existing law regarding suits for pattás and kabuliyuts, they thus continue :—

"We have just observed that very little use has been made of these provisions by those for whose benefit they were intended. This observation was more particularly concerned with their use as a means of reducing to writing the conditions regulating the relation of landlord and tenant. There is, however, another purpose for which they might have been used, that is, as a means to obtain an authoritative settlement of some essential question connected with the tenancy and in dispute between the parties thereto; the rate of rent, for example, or the quantity of land held by the tenant. The landlord may contend that the raiyat holds twenty bíghás of land, while the raiyat declares that he has but fifteen. Year after year the contention is renewed. The landlord threatens a measurement, which the raiyat, afraid of a venal *amín* and a varying pole, desires to avoid. A bribe to the *gomáshta*, or compliance with some petty cess, defers the final settlement of the question for a year: and the following year it arises again, perhaps deterring the raiyat from going to his landlord's *kachahrí* to pay his rent, lest he should be subjected to a demand, the justice of which he will not admit. Or, some fields in the raiyat's holding are by him maintained to be second class rice-land and assessable with the prevailing or usual rate for land of this class, whilst the landlord avers that they are first class rice-land and should pay a higher rent. At every rent-day the point is discussed; and in a country where any discussion is prone to beget a wrangle, seldom conducted with a seemly choice of expressions, an amount of irritation is kept up, which is not in harmony with the friendly relations which should exist between a landlord and his tenantry. It is very desirable that facility be afforded for the ready settlement of questions like these, which are constantly arising in this country, more specially in consequence of the absence of boundaries and fences, and the want of an exact survey upon an uniform standard. It might have been thought that the landlord in the first case could easily have the questions settled by tendering a pattá and demanding a kabuliyat for twenty bíghás; and the landlord, in the second case, by tendering a pattá and demanding a kabuliyat for the field, as first class rice-land: but if the land turned out to be nineteen and a half bíghás instead of twenty, or one of the fields was found to be of some middle class kind of land, the suit, according to the decision of the highest tribunal in India, must fail, and the parties be sent away, the real question in dispute unsettled, and their feelings roused and embittered by litigation.'

"Thus these provisions of the existing law have become ineffectual for the only purpose for which the people cared to use them, and for which they might have been beneficially used. While omitting what has been found useless in practice, we have endeavoured to supply the want thus indicated by experience. Section 151 of the draft Bill accordingly allows either landlord or tenant to sue for the determination of any such questions which may arise between them. A copy of the decree passed in the case will have all the effect of a pattá or kabuliyat upon the point which the parties themselves wish to have determined."

CHAPTER XV.—*Sale of transferable Holdings in execution of Decrees for Arrears due on them.*

124. The provisions of this chapter are made applicable to all transferable holdings, including such tenures as are transferable, occupancy-holdings, and bastu holdings under Chapter VII, and involve, in certain other respects, substantive changes in the existing law.

The most important of those changes will be best explained in the words of the Rent Commissioners, with whom it originate d :—

"The object," they say, "of making sub-leases and incumbrances voidable upon the sale of a tenure for arrears of rent is, that the superior landlord's security for his rent may not be impaired. If the sub-leases and incumbrances of a tenure have not absorbed so much of the tenure-holder's profits as to render the interest left him insufficient to meet the rent which he pays to the proprietor of whom he holds his tenure; if the tenure, subject to these sub-leases and incumbrances, will sell for a sum sufficient to satisfy any decree that can be passed for arrears of the rent payable by the tenure-holder, it cannot be said that the proprietor-landlord's security for his rent has been impaired so far as to bring the case within the above object. The right of sub-letting and creating incumbrances belongs to every tenure-holder: such is the common law

of the country. So long as the landlord is certain of the rent to which he is entitled, he cannot justly complain of the exercise of this right, or claim to interfere with it. When, however, the exercise of the right extends so far as to endanger the landlord's rent, to impair the security for such rent afforded by the sale of the tenure by public auction, the case is altered, and the landlord may reasonably demand that these sub-leases and incumbrances be avoided, which have rendered the remaining interest of the tenure-holder an insufficient security for the rent payable by him.

"In this view of the matter, we have enacted that a tenure, under-tenure or occupancy-holding, about to be sold in execution of a decree for arrears of its own rent, shall first be put up to auction subject to certain incumbrances, and, if the sum bid is sufficient to liquidate the amount of the decree and costs, shall be sold subject to such incumbrances. If the highest amount bid is not sufficient to liquidate the decree, the decree-holder, that is, the landlord, may then claim to have the tenure, &c., sold free of incumbrances. Such sale is not to be had immediately, but upon a subsequent sale-day not less than fifteen or more than thirty days afterwards; and a notification of such tenure being about to be offered for sale free of incumbrances must be posted upon some conspicuous place upon the land of the tenure. The effect of these provisions will be that persons who hold sub-leases and incumbrances will not be endamaged if the bidding on the first sale-day reaches an amount sufficient to satisfy the decree and the tenure is in consequence sold subject to incumbrances. If, on the other hand, the bidding on the first sale-day does not reach an amount sufficient to satisfy the decree, such persons will have time to protect themselves from injury by paying in the amount of the decree (which they can subsequently recover from the defaulter), and so preventing such a sale of the tenure as will avoid incumbrances."

125. Among the objections to the scheme thus propounded by the Commissioners was one to the effect that it was unsuited to the case of occupancy-holdings. This objection is admitted by Mr. Reynolds and by the Government of Bengal to be as a rule well-founded, inasmuch as an ordinary-occupancy-holding is not likely to be saddled with incumbrances which should be respected at a sale. It appears, however, that there are, in some parts of the country, occupancy-holdings of large extent, the land of which is sub-let on such terms that the interest of the lessee is of considerable value. Under these circumstances, the proper course appears to be that proposed by the Government of Bengal, namely, that occupancy-holdings should as a rule be sold at once with power to annul all incumbrances, but that the Local Government should have power to direct that the occupancy-holdings in any local area should be in the first instance put up subject to incumbrances as if they were tenures; and it is on these lines that the present Bill is drawn.

126. The general outline of the chapter will be clear from what has been said, but there are certain details of sufficient importance to call for further explanation. In the first place, it should be stated that the word "incumbrance" is used throughout in a special sense. When it is said that a holding will be sold "free of incumbrances," or as the Bill puts it, "with power to avoid incumbrances," it is not meant that it will be discharged free of everything that might in the wide sense of the word be termed an "incumbrance."

The following interests, which might be termed incumbrances, will not be affected by any sale under this chapter :—

(*a*) a tenure existing from the time of the permanent settlement;

(*b*) a tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;

(*c*) a tenure of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made;

(*d*) a right of occupancy;

(*e*) a right conferred on an occupancy-tenant to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and

(*f*) any right or interest which the landlord has expressly and in writing given the tenant permission to create.

The last three of these are protected in similar sales under the existing law, and the first three have been added, because such interests, being protected under a sale for arrears of revenue, would seem to be *à fortiori* entitled to protection under a sale for rent.

127. Again, when the Commissioners propose that the holding shall be put up in the first instance subject to incumbrances, they do not mean that it should be sold subject to all incumbrances, but only to such incumbrances as have been created by a registered instrument of which a copy has been served on the landlord. This limitation they considered necessary to prevent sham incumbrances being fraudulently set up after the sale.

128. The Bill has been drawn in accordance with these views, and accordingly, if it becomes law, the result will be—

(*a*) that the interests referred to in paragraph 126 will be protected in the case of all sales;

(*b*) that, in the case of sales subject to encumbrances, the protection will extend also to incumbrances created by registered instruments of which a copy has been served on the landlord; and

(*c*) that, except as stated in (*a*) and (*b*), the holding will be sold with power to avoid all liens, sub-tenancies, easements and other rights or interests created upon it by the tenant in limitation of his own interest.

129. An incumbrance will not become void *ipso facto* on a sale under this chapter. It must be annulled by a notice served on the incumbrancer through the Collector within one year after the purchaser first has knowledge of the incumbrance. It may be added that it is proposed, by separate legislation, to apply a similar rule to the case of sales for arrears of revenue.

130. When an order for the sale of a holding is passed under this chapter, nothing will stop the sale, unless the amount due is paid into court or the decree-holder acknowledges that his claim has been satisfied.

131. When any person, having in a holding advertized for sale under this chapter an interest which would be voidable upon the sale, pays into court the amount requisite to prevent the sale, he will, with a view to the recovery of his money, be placed by section 218 in the position of a mortgagee of the holding with a first charge and a right to possession. If he is an inferior tenant of the holding, he will have a further remedy under section 219 which entitles him to deduct the amount from his rent.

132. The only other provision of this chapter which need be mentioned is section 220, which permits the decree-holder to bid at the sale without the permission of the Court, and precludes the judgment-debtor from bidding.

CHAPTER XVI.—*Limitation.*

133. The only provision of this chapter calling for notice is section 225, under which disability will not be recognised as affecting the running of limitation in suits for the recovery of rent. This is in accordance with the recommendation of the Rent Law Commissioners.

"We think," they say, "that a minor ought not to be competent on coming of age to sue a raiyat for rent, which had accumulated during the whole period of his minority; that this kind of debt, which a poor man usually discharges year by year out of the produce of the year, ought not to be allowed to accumulate; and that, if the manager of a minor's estate neglects his duty of realizing rents as they fall due, the minor's remedy ought to be in an action for damages against such manager."

C. P. ILBERT.

The 2nd March, 1883.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 10, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 2nd March, 1883:—

No. 5 OF 1883.

THE BENGAL TENANCY BILL, 1883.

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Bengal Tenancy Bill.

(Chapter I.—Preliminary. Sec. 3.)

Explanation of abbreviations in margin.

D. means Mr. Field's Digest.

C. B., the Bill prepared by the Commission.

B. B., the Bill submitted by the Bengal Government with letter No. 849, dated 27th July, 1881.

A

BILL

TO

Amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the Territories under the Administration of the Lieutenant-Governor of Bengal.

WHEREAS it is expedient to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

C. B., s. 1.
B. B., s. 1.

1. (*1*) This Act may be called the Bengal Tenancy Act, 1884.

Short title.

(*2*) It shall come into force on such date (hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local Gazette, appoint in this behalf.

Commencement.

(*3*) It shall extend by its own operation to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal, except the Town of Calcutta, the Division of Orissa, and the Scheduled Districts specified in the third part of the First Schedule of the Scheduled Districts Act, 1874; and the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local Gazette, extend the whole or any part of this Act to the Division of Orissa.

Local extent.

C. B., s. 2.
B. B., s. 2.

2. (*1*) The enactments specified in Schedu hereto annexed are repealed in the territories to which this Act extends by its own operation.

Repeal.

(*2*) When this Act is extended to the Division of Orissa, such of those enactments as are in force in that Division, or, where a part only of this Act is so extended, so much of them as is inconsistent with that part, shall be repealed in that Division.

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

(*4*) The repeal of any enactment by this Act shall not revive any right, privilege, matter or thing not in force or existing at the commencement of this Act.

3. The following definitions and rules shall apply in the construction of this Act unless there is something repugnant in the subject or context:— C. B., s. 3. B. B., s. 3.

Construction of Act.

(*1*) "Estate" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district:

(*2*) "Proprietor" means a person or a number of persons owning an estate:

(*3*) "Tenure" includes an under-tenure and the interest of every tenant of the class referred to in section 14. New.

Illustrations.

(*a*)—A *durpatni* or *sipatni* interest or a mokurrerree holding is a tenure.

(*b*)—A *dar-ijarah* or a farm for a term of years is a tenure.

(*4*) "Tenure-holder" means a person or a number of persons owning a tenure.

(*5*) A person shall not be deemed to be a raiyat, in respect of any land, or to hold that land as a raiyat, unless he holds it for the purpose of agriculture, horticulture or pasture, or he or his predecessor in interest came into possession of it for such purpose: C. B., s. 3 "raiyat" and "land." B. B., s. 3 "raiyat" and "land."

Provided that a person shall be deemed to hold as a raiyat any *bastu* or homestead land included in the same holding with other land held by him as a raiyat.

Explanation.—A person may hold land for a purpose mentioned in this clause though he has sublet it.

(*6*) "Under-raiyat" means a tenant holding land whether immediately or mediately below a raiyat.

(*7*) "Bastu holding" means bastu or other homestead land held by a tenant having the right provided for by Chapter VII. New.

(*8*) "Tenant" does not include any person who is not a tenure-holder, raiyat or under-raiyat, or the tenant of a bastu holding. New.

(*9*) "Landlord" means a person or a number of persons immediately under whom a tenant holds.

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(*Chapter I.—Preliminary, Chapter II.—Khamar and Raiyatí Land. Secs. 4—8.*)

(*10*) "Rent" means whatever is payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant.

(*11*) "Pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery."

D. s. 101. C. B. s. 56. B. B. s. 48. (*12*) "Arrear" means an instalment, or part of an instalment, of rent which is not paid before sunset of the day on which it is payable.

(*13*) "Holding" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions.

New. (*14*) "Agricultural year" means, where the Bengalí year prevails, the year commencing on the first day of Bysáck, and where the Faslí or Amlí year prevails, the year commencing on the first day of Asin.

C. B. ss. 60 & 16. B. B. ss. 6 & 15. (*15*) "Permanent Settlement" means the Permanent Settlement of Bengal, Bihár and Orissa made in the year 1793.

(*16*) "Transfer" includes sale, whether voluntary or in execution of a decree, and mortgage and gift.

(*17*) "Succession" includes both intestate and testamentary succession.

(*18*) "Bihár" means all the districts of the Patna Division, and such district or parts of districts of the Bhágalpur Division as the Lieutenant-Governor of Bengal may from time to time, by notification in the official Gazette, declare to be included in Bihár for the purposes of this Act.

(*19*) "Signed" includes "marked" when the person making the mark is unable to write his name; it also includes "stamped" with the name of the person referred to.

(*20*) "Prescribed" means prescribed by the Local Government by notification in the official Gazette.

(*21*) "Collector" means the Collector of a District or any other officer appointed by the Local Government to discharge the functions of a Collector under this Act.

(*22*) "Revenue-officer" in any provision of this Act means such officer as the Local Government may appoint to discharge the functions of a Revenue-officer under that provision.

C. B. s. 4. Report of Rent Commission, s. 3. B. B. s. 4.

4. Nothing in this Act shall affect—

Saving of custom, special law, &c.

(*a*) any custom or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions;

(*b*) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act;

(*c*) any enactment regulating the procedure for the realization of rents in estates belonging to the Government, or under the management of the Court of Wards or of the revenue-authorities;

(*d*) any enactment relating to the avoidance of tenancies by a sale for arrears of the Government revenue;

(*e*) any enactment relating to the partition of out revenue-paying estates;

(*f*) any other special or local law not repealed either expressly or by necessary implication by this Act or

(*g*) any incident of a ghátwálí or other service tenure.

Illustration.

C. B. s. 19 Expl. 4 (*f*). B. B. s. 19, Expl. 4 (*c*) proviso. The custom that an under-raiyat should, under certain circumstances, acquire a right of occupancy is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom accordingly, wherever it exists, will not be affected by this Act.

CHAPTER II.

OF THE DISTINCTION BETWEEN KHAMAR AND RAIYATÍ LAND.

Khamar land defined.

5. "*Khamar land*" means—

C. B. s. 81. B. B. ss. 3 & 75. *1st*, land situated elsewhere than in Bihár which a proprietor has held, whether under the name of khamar, nij-jote, ser or otherwise, as his private land for twelve continuous years before the commencement of this Act, and

2nd, land situate in Bihár which—

(*a*) is recognized as zeraat by a village custom established before the commencement of this Act: or

(*b*) is proved to have been held by a proprietor as zeraat for twelve continuous years immediately before the commencement of this Act.

All other land to be raiyatí.

6. All land which is not khamar land of some estate shall be deemed to be raiyatí land, and all land shall be presumed to be raiyatí land until the contrary is proved. & 75.

Power to order survey and register of khamar lands.

7. The Local Government may direct that a survey and register shall be made of all khamar land situate in any district or part of a district. B. B. s. 76.

Mode of making survey.

8. The survey shall be made by the Collector or by an officer authorized by the Collector in that behalf, under such rules as may from time to time be prescribed by the Local Government for the conduct of such surveys; and the Collector or such officer may exercise any of the powers conferred upon a Collector by the Bengal Survey Act of 1875, except the powers in Part IV of the said Act relating to the apportionment and recovery of expenses. B. B. s. 77. V. (B. C.) of 1875.

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(*Chapter III.—Tenure-holders generally. Secs. 9—20.*)

B. B. s. 78. Publication of register.

9. The Collector shall make a register, in such form as the Local Government may from time to time prescribe, of such lands in each village as he may ascertain to be khamar lands within the meaning of the definition contained in section five; and copies of that register shall be published in such manner as the Local Government may direct.

B. B. s. 79. Appeals.

10. (*1*) Any person dissatisfied with any entry in the register may appeal to the Commissioner within one month after the publication; and the Commissioner shall make such enquiry as he considers necessary, and may direct the register to be amended in such manner as he thinks fit.

(*2*) An appeal shall lie to the Board of Revenue from any order passed by the Commissioner under this section, if preferred within one month from the date of the order.

B. B. s. 80. Submission of register to Board of Revenue and Local Government.

11. If no appeal is preferred to the Commissioner, or after such appeals as have been so preferred have been disposed of, the Commissioner shall submit to the Board of Revenue a copy of the register, with a report showing how the survey and register have been made; and, if the Board are satisfied that the register is correct, they shall transmit the same to the Local Government for its approval.

B. B. s. 81. Approval of register.

12. If the Local Government approves the register, it may direct that its approval of the same be notified in the official Gazette: Provided that its approval shall not in any case be given until after three months from the date of the publication under section nine.

B. B. s. 82. Consequence of notification of approval.

13. When the approval of a register by the Local Government has been notified under section twelve, all land entered in the register shall, notwithstanding anything in the foregoing sections, be deemed to be khamar land, and all other land situate in the local area for which the register has been prepared shall, notwithstanding anything as aforesaid, be deemed to be raiyatí land.

CHAPTER III.—OF TENURE-HOLDERS GENERALLY.

A.—Of the Right to hold at fixed rents.

[D., 20 & 37. C. B. ss. 6 & 16. B. B., ss. 6 & 15.] Land held at rent unchanged since Permanent Settlement not liable to enhancement.

14. Where land has been held by a tenant and his predecessors in interest at a rent which has not been changed from the time of the Permanent Settlement, then, subject to the provisions of this Act, the rent shall not be liable to enhancement, and the tenant shall be deemed to be a tenure-holder for the purposes of this Act.

D. ss. 21 & 38. C. B. ss. 6 & 17. B. B. ss. 6 & 16. Presumption from twenty years' holding at unchanged rent.

15. Where land has been held by a tenant and his predecessors in interest at a rent which has not been changed for twenty years, then, subject to the provisions of this Act, it shall be presumed, until the contrary is shown, that it has been held by them at that rent from the time of the Permanent Settlement.

D. s. 38. C. B. s. 16. B. B. s. 15. Expl. I.] Application of sections 14 and 15 when rent is paid in kind.

16. When a tenant has paid as rent a fixed share or the value of a fixed share of the produce of the land, the rent shall not be deemed to have been changed within the meaning of sections fourteen and fifteen merely by reason of the amount paid having varied from year to year, or by reason of the rent having been commuted to a fixed money-rent.

[D. s. 37. C. B. s. 16, Expl. II. B. B. s 15, Expl. II.] Effect of separation or amalgamation of holding.

17. The operation of the foregoing sections of this chapter shall not be affected by the fact of land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding.

[D. s. 19. C. B. s. 7. B. B. s. 7.] Tenure held since Permanent Settlement liable to enhancement only in certain cases.

18. (*1*) Where a tenure has been held from the time of the Permanent Settlement, its rent shall not be liable to enhancement except on proof—

(*a*) that the landlord under whom it is held is entitled to enhance the rent thereof either by the special custom of the district, or by the conditions under which the tenure is held, or

(*b*) that the tenure-holder, by receiving reductions of his rent, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

(*2*) A reduction of rent granted to a tenure-holder, on account of diluvion or for land taken under the provisions of any enactment for the time being in force for the acquisition of land for public purposes or companies, shall not be deemed a reduction within the meaning of this section.

[D. s. 20. C. B. s. 6. B. B. s. 6.] Saving as to land held under terminable agreement.

19. Nothing in the foregoing sections of this chapter shall apply to land held under a terminable agreement.

[C. B. ss. 6 & 17, Exception. B. B., ss. 6 & 16. Exception.] Saving as to land held in a district not permanently settled.

20. Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in the foregoing sections of this chapter shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a fixed rate of rent has been expressly recognized in settlement-proceedings by a Revenue-authority empowered by the Government to make definitively or confirm settlements,

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(*Chapter III.—Tenure-holders generally. Secs. 21—28.*)

B.—Of the enhancement of rent.

[D. s, 23. C. B. ss. 9 & 12. B. B.ss. 9 & 10.]

21. (*1*) Where the rent of a tenure-holder is liable to enhancement, it may, subject to any contract between the parties, be enhanced up to the limit of the customary rate payable by persons holding similar tenures in the vicinity.

Limits of enhancement of rent of tenures.

(*2*) Where no such customary rate exists, it may, subject as aforesaid, be enhanced up to such limit as the Court thinks fair and equitable.

(*3*) In determining what is fair and equitable under sub-section two, the Court shall not, except as provided in sub-sections four and five, leave the tenure-holder as profit more than thirty per centum or less than ten per centum of the balance which remains after deducting from the gross rents payable to him the expenses of collecting those rents.

(*4*) If more than half the land included in the area of the tenure was unreclaimed at the time when the tenure was created, and if the reclamation of the unreclaimed land was one of the objects of the creation of the tenure, and that land was reclaimed accordingly, the Court, in determining what is fair and equitable under sub-section two, shall not leave the tenure-holder as profit less than twenty per centum of the balance mentioned in sub-section three, and may leave him as profit any share of that balance whether it exceeds thirty per centum thereof or not.

(*5*) If, in any case to which sub-section four does not apply, the tenure-holder has made improvements on the land, the Court, in determining what is fair and equitable under sub-section two, may leave him as profit any share of the balance mentioned in sub-section three it thinks fit, provided it be not less than ten per centum of the balance.

(*6*) If the tenure-holder himself occupies any portion of the land included in the area of his tenure, or has made a grant of any portion of the land either rent-free or at a beneficial rent, a fair and equitable rent shall be calculated for that portion and included in the gross rents aforesaid.

[C. B., s. 10. B. B., s. 11.]

22. Where the rent of a tenure-holder is liable to enhancement, the enhanced rent fixed under section 21 shall not be more than double the rent previously payable.

Enhanced rent not to be more than double the previous rent.

[C. B., s. 10. B. B., s. 11.]

23. The Court may, if it thinks that an immediate increase of rent would produce hardship, direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement allowed has been reached.

Power to order gradual enhancement.

[C. B., s. 10. B. B., s. 11.]

24. When the rent of a tenure-holder has been enhanced under section 21 or by contract, it shall not be again enhanced under that section during the ten years next following the date on which it has been so enhanced.

Rent once enhanced may not be altered for ten years.

C.—Of the Incidents of permanent tenures.

25. Every permanent tenure shall, subject to the provisions of this Act in respect of registration, be capable of being transferred and bequeathed in the same manner and to the same extent as other immoveable property.

[C. B., s. 13. B. B. ss. 17.]

Incidents of permanent tenures generally.

26. A holder of a permanent tenure shall not be ejected by his landlord except under a decree of a Civil Court passed in accordance with this Act on the ground that he has broken a condition on breach of which he is, under the terms of a written contract between him and his landlord, liable to be ejected.

Permanent tenure-holder not liable to ejectment.

D.—Of the registration of transfers of, and succession to, permanent tenures.

[D. s. 25. C. B, s. 46. B. B. s. 37.]

27. (*1*) When a transfer of a permanent tenure (other than a transfer by sale in execution of a decree or by a summary sale under Chapter IV) or a succession to such a tenure takes place, the landlord shall, subject, in the case of a patní tenure, to the provisions of section 39, register the same on application made to him by the transferor and transferee, or by the person succeeding, as the case may be, and on payment by the applicant of the fee next hereinafter prescribed.

Landlord bound to register voluntary transfer or succession on application.

(*2*) The fee payable on an application under this section shall be as follows, namely :— [D. s. 27. C. B., ss. 47, 49. B.B., ss. 39, 41.]

(*a*) When the application is made not more than six months from the date of the transfer or succession, a fee of two per centum upon the annual rent of the tenure: provided that no such fee shall be less than one rupee or more than one hundred rupees.

(*b*) When the application is made more than six months from the date of the transfer or succession, a fee of twenty per centum upon the annual rent of the tenure: provided that no such fee shall be less than ten rupees or more than one thousand rupees.

(*3*) When a landlord refuses to comply with an application for registration, made as required by sub-section one, he shall deliver to the applicant a statement in writing of the reasons for his refusal. [New.]

28. (*1*) An application for the registration of a transfer of or a succession to a tenure may, instead of being made to the landlord under section 27, be made to such Revenue-officer as the Local Government may from time to time appoint in this behalf; and, on its being so made, and on the fee payable under section 27 being paid to the officer, he shall cause a notice to be served [New.]

Application may be served through Revenue-officer.

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on the landlord, requiring him to register the transfer or succession, and informing him that the fee has been received and will be paid to him on demand when the registration has been effected.

(*2*) A landlord on whom a notice is served under this section shall, subject in the case of a patní tenure to the provisions of section 39, be bound to comply forthwith with the requisition therein contained.

[C. B. ss. 47, 48 (*c*) B. B., ss. 39, 40 (*c*).]

29. (*1*) When a permanent tenure is sold in execution of a decree other than a decree for arrears of rent due in respect thereof, the Court shall, before confirming the sale under section 314 of the Code of Civil Procedure, require the purchaser to pay into Court the registration fee prescribed by section 27, clause (*a*), and such further fee for service of notice of the sale on the landlord as may be prescribed by the rules under section 35.

Registration in case of transfer by sale in execution of decree other than decree for rent.

XIV of 1882.

(*2*) When the sale has been confirmed, the Court shall forthwith cause to be served on the landlord a notice of the sale, requiring him to register the same, and informing him that the registration-fee has been received and will be paid to him on demand when the registration has been effected; and the landlord shall be bound to comply with the requisition forthwith.

30. When a permanent tenure is transferred by sale in execution of a decree for arrears of rent due in respect thereof, or by summary sale under Chapter IV, the landlord shall be bound to register the transfer without any application or requisition being made to him in this behalf, and without the payment of any fee.

Registration in case of transfer by sale in execution of decree for rent or by summary sale.

D. § 10. [C. B., ss. 46, 48 (*a*), 49. B. B., ss. 37, 40 (*a*) and 41.]

31. When a transfer of a permanent tenure (not being a transfer by sale in execution of a decree or by summary sale under Chapter IV) has taken place, the landlord may, until the transfer has been registered under section 27, or a Revenue-officer has ordered a notice to be served under section 28, hold the transferor and transferee jointly and severally liable for arrears of rent accruing subsequent to the transfer.

Effect of omission to register voluntary transfer.

[C. B., s. 35. B B., s. 44.]

32. (*1*) When a landlord refuses or neglects for a period of one month to register a transfer or succession which he is bound to register under the foregoing sections, the transferor or transferee, or, as the case may be, the person succeeding, may apply to any Civil Court having jurisdiction in the local area within which the land is situate to compel such registration.

Application to Court to compel landlord to register.

(*2*) The Court to which an application is made under sub-section one may issue a notice to the landlord, and, when the application is made by one party to a transfer, also to the other party or parties to the transfer, requiring him or them, as the case may be, to show cause, at a time and place therein specified, why the transfer or succession should not be registered.

(*3*) If no cause as aforesaid is so shown, the Court may make an order directing the landlord to register the transfer or succession, and the order so made shall have the force of a decree in a suit.

[C. B., ss. 50 and 51. B. B., ss. 42 and 43.]

33. (*1*) When a transfer (other than a transfer by sale in execution of a decree or by summary sale under Chapter IV) or a succession, registrable under the foregoing sections, has taken place, and no application is made for its registration within the six months following the date on which it has taken place, the landlord may apply to any Civil Court as aforesaid to compel the parties to the transfer, or the person succeeding, as the case may be, to consent to its registration and pay the fee mentioned in section 27, clause (*b*).

Application by landlord to compel registration.

(*2*) The Court to which an application is made under sub-section one may issue a notice calling upon the parties to the transfer, or the person succeeding, as the case may be, to show cause, at a time and place specified in the notice, why they or he should not consent to the registration and pay the fee.

(*3*) If no cause as aforesaid is so shown, the Court may make an order authorising the landlord to register the transfer or succession, and directing the transferee, or the person succeeding, as the case may be, to pay the fee; and the order so made shall have the force of a decree in a suit.

[C. B., s. 54. B. B., s. 46.]

34. When a transfer of, or a succession to, a tenure has been registered under the foregoing sections, every person to or from whom the tenure or any share thereof is transferred, or (as the case may be) every person succeeding to the tenure, shall be entitled to receive free of charge from the landlord on demand a copy of the entry in the register relating to the tenure, certified under his hand as a true copy, and to receive from time to time in like manner as many additional copies as he may demand: provided that for every such additional copy he shall pay to the landlord such fee, not less than *eight annas* or more than *five rupees*, as the Board of Revenue may from time to time fix in this behalf.

Landlord to give copies of entries in the register.

[C. B., s 54. B. B., s. 46.]

35. (*1*) The Board of Revenue may from time to time, by rules consistent with this Act and published in the official Gazette, prescribe forms for the registers to be maintained under the foregoing sections, and determine the mode in which, and the place at which, applications are to be made under section 27, and generally the procedure to be followed in regard to registration.

Power to make rules regarding registration.

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(Chapter IV.—Patní Tenures. Secs. 36—45.)

(2) In making any rule under sub-section one the Board may provide that any breach thereof shall be punishable with fine which may extend to fifty rupees.

CHAPTER IV.

OF PATNÍ TENURES.

[D. s. 26. C. B., ss. 14 & 15. B. B., ss. 13 & 14.]

36. "Patní tenure" means a tenure of the kind described in Schedule II annexed to this Act, and includes the darpatní and other similar under-tenures referred to in that schedule.

Definition of patní tenure.

[D. s. 26. C. B., s. 14. B. B., s. 13.]

37. (1) Every patní tenure shall be deemed to be a permanent tenure.

Incidents of patní tenures.

(2) The holder of a patní tenure may, subject to the provisions of this Act, let the land comprised in his tenure or any part thereof.

[B. B. s. 45 (a).]

38. When a patní tenure is transferred, whether voluntarily or by sale in execution of a decree, or by summary sale under section 42, the landlord may require the transferee to furnish substantial security, to the amount of one half year's rent of the tenure, for the payment of the rent and the fulfilment of the other conditions of the tenure.

Right of landlord of patní tenure to demand security from transferee.

[B. B. s. 45 (b).]

39. When a patní tenure is transferred otherwise than by sale in execution of a decree, or by summary sale under section 42, the landlord may refuse to register the transfer under Chapter III of this Act until the security required under section 38 is furnished.

Landlord may refuse registration of voluntary transfer when security is not given.

[B. B. s. 45 (d).]

40. (1) In the case of a transfer by sale in execution of a decree, or by summary sale under section 42, if security is demanded by the landlord from the purchaser under section 38, and is not furnished within one month from the date on which it is so demanded, the landlord may attach and hold possession of the tenure to the exclusion of the transferee until the security is furnished.

Landlord may attach tenure sold in execution or by summary sale when security is not given.

(2) While an attachment under this section continues, the landlord may collect the rents from the undertenure-holders or raiyats, and, after deducting therefrom the cost of the attachment, the expenses of collection and the rent due to himself, he shall hold the balance in trust for the purchaser.

(3) If the rents so collected are not sufficient to discharge the cost of the attachment, the expenses of collection, and the rent due to the landlord, the purchaser shall be liable for the deficiency, and the landlord may proceed against him for the recovery of the same.

[B. B. s. 45 (c).]

41. (1) If the security tendered under section 38 by any transferee is rejected by the landlord, the transferee may, within three months from the date of the rejection, apply to the Civil Court for an order directing the landlord to receive the security, and the Court, if satisfied of the sufficiency of the security tendered, may make such order, or, if not so satisfied, may make an order rejecting the application.

Application to Civil Court, if security tendered is refused.

(2) No appeal shall lie from any order under this section.

42. If default is made in payment of the rent due in respect of a patní tenure, held immediately from a proprietor, the landlord may, in addition to any other remedy given him by law, apply for the summary sale of the tenure in accordance with the rules for the sale of patní taluqs at the instance of zemindars, contained in Schedule III annexed to this Act.

Recovery of arrears by summary sale.

Provided that nothing in those rules shall entitle a purchaser at any such sale to eject an occupancy-raiyat or cancel any contract entitling him to hold at a rent which was fair and equitable at the time the contract was made.

CHAPTER V.—OF OCCUPANCY RAIYATS GENERALLY.

[B. S. 19, Expl. II.]

43. For the purposes of this chapter—

Interpretation.

(a) "village" means an area included in a village-map of the revenue-survey within the same exterior boundary, and, where no such maps have been prepared, such area as the Local Government or any officer appointed by the Local Government in this behalf may determine: and

[New.]

(b) where two or more estates have been created by one or more partitions taking place since the first day of January, 1853, the area comprised in the parent estate of which they would have formed part if no such partition had taken place, shall be deemed to be a single estate.

[B.B. s. 19 (1) & Expl. IV & proviso.]

44. Every raiyat who, immediately before the commencement of this Act, has, by the operation of any enactment, by custom having the force of law, or otherwise, a right of occupancy in any land shall, when this Act comes into force, become, for the purposes of this Act, an occupancy-raiyat of that land.

Present occupancy-raiyats to become occupancy-raiyats under Act.

45. (1) Every person who, for a period of twelve years, whether before or after the commencement of this Act, has continuously held, as a raiyat, raiyatí land situate in any village or estate, shall, notwithstanding any contract to the contrary, and though the land so held by him at different times during that period may have been different, be deemed to have become, on the expiration of that period, a settled raiyat of that village or estate.

Acquisition of status of settled raiyat of village or estate.

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(Chapter V.—Raiyats with Right of Occupancy. Secs. 46—52.)

(2) A person shall be deemed for the purposes of this section to have held as a raiyat any raiyatí land held as a raiyat by a person whose heir he is.

(3) Raiyatí land held by two or more co-sharers as a raiyatí holding shall be deemed for the purposes of this section to have been held as a raiyatí holding also by each such co-sharer.

46. If a settled raiyat of a village or estate has ceased for a period of one year, whether before or after the commencement of this Act, to hold raiyatí land as a raiyat in that village or estate, either alone or as a co-sharer with others, he shall be deemed to have ceased, on the expiration of that period, to be a settled raiyat of that village or estate.

Loss of status of settled raiyat.

47. Every settled raiyat of a village or estate holding after the second day of March 1883 as a raiyat any raiyatí land comprised in that village or estate shall, notwithstanding any contract to the contrary, be deemed to acquire or have acquired in that land a right of occupancy under the law for the time being in force:

Settled raiyat to have occupancy-right in raiyatí land held by him in village or estate.

[D, s. 40, Expls. I & V. B. B. s. 19, Expl. IV.]

Provided that a person shall not acquire a right of occupancy under this section in respect of any land held by him alone as owner, tenure-holder or ijáradár.

48. (1) A proprietor or permanent tenure-holder, from whom a person takes land as a raiyat, or immediately under whom a person holds land as a raiyat, may grant to that person an occupancy-right in respect of that land.

Acquisition of occupancy-right by grant.

(2) An occupancy-right granted under this section shall be deemed to be an occupancy-right within the meaning of this Act.

[D. s. 40, Expl. V. B. B. s. 19, Expl. III (b), Expl. IV (f).]

49. (1) Every person who, for a period of twelve years ending after the commencement of this Act, has held khamar land as a raiyat shall, unless he has held it for any portion of that period under a lease for a fixed period, acquire a right of occupancy in that land.

Acquisition of occupancy right in khamar land.

(2) The holding of the father or other person from whom a raiyat inherits shall be deemed to be the holding of the raiyat for the purposes of this section.

50. When a raiyat has an occupancy-right in respect of any land, the following provisions shall, notwithstanding any contract between him and his landlord to the contrary, apply, namely:—

Incidents of occupancy-right generally.

[B. B. s. 69.]

(a) he may use the land in any manner which does not render it unfit for the purposes of the tenancy:

(b) he may make improvements on the land as by this Act provided:

[B. B. s. 21. (d).]

(c) he shall pay rent at fair and equitable rates determined as by this Act provided:

[B. B. s. 21 (e)., 31, 69 (a).]

(d) he shall not be ejected by his landlord from the land, except in execution of a decree for ejectment passed in accordance with this Act on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with the provisions of this Act and on breach of which he is, under the terms of a written contract between him and his landlord, liable to be ejected:

[B. B. s. 71.]

(e) he may sub-let the land or any part thereof:

[B. B. s. 21 (a) and (b).]

(f) his interest in the land shall, subject to the rights reserved to the landlord by this Act, be capable of being transferred, and bequeathed by will in the same manner and to the same extent as other immoveable property:

[B. B. s. 21 (c).]

(g) his interest in the land shall, if he dies intestate in respect of it, descend in the same manner as any other immoveable property: provided that, in any case in which, under the law of inheritance to which he is subject, his other property goes to the Crown, his interest in the land shall go to his landlord.

51. (1) When an occupancy-raiyat intends to sell his occupancy-right to any person other than the landlord, he shall file in the office of the Collector, or of the officer in charge of the sub-division, for service on the landlord, a written notice of his intention, stating the person to whom he intends to sell the right, and shall defer proceeding with the sale for one month from the date on which he files the notice.

Landlord's right of pre-emption on voluntary sale of occupancy-right.

(2) The officer in whose office the notice is filed shall forthwith cause it to be served on the landlord.

(3) The landlord may, within the period of one month from the date of the notice being filed, claim to purchase the occupancy-right from the raiyat at such price as may be agreed on between them, or, if they cannot agree on a price, at such price as may be fixed by the Civil Court on an application made to it in this behalf by the landlord within the said period of one month; and, if the landlord so claims, the raiyat shall sell the right to him accordingly.

(4) If a raiyat sells his right of occupancy in contravention of this section, the landlord may, within six months from the date of the sale, claim to purchase the right from the purchaser or any other person into whose hands it may have passed at a price ten per centum below its estimated value, and, if the landlord so claims, the purchaser or that person, as the case may be, shall sell the right to him accordingly.

52. Where an occupancy-right is sold in execution of a decree, and two or more persons, one of whom is the landlord, respectively ad-

Landlord's right of pre-emption on sale in execution.

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vance the same sum at any bidding, the bidding shall be deemed to be the bidding of the landlord.

Landlord's right to take the place of mortgagee on foreclosure.

53. (*1*) Where a right of occupancy has been mortgaged by the raiyat and an order absolute for foreclosure is applied for in respect of it under section 87 of the Transfer of Property Act, 1882, the Court shall, if it proposes to make the order, cause a notice of the application to be served on the landlord, and shall defer making the order for a period of one month from the service of the notice.

IV of 1882.

(*2*) If the landlord within the said period of one month pays into Court the amount requisite to redeem the mortgage, the Court shall pay that amount to the plaintiff in the suit, declare the landlord entitled to stand in the place of the plaintiff, and pass an order absolute for foreclosure in favour of the landlord.

(*3*) An order absolute passed under sub-section two shall have the same effect as if the landlord had been the mortgagee and the plaintiff in the suit.

Landlord's right to purchase in case of gift of occupancy-right.

54. (*1*) When an occupancy-raiyat makes a gift of his occupancy-right to any person other than his landlord, he shall forthwith file in the office of the Collector, or of the officer in charge of the sub-division, for service on the landlord, a written notice of the gift, stating the person to whom he has made it.

(*2*) The officer in whose office the notice is filed shall forthwith cause it to be served on the landlord.

(*3*) The landlord may, within the period of one month from the date on which the notice is filed, claim to purchase the right from the donee, or any other person into whose hands it may have passed, at such price as may be agreed on between them, or, if they cannot agree on a price, at such price as may be fixed by the Civil Court on an application made to it in this behalf by the landlord within the said period of one month, and, if the landlord so claims, the donee or other person as aforesaid shall sell the right to him accordingly.

(*4*) If a raiyat makes a gift of his occupancy-right, and does not comply with the provisions of this section, the landlord may, within six months from the date on which the gift is made, claim to purchase the right from the donee, or any other person into whose hands it may have passed, at a price ten per centum below its estimated value; and, if the landlord so claims, the donee or that person, as the case may be, shall sell the right to him accordingly.

Landlord's right to purchase where occupancy-right is bequeathed.

55. When an occupancy-raiyat dies, and any person, other than a person to whom, if the raiyat had died intestate, the occupancy-right would have descended, acquires that right under a bequest made by the raiyat, the landlord may, within the period of six months from the date on which the right is so acquired, claim to purchase the right from the legatee, or any other person into whose hands it may have passed, at such price as may be agreed upon between them, or, if they cannot agree upon a price, at such price as the Civil Court may, on the application of the landlord, made within the said period of six months, fix in this behalf, and if the landlord so claims the legatee or other person as aforesaid shall sell the right to him accordingly.

Raiyat of land of which landlord has acquired occupancy-right to be an occupancy-raiyat.

56. Notwithstanding any contract to the contrary, when the landlord of an occupancy-raiyat acquires, under the foregoing sections or otherwise, the occupancy-right in any of the land comprised in the holding, any person thereafter holding the land as a raiyat shall have a right of occupancy in respect of it, and, if immediately before the acquisition of the right by the landlord the rent of the land was a money-rent, shall be entitled to hold at a money-rent fixed in accordance with the provisions of this Act.

Acquisition of status of settled raiyat by succeeding to occupancy-right.

57. Every person succeeding by way of intestate succession to the occupancy-rights, or any share of the occupancy-rights, of a settled raiyat of a village or estate, in respect of any land situate in that village or estate, shall become a settled raiyat of the village or estate:

Provided that, when a person so succeeding holds as a raiyat at the time when he so succeeds other land in the same village or estate, he shall not, merely by reason of becoming a settled raiyat of the village or estate under this section, acquire, under section 47, an occupancy-right in that other land.

CHAPTER VI.

OF THE RENT PAYABLE BY OCCUPANCY-RAIYATS.

(A).—Of money-rents generally.

Existing money-rents payable until altered as herein provided.

58. A money-rent payable by an occupancy-raiyat shall be presumed to be fair and equitable, and shall continue to be paid by him until it is enhanced under this Act or reduced. [B. B. 21 (*d*).]

Enhancement of money-rents by contract.

59. (*1*) A money-rent payable by an occupancy-raiyat may be enhanced by a contract in writing approved of, and registered by, a Revenue-officer appointed by the Local Government in this behalf. [New.]

(*2*) A Revenue-officer shall not, under this section, approve or register any contract by which a raiyat engages to pay a rent more than *six* annas per rupee greater than that previously payable, or more than one-*fifth* of the estimated average annual

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value of the gross produce of the land in staple crops, calculated at the price at which raiyats sell at harvest-time, or any contract, until he has satisfied himself that it is fair and equitable, and that the raiyat in entering into it acts as a free agent.

[B. B. s. 21 (*d*).]

Money-rents not enhanceable except as provided.

60. Except as provided by section 59, or on account of an addition to the area of the holding by alluvion or otherwise, a money-rent payable by an occupancy-raiyat shall not be enhanced otherwise than by a decree passed under this chapter.

Limit of money rent payable by settled raiyat taking new holding.

61. (*1*) When raiyati land which has previously been held by a tenant at a money-rent is let to a settled raiyat of the village or estate in which it is situate, that raiyat shall not be bound to pay therefor any rent higher than that which was paid by the previous tenant, unless the higher rent has been fixed by a contract in writing, approved of and registered by a Revenue-officer appointed by the Local Government in this behalf.

(*2*) A Revenue-officer shall not under this section approve of or register any contract by which a raiyat engages to pay a rent more than one-*fifth* of the estimated average annual value of the gross produce of the land in staple crops, calculated at the price at which raiyats sell at harvest-time, or any contract, until he has satisfied himself that it is fair and equitable, and that the raiyat in entering into it acts as a free agent.

B.—Of the preparation of a table of rates and produce, and of suits to enhance money rents where such a table is in force.

[B. B. ss. 131 & 132.]

Power to direct preparation of table.

62. The Local Government may, by an order in the official Gazette, direct a Revenue-officer to prepare for any local area, with the aid of such assessors as the Local Government may appoint in this behalf, a table showing for each class of land comprised in that area the rate of rent fairly and equitably payable by occupancy-raiyats, the average gross produce of the land and the average value of that produce.

Contents of table.

[B. B. s. 133.]

63. The table shall specify—

(*a*) the several classes of land for which, having regard to the nature of the soil, situation, means of irrigation and other like considerations, it is necessary to fix different rates of rent;

(*b*) the rate, or the maximum and minimum rates, of rent fairly and equitably payable by occupancy-raiyats holding land of each such class; and

(*c*) the estimated average amount, or the maximum and minimum estimated average amounts, of the gross produce in staple crops of land of each such class, and the estimated average value or values of that produce.

Principle on which rent-rates are to be fixed.

[B. B. s. 133.]

64. In fixing the rate of rent for any class of land under section 63 regard shall be had—

(*a*) to the rates of rent ordinarily payable by occupancy-raiyats for land of that class at the time the table is prepared;

(*b*) to the value of the average annual gross produce of land of that class and the cost of raising such produce about the time at which those rates were fixed, or, if that time or the value and cost about that time cannot readily be ascertained, to the value of the average annual gross produce and the cost of raising such produce about any other time which it may appear equitable to take for the purpose of comparison;

(*c*) to the value of the average annual gross produce of land of that class and the cost of raising such produce at the time at which the table is prepared; and

(*d*) to the following rule, namely, that when the rate of rent for any class of land is raised on account of an increase in the value of the average gross produce of land of that class, the new rate shall not bear to the old rate a higher proportion than the increased value of the produce bears to the former value:

Provided that the rate fixed for any class of land shall not in any case exceed one-*fifth* of the estimated average annual value of the gross produce in staple crops of land of that class, calculated at the price at which raiyats sell at harvest-time. [B. B. s. 34, cl. (*c*).]

Local publication of the table.

[B. B. s. 135.]

65. When the Revenue-officer has prepared the table, he shall publish it in the local area to which it relates in the vernacular language prevailing in that local area, in such manner as the Board of Revenue may from time to time prescribe.

Revenue-officer to deal with objections.

[B. B. s. 136.]

66. Any person objecting to any entry in the table may present a petition to the Revenue-officer within a period of one month after the publication; and the Revenue-officer, with the aid of the assessors, shall consider any such objection, and may alter or amend the table.

Table to be submitted to superior Revenue-authorities.

[B. B. s. 136.]

67. If no objection is made within the said period of one month, or, where objections are made, after those objections have been disposed of, the Revenue-officer shall submit the table, together with his proceedings, a report setting forth the grounds of his decision on each point, and any petitions of objection which may have been

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received, through the Commissioner of the Division, to the Board of Revenue for approval.

[B. B. s. 140.] **68.** The Board of Revenue may amend the table submitted under section 67 in any manner which appears to it proper, and may allow in whole or in part any objection forwarded therewith or subsequently made, or may return the case for further enquiry.

Proceedings of Board of Revenue thereupon.

[B. B. s. 141.] **69.** When a table of rates has been sanctioned by the Board, it shall be submitted to the Local Government, which may amend the same in any manner it thinks fit, and may direct, if it thinks fit, that the table or amended table shall be published in the official Gazette with a specification of the local area to which it applies.

Publication of table after final sanction.

[B. B. s. 143.] **70.** A table for any local area published under section 69 shall come into force on the date on which it is so published, and shall continue in force for such period, not less than ten or more than thirty years, as the Local Government at the time of publication may direct.

Period for which table remains in force.

[B. B. s. 142.] **71.** The publication of a table under section 69 shall be conclusive evidence in any proceeding under this Act—

Table to be conclusive evidence.

(1) that the proceedings for the preparation of the table have been duly conducted in accordance with this Act:

(2) that, except as in this Act provided, the rates shown in the table for each class of land are the fair and equitable rates payable for land of that class by occupancy-raiyats within the local area to which the table applies:

(3) that the average gross produce of land of any class, and the average value thereof, are in accordance with the gross produce and the value specified in regard to that class in the table.

72. All expenses incurred by the Government in preparing a table of rates and produce for any local area, including the salaries of all officers employed exclusively in its preparation, and such portions as the Local Government may from time to time fix of the salaries of officers employed in its preparation in addition to their other public duties, shall be defrayed by occupancy-raiyats and their landlords in that local area in such proportions as the Local Government may from time to time determine; and the proportion of those expenses so to be defrayed by any person shall be recoverable from him as if it were an arrear of land-revenue due by him.

Expenses incurred in preparing table how defrayed.

[B. B. s. 144.] **73.** When a table is in force under the foregoing sections for any local area, the landlord of any holding within that area, held by an occupancy-raiyat at a money rent, may, subject to the provisions of section 78, institute a suit to enhance the rent then payable on the ground that it is below that which would be payable at the rates shown in the table; and the Court shall enhance the rent in accordance with the rates shown in the table, or, where for any class of land a maximum and a minimum rate are entered in the table, to such rate, not higher than the maximum and not lower than the minimum, as it thinks fit: Provided that—

Suit to enhance where table is in force.

1st.—Where the rent of any land comprised in the holding would, by reason of a change having taken place in or in regard to the land since the raiyat or his predecessor in interest began to hold it, be fixed under this section at a higher rate, and would, but for that change, have been fixed under this section at a lower rate, the following rules shall apply, namely:—

(*a*) if the change has been effected solely by the agency or at the expense of the raiyat or his predecessor in interest, the Court shall fix the rent of that land at the lower rate; [B. B. s. 23, cls. (3) & (4).]

(*b*) if the change has been effected partly by the agency or at the expense of the landlord or his predecessor in interest, and partly by the agency or at the expense of the raiyat or his predecessor in interest, the Court shall fix the rent of the land at such rate intermediate between the higher rate and the lower rate as, having regard to all the circumstances of the case, it thinks fair and equitable; and [New.]

(*c*) if it is not proved that the change has been effected by the agency or at the expense of the landlord or the raiyat, or the predecessor in interest of either of them, the Court shall fix the rent of the land at a rate equal to the lower rate, together with half the difference between the higher rate and the lower rate. [B. B. s. 24 (*a*).]

2ndly.—When the raiyat proves that by contract or by custom, or on some equitable ground, he is entitled to hold at a rate lower than the rate applicable under this section, the Court shall fix the rent at the lower rate. [B. B. ss. 24(*c*), 142, proviso.]

Illustrations.

(*a*) The rates shown in the table for land of a certain description are—

when the land is irrigated from a well ... Rs. 4 per acre.
when the land is not so irrigated ... Rs. 2 „

The holdings of *A*, *B*, *C* and *D*, occupancy-raiyats, are composed of land of that description irrigated from wells constructed on these holdings respectively.

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The well on A's holding is an ancient one existing from a time anterior to the tenancy: that on B's holding has been constructed by the landlord since the commencement of the tenancy: that on C's holding has been constructed by the raiyat: that on D's holding has been constructed by the landlord and raiyat, each contributing some portion of the labour and materials. The rents of the holdings of A and B must be fixed at Rs. 4 per acre, that of C's holding at Rs. 2 per acre, and that of D's holding at such rate intermediate between Rs. 2 and Rs. 4 as the Court thinks fair and equitable.

(*b*) The rates shown in the table for land of a certain description are as follows:—

when such land is irrigated from a branch of a river ... ... Rs. 4 per acre.
when such land is not so irrigated ... Rs. 2 per acre.

The holdings of E and F, occupancy-raiyats, are composed of land of that description, and were not irrigable until 40 years ago, when, owing to a change in the course of a neighbouring river, a new branch established itself contiguous to them. E has been in occupation of his holding 50 years, F only 30; the rent of E's holding must be fixed at Rs. 3, that of F's holding at Rs. 4.

C.—Of suits to enhance money rents where a table of rates and produce is not in force.

[B. B. ss. 23 (1), (3) and (4), 4 (*e*) 2.]

74. (*1*) The landlord of a holding held at a money rent by an occupancy-raiyat and situate in a local area for which a table of rates and produce, prepared under the foregoing sections, is not in force, may, subject to the provisions of section 78, institute a suit to enhance the rent on one or more of the following grounds, namely:—

Grounds on which landlord may sue to enhance where table is not in force.

(1) that the rate of rent paid by the raiyat is below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in the vicinity;

(2) that the productive powers of the land held by the raiyat, as compared with those powers at the time when the rent was fixed, or, when that time or the productive powers at that time cannot readily be ascertained, with the productive powers at any other time which it may appear equitable to take for purposes of comparison, have increased otherwise than by the sole agency or at the sole expense of the raiyat or his predecessor in interest and from causes not merely temporary or casual; and

(3) that the average prices of produce in the locality, or at the usual markets, as compared with similar prices about the time when the rent was fixed, or, when that time or the prices prevailing about that time cannot readily be ascertained, with the similar prices about any other time which it may appear equitable to take for purposes of comparison, have increased otherwise than by the sole agency or at the sole expense of the raiyat or his predecessor in interest, and from causes not merely temporary or casual.

(*2*) Nothing in this section shall affect any contract binding a landlord not to enhance the rent of a tenant.

Illustrations of Ground (1).

(*a*.) A's paternal grandfather seventy years ago reclaimed the land which A, an occupancy-raiyat, now holds, and which came to him by inheritance from such paternal grandfather. B is an occupancy-raiyat who holds land which was in a culturable state when B was first let into possession thereof. There is evidence that the hereditary descendant of a raiyat who, being the first settler, reclaimed the land has a special privilege. A and B are not raiyats of the same class.

(*b*.) A is in possession of a holding which has descended to him from his great-grandfather, who held it at the time of the Permanent Settlement. B was let into possession of his holding twenty years ago. There is evidence that the descendants of raiyats who were in possession at the time of the Permanent Settlement customarily hold at rates less than raiyats who have come into possession at a later period. A and B are not raiyats of the same class.

75. All enhancements of rent on the second or third of the grounds specified in section seventy-four shall be subject to the following rules, namely:— [B. B. s. 24 (*a*) and (*c*).]

Rules for enhancement under section 74.

(*a*) If the increase of the productive powers of the land, or of the prices of produce, has been effected wholly by the agency or at the expense of the landlord or his predecessor in interest, the landlord shall be entitled to the whole benefit of the increase:

(*b*) If the increase has been effected partly by the agency or at the expense of the landlord or his predecessor in interest, and partly by the agency or at the expense of the raiyat or his predecessor in interest, the benefit shall be divided between the landlord and the raiyat in such shares as the Court, having regard to all the circumstances of the case, thinks fair and equitable:

(*c*) If it is not proved that the increase has taken place by the agency or at the expense of the landlord or the raiyat, or the predecessor in interest of either of them, each shall be entitled to one-half of the benefit: Provided that in any such case the enhanced rent shall not bear to the rent previously payable a higher proportion than the increased productive powers or increased prices bear (as the case may be) to the former productive powers or former prices:

(*d*) The enhanced rent shall not in any case exceed one-*fifth* of the estimated average annual value of the gross produce of the land in staple crops, calculated at the price at which raiyats sell at harvest-time.

D.—Rules applicable to suits to enhance money rents generally.

76. The rent of a holding shall not be enhanced in a suit under any of the foregoing sections of this chapter so that the enhanced rent shall be more than double the rent previously payable. [B. B. s. 24 (*b*).]

No enhancement beyond double the rent previously payable.

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[B. B. s. 24 (d).]

77. When a Court passing a decree for enhancement under any of those sections considers that the immediate enforcement of the decree in its full extent would be attended with hardship to the raiyat, it may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement decreed has been reached.

Power to order progressive enhancement.

[B. B. s. 143.]

78. When the rent of an occupancy-holding has been enhanced by a decree under any of those sections or under any enactment repealed by this Act, or by contract, or has been commuted under section 82, a suit for its enhancement shall not be instituted under this chapter within the ten years next following the date on which it has been so enhanced or commuted, except on the ground that since the rent has been so enhanced or commuted an improvement has been made by the landlord which, but for this section, would entitle him to an enhancement.

Rent enhanced or commuted not enhanceable for 10 years.

E.—Of suits for the reduction of money rents.

[B. B. s. 25. (2) & (3).]

79. *(1)* An occupancy-raiyat holding at a money rent may, notwithstanding any contract to the contrary, institute a suit for the reduction of his rent on either or both of the following grounds, and, except as provided by section 96, not otherwise, namely:—

Occupancy-raiyat when entitled to reduction of rent.

(a) on the ground that the productive powers of the land, as compared with those powers at the time when the rent was fixed, or, when that time or the productive powers at that time cannot readily be ascertained, with the productive powers at any other time which it may appear equitable to take for purposes of comparison, have decreased from some cause beyond the raiyat's control, and not merely temporary or casual;

(b) on the ground that the average prices of produce in the locality or at the usual markets, as compared with similar prices about the time when the rent was fixed, or, when that time or the prices prevailing about that time cannot readily be ascertained, with the average prices prevailing about any other time which it may appear equitable to take for purposes of comparison, have decreased from some cause beyond the raiyat's control, and not merely temporary or casual.

(2) In any suit instituted under this section the Court may direct such reduction of the rent as it thinks fair and equitable.

F.—Special rules regarding money rents payable for pasture lands.

[B. B. s. 23, Expl. II. & s. 24 (e).]

80. *(1)* Sections 62 to 79, both inclusive, shall not apply to land fit to be used, or which in accordance with local usage is used, only as pasture; but when such land is held at a money rent by an occupancy-raiyat, the landlord may, subject to any contract between the parties, institute a suit to enhance the rent on the ground—

Special rules for pasture lands.

(a) that the rate of rent payable by the raiyat is below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in the vicinity, or

(b) that, having regard to the increase of rent on arable land in the vicinity since the rent payable by the raiyat was fixed, it is reasonable to enhance that rent.

(2) Where an enhancement is applied for on the ground mentioned in clause *(b)*, the Court shall fix the rent at such rate as it thinks fair and equitable.

G.—Of rents payable in kind or varying with the crop.

81 *(1)*. Where an occupancy-raiyat pays rent in kind, or pays as rent the value of a certain share of the actual gross produce, the following rules shall apply, namely:—

Limit to amount of rent payable in kind or varying with crop.

(a) notwithstanding any contract or custom to the contrary, the landlord shall not be entitled to recover, in respect of any portion of the holding on which staple crops are grown, more than half the gross produce or its value, as the case may be;

(b) the landlord shall not, except under a contract in writing, be entitled to recover, in respect of any portion of the holding on which other crops are grown, any other description or any greater amount of rent than a sum equal to one-half of the estimated average value of the produce of that portion of the holding if staple crops were grown on it.

(2) Nothing in this section shall prevent a landlord recovering the value of any seed, labour or other assistance he may have contributed towards the production of the crop.

82 *(1)*. An occupancy-raiyat whose holding consists of raiyatí land, and who pays rent in kind, or pays as rent the value of a certain share of the actual gross produce of the holding, may, notwithstanding any contract to the contrary, sue to have his rent commuted into a money-rent.

C. R. and 93.

Commutation of rents.

(2) The money-rent shall be fixed at the discretion of the Court—

(a) according to the prevailing money-rent payable by the same class of raiyats for land of a similar description and with similar advantages in the vicinity, or

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(b) according to the average value of the rent actually received by the landlord during the preceding five years.

(3) When a money-rent is fixed under clause *(b)*, a reasonable deduction shall be made by the Court from the average value aforesaid in consideration of the whole risk of cultivation being taken by the raiyat.

H.—Supplementary provisions.

[B. B. s. 45.]

83. *(1)* The Collector of every district shall prepare annually lists of the market-prices at harvest-time of staple crops grown in such local areas as the Board of Revenue may from time to time direct, and shall submit them to the Board of Revenue for approval or revision.

Collectors to prepare annual price-lists of staple crops.

(2) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette under the signature of one of the Secretaries to the Board.

(3) Any such price-list so published shall, in any proceedings under this chapter, be conclusive evidence of the prices prevailing in the local area at harvest-time in the year to which it relates.

[B. B., ss. 134, 145 and 24 (c).]

84. The Board of Revenue may from time to time, subject to the approval of the Local Government and to the control of the Governor General in Council, make rules—

Power to make rules.

(a) for the guidance of officers engaged in the preparation of tables of rates and produce under this chapter;

(b) for the guidance of officers engaged in the preparation of price-lists under section 83;

(c) determining what crops shall be deemed to be staple crops for the purposes of this chapter in any local area;

(d) for the guidance of Revenue-officers registering contracts under section 59 and section 61.

(e) for the guidance of Revenue-officers and Courts in estimating the average annual value of the gross produce of land for the purposes of sections 59 and 61 and section 75, clause *(d)*.

CHAPTER VII.

OF THE RIGHT OF A SETTLED RAIYAT IN BASTU LAND.

[New.]

85. *(1)* A person who is under Chapter V a settled raiyat of a village or estate as defined in that chapter shall, notwithstanding any contract to the contrary, have a right permanent, heritable and capable of being transferred and bequeathed, in any *bastu* or other homestead land in that village or estate which is not comprised in an occupancy-holding and which is held by him as the site of, or for the purpose of erecting, a dwelling-house suitable for himself and his family, together with all necessary out-offices.

Settled raiyat to have permanent right in *bastu* land.

(2) A person having a right under sub-section one in any land in a village or estate shall not lose that right merely by reason of his ceasing to be a settled raiyat of that village or estate.

[B. B. s. 32.]

86. *(1)* Notwithstanding any contract to the contrary, a person having in respect of any land a right under section 85 shall not be ejected from that land except in execution of a decree for ejectment passed in accordance with this Act on the ground that he has broken a condition consistent with the provisions of this Act and on breach of which he is, under the terms of a written contract between him and his landlord, liable to be ejected, and, if he is so ejected, shall be entitled to compensation for any house or offices of the description referred to in section 85 which may have been erected on the land by him or his predecessor in interest whether before or after the commencement of this Act.

Provisions regarding ejectment.

(2) A Court passing a decree for the ejectment of such a person shall determine the amount of compensation (if any) due to him under sub-section one and shall make the decree conditional on the payment of that amount by the decree-holder.

[B. B. s. 33.]

87. When a person has in respect of any land a right under section 85, and the rent of the land has not been enhanced during the previous ten years, the landlord may, unless barred by any contract between the parties, enhance the rent, so that it may be equal to the rent paid by other tenants for land in the neighbourhood having similar advantages and used for similar purposes, or at his option so that it may be equal to five per centum of the market-value of the land.

Rule for enhancing rent.

CHAPTER VIII.

OF ORDINARY RAIYATS.

88. Every person holding raiyatí land as a raiyat and not having a right of occupancy in respect of it shall be deemed to hold it as an ordinary raiyat.

Ordinary raiyat defined.

89. An ordinary raiyat shall, subject to the provisions of section 119, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

Rents regulated by agreement.

[B. B. ss. 28, 72 (5).]

90. Notwithstanding any contract to the contrary, an ordinary raiyat shall not be ejected from raiyatí land by his landlord as such except—

Grounds on which an ordinary raiyat may be ejected from raiyatí land.

(a) as hereinafter provided for arrears of rent,

(b) in execution of a decree for ejectment passed in accordance with this Act on the ground

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that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is, under the terms of a written contract between him and his landlord, liable to be ejected, or

(*c*) in execution of a decree for ejectment passed on the ground that he has refused to agree to an enhancement of rent demanded by his landlord in accordance with the provisions next hereinafter contained.

Notice of enhancement to be served through Civil Court.

91. When a landlord wishes to enhance, within the limit fixed by section 119, the rent of an ordinary raiyat holding raiyatí land at a money-rent not fixed for a term by agreement, and the raiyat does not agree to the enhancement, the landlord may cause to be served on the raiyat through the Civil Court a notice of the enhancement not less than six months before the commencement of the agricultural year in which the landlord desires the enhancement to take effect.

Raiyat may agree to enhancement. If he does not, landlord may sue to eject.

92. (*1*) If, within the period of one month from the service of a notice under section 91, the raiyat on whom the notice has been served presents to the Court issuing the notice a statement in writing declaring his willingness to pay the enhanced rent, he shall be deemed to have agreed to pay that rent from the commencement of the agricultural year next following.

(*2*) If the raiyat does not, within the said period of one month, present to the Court a statement as aforesaid, the landlord may, not less than ten weeks before the commencement of the agricultural year next following, institute a suit to eject the raiyat.

Procedure in suit.

93. (*1*) If, in any suit instituted under section 92, the defendant appears and agrees to pay the enhanced rent demanded, his agreement shall thereupon be recorded, and he shall not be ejected, but shall be liable to pay that rent from the commencement of the agricultural year next following the date of the agreement.

(*2*) If the defendant does not appear, or if, on appearing, he does not agree to pay the enhanced rent demanded, the Court may pass a decree for his ejectment on condition that, within fifteen days from the date of the decree, the landlord deposits in Court—

(*a*) such sum (if any) as may be declared by the decree to be payable to the raiyat as compensation for improvements; and

(*b*) a further sum as compensation for disturbance equal to *ten* times the yearly increase of rent demanded.

Decree when absolute:

94. (*1*) If these sums are so deposited, the decree shall be made absolute, and the sums deposited shall be paid to the raiyat.

When to become void.

(*2*) If these sums are not so deposited, the decree shall become void, and the raiyat shall remain in occupation of his holding at the rent previously paid by him.

Fresh proceedings not to be taken for ten years.

95. When a raiyat has agreed, under section 92 or section 93, to pay an enhanced rent for his holding, or a decree to eject him from the holding has become void under section 94, no notice shall be served on him under section 91 in respect of that holding during the ten years next following the date on which he has so agreed, or the decree has become void, as the case may be.

CHAPTER IX.

PROVISIONS REGARDING RENT APPLICABLE TO SEVERAL CLASSES OF TENANTS.

A.—Of alterations of rent consequent on alteration of the area of the holding of a tenure-holder or occupancy raiyat.

Additions to, and deductions from, rent in respect of alteration of area.

96. (*1*) Notwithstanding anything in Chapter III or Chapter VI, every tenure-holder shall, in the absence of a contract to the contrary, and every occupancy-tenant shall, notwithstanding any contract to the contrary,— [D., ss. 19 and 24. C. B., ss. 8 & 18 B.B., ss. 8, 18, 23 (2) & 25 (1).]

(*a*) be liable to pay additional rent for all land added to the area of his holding by alluvion or otherwise, unless he can show that the land has reformed on the site of land which was formerly included in that area, and for the loss of which he has had no abatement of rent; and

(*b*) be entitled to a reduction of rent in respect of any diminution of the area of his holding caused by diluvion or otherwise, unless it is proved that the land lost was added to the area of the holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(*2*) The amount added to the rent shall be calculated at the rates payable by occupancy-raiyats for lands of a similar description and with similar advantages in the vicinity, less a deduction, in the case of a tenure-holder, of thirty per cent. for profits, risk and cost of collection.

(*3*) The amount abated from the rent shall bear the same proportion to the rent previously payable as the diminution of the total yearly value of the holding bears to the previous total yearly value thereof, or, in default of satisfactory proof of the yearly value of the land lost, shall bear to the rent previously payable the same proportion as the diminution of area bears to the previous area of the holding.

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B.—Instalments in which money-rents are payable by tenure-holders, raiyats and under-raiyats.

Rent of tenure-holder in what instalments and on what dates payable.

[B. B. s. 47.] **97.** A money-rent payable by a tenure-holder shall be paid in such instalments and on such dates as may have been agreed upon between the tenure-holder and his landlord; in the absence of agreement, in such instalments and on such dates as may be customary; and, in the absence of any agreement or custom, in such instalments and on such dates as the Board of Revenue may fix in this behalf for any local area.

Rent of raiyat or under-raiyat in what instalments and on what dates payable.

[B. B. s. 47 (*b*).] **98.** A money-rent payable by a raiyat or under-raiyat shall, notwithstanding any contract or custom to the contrary, be paid in such instalments, and on such dates, not being more than four in each year, as the Board of Revenue may fix in this behalf for any local area:

Provided that, when the instalments in which, and the dates on which, rent is payable are fixed by an agreement made before the commencement of this Act, or by a custom which has prevailed from before the commencement of this Act, the amount payable on each date fixed by the Board under this section for the payment of an instalment shall be equal to the aggregate of the instalments which would, under the agreement or custom, have fallen due since the date so fixed by the Board for the payment of the last previous instalment.

Making and publication of orders under sections 97 and 98.

[B. B. s. 47.] **99.** (*1*) Every order made by the Board of Revenue under section 97 or section 98 shall be made after a consideration of the prevailing customs and the time of harvest in the local area to which it is to apply.

(*2*) Every such order shall be published in manner prescribed not less than three months before the commencement of the agricultural year in which it is to take effect.

C.—Of the Receipts and Accounts to be given to tenants.

Tenant making payment to his landlord entitled to a receipt.

[D. s. 61. C. P., s. 57. B. B. s. 49 (*a*) and (*b*).] **100.** (*1*) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount paid by him.

(*2*) The receipt shall specify—

(*a*) the date of payment;

(*b*) the amount paid on account of principal and interest respectively, or, where the payments are made in kind, the quantity and description of produce delivered;

(*c*) where other money recoverable under any enactment for the time being in force is paid with the rent, the amount so paid.

(*d*) the holding in respect of which the rent is paid;

(*e*) the name of the person (if any) registered in the landlord's serishta as the tenant;

(*f*) the annual rent payable for the holding and the amount of rent then in arrear; and

(*g*) the instalment and year on account of which the payment is declared by the tenant to be made, or, in the absence of any such declaration, the instalment and year on account of which it has been credited by the landlord.

(*3*) The landlord shall prepare and retain a counterpart of the receipt containing similar particulars.

(*4*) Every receipt which does not contain substantially the above particulars shall be deemed to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

Tenant entitled to statement of account at close of the year.

[B. B. s. 49 (*c*).] **101.** (*1*) Every tenant shall be entitled to receive from his landlord, within three months after the expiry of each agricultural year, a statement of account for that year showing—

(*a*) the holding for which the tenant pays rent to the landlord;

(*b*) the name of the person (if any) registered in the landlord's serishta as the tenant;

(*c*) the annual rent payable for the holding;

(*d*) the amount of rent in arrear at the beginning of the year;

(*e*) the payments made during the year on account of principal and interest respectively, or, when the payments are made in kind, the quantity and description of produce delivered;

(*f*) the portion of each payment credited to the rent of the year, and the portion credited to the arrears of previous years; and

(*g*) the amount, if any, remaining unpaid at the close of the year.

(*2*) The landlord shall prepare and retain a counterpart of the statement containing similar particulars.

Penalties and fine for withholding receipts and statements of accounts and failing to keep counterparts.

[D. s. 65. B. B. ss. 49 (*d*) and 94.] **102.** (*1*) If a landlord refuses or neglects to deliver to a tenant demanding the same a receipt containing the particulars prescribed by section 100 for any rent paid by the ten-

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ant, the tenant may, within six months from the date of the demand, institute a suit to recover from him such penalty, not exceeding double the amount or value of that rent, as the Court thinks fit.

(2) If a landlord refuses or neglects to deliver to a tenant demanding the same the statement of account for any year prescribed in section 101, the tenant may, within six months from the date of the demand, institute a suit to recover from him such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by the tenant to the landlord during that year.

(3) If a landlord fails to prepare and retain a counterpart of a receipt or statement as required by section 100 or section 101, he shall be punished with fine which may extend to fifty rupees.

D.—Of the deposit of rent by a tenant in a public office.

[...s. 99. ...B. ss. 58 & 59. ...B. B. ss. 50 & 51.]

Application to deposit rent in public office.

103. (1) In any of the following cases, namely:—

(a) when a tenant bound to pay money on account of rent has reason to believe that the person to whom his rent is payable will not be willing to receive the same and to grant him a receipt therefor:

(b) when the money is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers therefor, and no person has been empowered to receive the rent in their behalf: or

(c) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent:

the tenant may present, to such officer as the Local Government from time to time appoints in this behalf for the local area in which the holding is situate, an application in writing for permission to deposit in his office the full amount of the money then due.

(2) The application shall contain a statement of the grounds on which it is made, shall be signed by the tenant or, where he is not personally cognizant of the facts of the case, by some person so cognizant, and shall be accompanied by a fee of eight annas.

[...99 & ...s. 52.]

Receipt granted by public officer for rent deposited to be a valid acquittance.

104. (1) If it appears to the officer to whom an application is made under section 103 that the applicant is entitled under that section to deposit the rent, he shall receive the rent and give a receipt for the same under his official seal.

(2) A receipt given under this section shall operate as an acquittance for the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if the rent had been received—

(a) in case (a) of section 103 by the person specified in the application as the person to whom the rent was payable;

(b) in case (b) of section 103 by the co-sharers jointly; and

(c) in case (c) of section 103 by the person entitled to it.

Notification of receipt of deposit.

105. (1) The officer receiving a deposit under section 104 shall forthwith cause to be affixed in a conspicuous place in his office a notification of the receipt thereof, containing a statement of all material particulars contained in the application under section 103, and, when the deposit is made under section 103, clause (a), shall send a copy of the notification by post in a registered cover to the person to whom the rent is alleged by the depositor to be payable.

(2) If the amount of the deposit is not paid away under section 106 within the period of fifteen days next following the date on which the notification is affixed as aforesaid the officer shall cause a notice of the receipt of the deposit to be served (free of charge) upon every person who he has reason to believe claims or is entitled to the deposit.

Deposit to whom payable.

106. (1) The officer may pay the amount of the deposit to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

(2) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

Refund to depositor.

107. If no payment is made under section 106 before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given under section 104.

E.—Of arrears of rent.

[D. s. 101. C. B. s. 56. B. B. s. 48.]

Interest on arrears.

108. Every arrear of rent shall, unless otherwise provided by a written contract between the parties, be liable to interest at the rate of twelve per centum per annum.

[D. s. 68. C. B. s. 901. B. B. s. 98.]

Power to award damages on rent withheld without reasonable cause.

109. If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as it thinks fit:—

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Provided that, when damages are awarded under this section, interest shall not be decreed under section 108.

[D. s. 69. C. B. s. 91. B. B. s. 97.]

Power to award damages to defendant improperly sued for rent.

110. If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum not exceeding twenty-five per centum on the whole amount claimed by the plaintiff as it thinks fit.

[D. ss. 12 (5) & 93. C. B. ss. 79(5) & 152. B. B. ss. 72 (5) & 169.]

Ejectment from non-transferable holding for arrears.

111. (1) When an arrear of rent remains due in respect of a non-transferable holding at the end of the Bengali year where that year prevails, or at the end of the month of Jeyt where the Fusli or Amli year prevails, the landlord may, whether he has obtained a decree for the recovery of the arrear or not, and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the tenant.

(2) A decree passed in favour of the plaintiff in any such suit shall specify the amount of the arrear together with the interest (if any) due thereon, and the decree shall not be executed if that amount and the costs of the suit are paid into Court within fifteen days from the date of the decree, or, when the Court is closed on the fifteenth day, on the day upon which the Court re-opens.

F.—Of rent taken by division or estimation of the crop.

Commission for dividing or estimating crops.

112. Whenever rent is taken by division of the produce, or by estimate or appraisement of the crop, if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division, estimate or appraisement, or if there is a dispute about the division of the produce, or the quantity or value of the crop, the Collector may, on the application of either party, and on his depositing such sum on account of expenses as the Collector may require, issue a commission to such person as he thinks fit, to divide, estimate or appraise the crop.

Appointment of assessors, &c.

113. (1) When a Collector appoints a commissioner for any of the purposes mentioned in section 112, the Collector may, in his discretion, direct the commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting those assessors (if any), and the procedure to be followed in making the division, estimate or appraisement.

(2) The commissioner so appointed shall make the division, estimate or appraisement in accordance with those instructions, and submit a report of his proceedings to the Collector.

Remedy for error in division.

114. (1) If in any division under section 113 either party receives less than the share to which he is entitled, he may, within three months from the date on which the division is completed, institute a suit against the other party to recover the value of the additional portion of the crop due to him at the price which prevailed on that date.

(2) If no such suit is instituted within the said period of three months, the division shall for all purposes be deemed as between the parties thereto to have been rightly made.

Procedure where crop has been estimated or appraised.

115. (1) When a crop has been estimated or appraised under section 113 the estimate or appraisement shall be reduced to writing and signed by the commissioner making the same, and shall be submitted to the Collector by whom the commission was issued.

(2) The Collector shall consider the commissioner's estimate or appraisement, and, after such hearing and inquiry (if any) as he may think necessary, shall pass an order thereon either confirming or varying the estimate or appraisement; and that order shall be final.

Costs of proceedings under foregoing sections.

116. All expenses incurred in carrying out the provisions of sections 112 to 115 (both inclusive) shall be payable by the landlord or tenant, or partly by one and partly by the other, as the Collector may in each case direct; and the amount payable by any person under such a direction shall be recoverable from him as if it was an arrear of land-revenue due by him.

Interference with produce of land otherwise than under section 112, criminal trespass.

117. If the landlord of any land of which the rent is payable in the manner mentioned in section 112, or any other person, interferes in any way, without the consent of the tenant, with the cutting or harvesting of any produce of the land except by an application to the Collector under section 112, he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code. XLV of 1860

Danabandi or appraisement papers in Bihár to be deposited in Collector's office.

118. When the rent payable for land in Bihár is the equivalent money-value of a fixed proportion of the actual gross produce thereof, and such equivalent

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money-value is determined by an estimate or appraisement (*danabandi*) of the standing crop, or by some similar proceeding, the *danabandi* or appraisement papers shall, within fifteen days after the making of the appraisement, be lodged in the office of the Collector of the district.

G.—Further provisions regarding rent.

[B. B. s. 30.] **119.** Notwithstanding anything in the foregoing sections of this Act, or in any contract made after the second day of March, 1883, a raiyat or under-raiyat shall not be bound to pay for his holding a money-rent exceeding *five*-sixteenths of the estimated average annual value of the gross produce of the holding in staple crops, calculated, in such manner as the Board of Revenue may from time to time, by rules, direct, at the prices at which raiyats sell at harvest time.

Limit to rents of raiyats and under-raiyats.

120. The rent payable by a tenant in any agricultural year shall be presumed to be the rent payable by him in the following agricultural year until the contrary is shown.

Presumption that rent continues unchanged.

[New.] **121.** When a landlord grants a lease, or makes any other contract, purporting to entitle the tenant of land not included in an area permanently settled to hold that land free of rent or at a fixed rent, and while the lease or contract is in force—

Power to alter rent in case of new assessment of revenue.

(*a*) land-revenue is for the first time made payable in respect of the land, or,

(*b*) land-revenue having been previously payable in respect of it, a fresh settlement of land revenue is made,

a Revenue-officer may, notwithstanding anything in the contract between the parties, by order, on the application of the landlord or of the tenant, fix a fair and equitable rent for the land in accordance with the provisions of this Act.

[B. B. s. 70.] **122.** (*1*) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has given notice of the transfer to the tenant.

Tenant not liable to transferee of landlord's interest for rent paid to former landlord without notice of the transfer.

(*2*) When there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section.

[B. B. s. 63 (2).] **123.** All impositions upon tenants under the denomination of *abwab, mahtut*, or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void.

Abwab, &c., illegal.

D. s. 64. I. B. ss. 63 (2), 64 (*a*), 93.] **124.** Every tenant from whom, except under any special enactment for the time being in force, any sum of money or any portion of the produce of his land is exacted by his landlord in excess of the rent lawfully payable, may, within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the Court thinks fit, not exceeding five hundred rupees; or, when double the amount or value of what is so exacted exceeds five hundred rupees, not exceeding double that amount or value.

Penalty for exaction by landlord from tenant of sum in excess of the rent payable.

[C. B. s. 64. B. B. s. 56.] **125.** (*1*) The rent of a tenure, occupancy-holding or bastu holding shall be a first charge on the same.

Rent first charge on tenures, occupancy-holdings and bastu holdings.

(*2*) If the right, title and interest of the tenant is brought to sale in execution of a decree for money obtained by a person other than the landlord, the landlord shall be entitled to be first paid out of the sale proceeds any rent which may be due to him by the tenant.

CHAPTER X.

OTHER PROVISIONS APPLICABLE TO SEVERAL CLASSES OF TENANTS.

A.—Of improvements on raiyats' holdings and compensation therefor.

[B. B. s. 69.] **126.** (*1*) For the purposes of this chapter the term "improvement," used with reference to a raiyat's holding, shall mean any work which adds to the letting-value of the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

"Improvement."

(*2*) It shall include for those purposes—

(*a*) the construction of wells, tanks and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;

(*b*) the preparation of land for irrigation;

(*c*) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural

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purposes, or waste-land which is culturable;

(*d*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(*e*) the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto; and

(*f*) the erection of a dwelling-house suitable for the raiyat and his family, together with all necessary out-offices.

But no work executed by the raiyat of a holding shall be deemed to be an improvement for the purposes of this chapter if it substantially diminishes the value of any other part of the estate or tenure of his landlord.

(*3*) A work which benefits several holdings shall for the purposes of this chapter be deemed to be, with respect to each of them, an improvement.

[B. B. s. 69.] **127.** (*1*) The landlord of an occupancy-raiyat shall not be entitled as such to prevent the raiyat making an improvement in respect of his holding, and shall not, except as next hereinafter provided, be entitled to make an improvement in respect of the holding without the permission of the raiyat.

Right to make improvements in case of occupancy-holding.

(*2*) A landlord of an occupancy-holding who would, but for the want of his raiyat's permission, be entitled to make an improvement in respect of the holding, may, if he desires that any improvement, other than an improvement of the description mentioned in section 126, clause (*f*), be made, deliver or cause to be delivered to the raiyat a request in writing calling upon him to make the improvement within a reasonable time; and, if the raiyat is unable or neglects to comply with that request, may make the improvement himself.

[B. B. s. 69.] **128.** (*1*) An ordinary raiyat shall not, except as next hereinafter provided, be entitled to make in respect of his holding without his landlord's permission any improvement other than an improvement of the description mentioned in section 126, clause (*f*).

Right to make improvements in case of ordinary raiyat's holding.

(*2*) An ordinary raiyat, who would, but for the want of his landlord's permission, be entitled to make an improvement in respect of his holding, may, if he desires that the improvement be made, deliver, or cause to be delivered, to his landlord a request in writing calling upon him to make the improvement within a reasonable time; and, if the landlord is unable or neglects to comply with that request, may make the improvement himself.

129. (*1*) Every raiyat who is ejected from his holding shall be entitled to compensation for improvements which have been made in accordance with this Act by him, or by his predecessor in interest, and for which compensation has not already been made.

Compensation for improvements payable to raiyat on ejectment.

(*2*) Whenever a Court makes a decree or order for the ejectment of a raiyat, it shall determine the amount of compensation (if any) due under this section to the raiyat for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the raiyat.

(*3*) No compensation under this section for an improvement shall be claimable where the raiyat has made the improvement in pursuance of a contract or under a lease binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and he has obtained that advantage.

(*4*) Improvements made by a raiyat before the commencement of this Act shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the raiyat to make the improvement and was ready to make it himself.

130. The Local Government may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 129, for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

Power to make rules for appointment of assessors.

131. (*1*) In estimating the compensation to be awarded under section 129 for an improvement, regard shall be had—

Principle on which compensation is to be estimated.

(*a*) to the amount by which the letting-value, or the produce, of the holding, or the value of that produce, is increased by the improvement;

(*b*) to the labour and capital required for the making of such an improvement; and

(*c*) to any reduction or remission of rent or any other advantage given by the landlord to the raiyat in consideration of the improvement.

(*2*) When the amount of the compensation has been assessed, the landlord and raiyat may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

132. A stipulation in a contract providing—

Certain stipulations in contracts to be void.

(*a*) that a landlord shall be entitled to prevent a raiyat from making, or to eject him for making, such improvements on his holding as he is entitled to make under this Act, or

(*b*) that a raiyat ejected from his holding shall not be entitled to compensation for improvements

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in any case in which he would, under this Act, be entitled to such compensation,

shall be void.

B.—Of the landlord's right to measure land.

Landlord entitled to measure land unless restrained by contract.

133. Subject to the provisions of any contract, a landlord may, by himself or by any person authorized by him in this behalf, enter upon and measure all land comprised in any estate or tenure, of the rents of which he is in receipt, except land entered in the general register of revenue-free lands prepared under the Land Registration Act, 1876:

Provided that, when any land has been measured by a landlord, whether before or after the passing of this Act, it shall not, without the written permission of the Collector, be again measured by the landlord within the ten years next following the date on which it was so measured.

Illustration.

A., a proprietor, grants a portion of his estate in patní to B, to whom the raiyats pay rent. Both A and B are entitled to make a general survey and measurement of the lands comprised in the patní lease.

Tenant bound to point out boundaries.

134. When a landlord desires to measure, under section 133, any land held by his tenant, the tenant shall, if the landlord requires him to do so, attend and point out the boundaries of the land.

Remedy when landlord is obstructed or tenant does not point out boundaries.

135. (*1*) When a landlord desires to measure any land under section 133, and any person occupying the land obstructs him in so doing, or any tenant, bound under section 134 to attend and point out the boundaries of his land, refuses or neglects so to do, the landlord may apply to the Court which would have jurisdiction to hear a suit for the recovery of the land, to make an order directing such person to permit the measurement, or such tenant to attend and point out the boundaries, as the case may be.

(*2*) The Court may, on receiving an application under this section, cause a notice to be served on the occupant or tenant, as the case may be, requiring him to show cause, at a time and place specified therein, why the order applied for should not be made.

(*3*) If the person on whom a notice is served under sub-section (2) does not show cause as aforesaid, the Court may make the order applied for.

Presumption against tenant not attending to point out boundaries.

136. If a tenant ordered under section 135 to attend and point out the boundaries of the land held by him refuses or neglects to do so, a map or other record of the boundaries and measurements of the land prepared under the direction of the landlord, at the time the tenant was ordered to attend, shall be presumed to be correct until the contrary is shown.

Measurement in suits between landlord and tenant to be made according to Government measure.

137. (*1*) Every measurement of land made by order of a Civil Court, or of a Revenue-officer, in any suit or proceeding between a landlord and tenant, shall be made according to the Government measure of 14,400 square feet to one standard bíghá. [D. s. 94. C. B. s. 37 *a*). B. B. s. 68 (*a*).

(*2*) If the rights of the parties are regulated by any different local measure, the Government measure shall be converted into the local measure for the purposes of the suit.

Determination of the length of the standard in case of dispute.

138. (*1*) If any dispute as to the length of a standard used in a local measure arises in any suit under this Act, the Collector shall, on a reference made to him for this purpose by the Court, determine the proper length thereof. [D. s. 98. C. B. s. 76 (*b*) B. B. s. 68 (*b*)]

(*2*) An appeal shall lie from the Collector's decision to the District Judge.

(*3*) If no such appeal be preferred, the decision of the Collector, or, if an appeal be preferred, the decision of the District Judge thereon, shall be conclusive.

C.—Of surrender and abandonment.

Surrender by raiyat.

139. (*1*) A raiyat not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding; but notwithstanding the surrender he shall continue to be liable for the rent of the holding for the agricultural year next following the date of the surrender, unless—. [D. s. 12 (3) C. B. s. 79 (3) B. B. s. 72 (3).

(*a*) he gives to his landlord, at least three months before he surrenders, notice in writing of his intention to surrender; or

(*b*) the holding is let to another person for a agricultural year following the surrender.

(*2*) If the landlord refuses to receive a notice, tendered to him under clause (*a*), or to sign a receipt for the same, the raiyat may apply to the Court within the jurisdiction of which the holding or any portion of it is situate, and the Court shall thereupon cause the notice to be served on the landlord.

Non-transferable holding in certain cases to be deemed surrendered.

140. Any tenant of a holding which is not transferable, who leaves his holding uncultivated and the rent of it unpaid for a period of one year, shall, at the expiration of that period, be deemed to have surrendered the holding: [D. s. 12 (4). C. B. s. 79 (4). B. B. s. 72 (4).]

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Provided that, in reckoning that period, any time during which, owing to an inundation or any other accident to the land beyond the tenant's control, it may have been impossible to cultivate the land, shall be excluded.

D.—Of Merger.

[C. B. ss. 43 & 44. B. B. ss. 34 & 35.]

Merger of tenant's interest in landlord's interest.

141. (*1*) When in the case of any tenancy the interest of the landlord and that of the tenant become, by transfer, succession or otherwise, united in the same person, so as to be owned by him in the same right, the interest of the tenant shall—

(*a*) during the period of three months mentioned in sub-section (*2*) be presumed to be merged in the interest of the landlord and extinguished, unless the person proves that he has not intended it to be merged, and

(*b*) after the expiration of that period be deemed to be so merged and extinguished, unless within that period the person executes an instrument declaring his intention that a merger shall not take place, and the instrument is registered under the Indian Registration Act, 1877 and is published in the prescribed manner.

III of 1877.

(*2*) The period of three months referred to in sub-section (*1*) shall, when the interests become united after the commencement of this Act, begin to run from the date on which they become united, and, when they have become united before the commencement of this Act, begin to run from the commencement of this Act:

Provided that, when, at the time the interests become united, the person in whom they become united has not attained his age of majority or is of unsound mind, the period shall not begin to run before he has attained that age or become of sound mind, as the case may be.

(*3*) A merger under this section shall not operate to the prejudice of any person having a lien upon the interest merged.

(*4*) When, at the time of a merger taking place in respect of a tenancy under this section, a sub-tenancy exists immediately under that tenancy, the person who becomes the owner of the consolidated interests shall, subject to the provisions of the law for the time being in force relating to sales of land for arrears of Government revenue and to the provisions of this Act as to sales for arrears of rent, have the same rights against, and be subject to the same obligations towards, the sub-tenants, as the owner of the tenant's interest had, and was subject to, before the merger.

E.—Of the appointment of a Manager on behalf of co-owners of an estate or tenure.

Power to call upon co-owners to show cause why they should not appoint a common manager.

142. When co-owners of an estate or tenure disagree as to the management thereof, and in consequence there has ensued, or is likely to ensue, D. s. 16. C. B. s. 65 (1). B. B. s. 57 (1).

(*a*) inconvenience to the public, or

(*b*) injury to private rights,

the District Judge may, upon the application in case (*a*) of the Collector, and in case (*b*) of any one having an interest in the estate or tenure, direct a notice to be served upon all the co-owners, calling upon them to show cause why they should not appoint a common manager:

Provided that a co-owner of an estate or tenure shall not be entitled to apply under this section unless he is actually in possession of the interest he claims and, if he is a co-owner of an estate, unless his name and the extent of his interest are registered under Act VII of 1876 passed by the Lieutenant-Governor of Bengal in Council.

Power to order them to appoint a manager if cause is not shown.

143. If the co-owners fail to show cause as aforesaid within one month after service of a notice under section 142, the District Judge may make an order directing them to appoint a common manager, and a copy of the order shall be served upon any co-owner who did not appear before it was made. C. B. s. 65 (2). B. B. s. 57 (2).

Power to appoint manager if order is not obeyed.

144. If the co-owners do not, within one month after the making of an order under section 143, or, where the order has been served as directed by that section, within one month after such service, appoint a common manager and report the appointment for the information of the District Judge, the District Judge may— C. B. s. [illegible] B. B. s. [illegible]

(*a*) direct that the estate or tenure be managed by the Court of Wards in any case in which the Court of Wards assents to undertake the management thereof; or

(*b*) in any case appoint a manager.

Power to nominate person to act in all cases under section 144(*b*).

145. The Lieutenant-Governor of Bengal may nominate a person for any local area to manage all estates and tenures within that local area for which it may be necessary to appoint a manager under section 144, clause (*b*); and, when any person has been so nominated, no other person shall be appointed manager under that clause by the District Judge, unless in the case of any estate the Judge thinks fit to appoint one of the co-owners themselves as manager. C. B. s. [illegible] B. B. s. [illegible]

C. B. c. 66 (3). M. B. s. 58 (3).

146. In any case in which the Court of Wards undertakes the management of an estate or tenure under section 144, so much of the provisions of the Court of Wards Act, 1879, as relates to the management of immoveable property shall apply to the management.

The Court of Wards Act, 1879, applicable to management by Court of Wards under section 144 (*a*).

IX (B. C.) of 1879.

147. (*1*) A manager appointed under section 144, clause (*b*), shall receive by way of remuneration such fixed salary or percentage of the money collected by him as manager as the District Judge from time to time directs.

Provisions applicable to manager appointed under section 144(*b*).

(*2*) He shall give such security for the proper discharge of his duties as the District Judge directs.

(*3*) He shall, subject to the control of the District Judge, have, for the purposes of management, the same powers as the co-owners jointly might but for his appointment have exercised.

(*4*) He shall keep regular accounts, and allow the co-owners or any of them to inspect and take copies of those accounts; and

(*5*) He shall be removeable by the order of the District Judge, and not otherwise.

C. B. s. 68. M. B. s. 60.

148. When an estate or tenure has been placed under the management of the Court of Wards, or a manager has been appointed for the same under section 144, the District Judge may at any time direct that the management of it be restored to the co-owners if he is satisfied that such management will be conducted by them jointly without inconvenience to the public or injury to private rights.

Power to restore management to co-owners.

F.—Miscellaneous.

149. No tenant shall be ejected from his holding except in execution of a decree.

No ejectment except in execution of decree.

150. Nothing in this Act shall entitle a tenant whose holding is transferable to transfer or bequeath, without the consent of his landlord, a portion only of the land comprised in the holding so that it may be held from the landlord by the transferee as a separate holding.

Portion of holding not transferable.

CHAPTER XI.

OF THE SETTLEMENT OF RENTS BY A REVENUE-OFFICER.

151. (*1*) The Local Government may, if it thinks fit, in any of the cases next hereinafter mentioned, make an order directing that the rents of all tenants or of any class of tenants in any local area shall be settled by Revenue-officers to be from time to time appointed by the Local Government in this behalf.

Power to order Revenue-officers to settle rents.

(*2*) The cases in which an order may be made under this section are the following, namely:—

(*a*) where a large proportion of the tenants or of the landlords applies for such an order, and deposits for the payment of expenses such amount as the Local Government directs:

(*b*) where the making of such an order is calculated to settle or avert a serious dispute existing, or likely to arise, between the tenants and their landlords generally:

(*c*) where a settlement of revenue is being made in respect of the local area, or the local area is comprised in an estate or tenure owned or managed by the Government or the Court of Wards.

(*3*) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made, and an order so notified shall continue in force until it is rescinded by an order notified in like manner.

152. While an order under section 151 continues in force in respect of any tenants, a Civil Court shall not, except as provided by section 155, clause (*b*), entertain a suit for the enhancement or reduction of the rents of those tenants under this Act.

Bar to jurisdiction of Civil Courts while order is in force.

153. (*1*) When the rents of any tenants to whom an order under section 151 applies are subject to alteration by order of a Court, the officer appointed to settle the rents of those tenants under this chapter shall, without any application being made to him in this behalf, fix those rents in accordance with the principles embodied in this Act, and so that no rent fixed under this section shall exceed the maximum prescribed by this Act in cases of enhancement.

Rents of certain tenants to be fixed.

(*2*) Where the Local Government has, under this chapter, directed a settlement of the rents of the occupancy-raiyats of any local area, and a table of rates and produce has not been prepared under Chapter VI for that local area, it may further direct the officer appointed to settle the rents to prepare such a table before proceeding to fix the rents of those raiyats.

154. When the rents of any tenants to whom an order under section 151 applies are not subject to alteration as aforesaid, the officer appointed to settle the rents of those tenants shall, without any application being made to him in this behalf, ascertain and record the rents payable by them.

Rents of other tenants to be ascertained and recorded.

155. (*1*) If in the course of the proceedings taken for fixing the rent of a tenant under section 153 any question arises which, in the opinion of the officer conducting

Power to refer question to Civil Court or leave case to be dealt with by Civil Court.

those proceedings, would be more properly decided by a Civil Court, the officer may in his discretion, but subject to any rules made by the Local Government in this behalf,

(*a*) refer the question for decision to the Civil Court which would, but for section 152, have had jurisdiction to try a suit for the enhancement or reduction of the rent, or

(*b*) by order in writing direct that the tenant's case be excluded from the operation of this chapter and be left to be disposed of by suit in a Civil Court, as if the order under section 151 did not apply to it.

(*2*) When a Revenue-officer makes a reference under clause (*a*) of this section in respect of a tenant, he may either stay his proceedings in respect of that tenant, or, if the nature of the case admits of his doing so, pass an order in alternative form or otherwise fixing the rent contingent upon the decision of the Civil Court.

156. (*1*) A Revenue-officer settling rents under this chapter shall prepare, in the prescribed form, one or more jamabandís, comprising all or such numbers of the tenants whose rents he is appointed to settle as the Board of Revenue may direct.

Preparation of jamabandí.

(*2*) Every jamabandí prepared under this section shall show in respect of each tenant comprised therein—

(*a*) the class to which he belongs, that is to say, whether he is a tenure-holder, occupancy-raiyat, tenant of a bastu holding, ordinary raiyat or under-raiyat;

(*b*) the land held by him;

(*c*) the name of his landlord;

(*d*) whether the rent has been fixed under section 153 or ascertained under section 154;

(*e*) the amount of the rent fixed or ascertained, and, when the rent is a gradually increasing one, the time at which, and the steps by which, it increases.

157. Every jamabandí prepared under section 156 shall be published in the prescribed manner, and any person objecting to any entry therein may, within one month from the date of the publication, present to the Revenue-officer, for transmission to the Commissioner of the Division, a petition stating his objection to the entry.

Publication of jamabandí and objections thereto.

158. (*1*) On the expiration of the said period of one month, the Revenue-officer shall submit to the Commissioner of the Division a copy of the jamabandí, with a report setting forth the grounds on which it has been prepared, and the petitions of objection (if any) which he may have received under section 157.

Submission of jamabandí and petitions of objection to the Commissioner and Board.

(*2*) The Commissioner shall consider the jamabandí and report, and the objections (if any), and, after allowing the objectors (if any) an opportunity of being heard, shall forward the papers to the Board of Revenue with his opinion regarding the same.

159. (*1*) The Board of Revenue may return the papers for further inquiry, or may submit the jamabandí with or without modifications to the Local Government for sanction.

Sanction to and final publication of jamabandí, and date from which it comes into force.

(*2*) The Local Government may return for further inquiry the papers received under sub-section (*1*) or may sanction the jamabandí with or without modification.

(*3*) When a jamabandí has been sanctioned by the Local Government under this section, it shall be published in the prescribed manner.

(*4*) A jamabandí published under this section shall come into force from the commencement of the agricultural year next following the publication.

160. When a jamabandí has come into force under section 159, a tenant's rent shown therein as fixed under section 153 shall be deemed to be the rent payable by him, and shall not, during the period of ten years next following the date on which the jamabandi comes into force, be enhanced in a suit instituted under this Act, except on the ground that since the jamabandí came into force an improvement has been made by the landlord which, but for this section, would entitle him to an enhancement:

Rent fixed under foregoing provisions to be deemed the rent payable.

Provided that—

(*1*) such rent may from time to time be altered in any other manner permitted by law: and

(*2*) nothing in this section shall prevent the rent shown in a jamabandí in respect of a tenancy from being called in question on any of the following grounds, namely:—

(*a*) that the tenancy does not exist or that the tenant is not liable to pay rent;

(*b*) that the tenant belongs to a class different from that to which he is shown in the jamabandí to belong;

(*c*) that the land comprised in the tenancy is different from, or more or less than, that shown in the jamabandí;

(*d*) that a rent different from that shown in the jamabandí has been fixed by a contract legally binding on the parties, and which has been brought to the notice of the officer preparing the jamabandí.

161. When a jamabandí has been published under section 159 a tenant's rent shown therein as, ascertained under section 154, shall be presumed to be the

Rent ascertained under foregoing provisions to be presumed to be the rent payable.

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rent payable by that tenant until the contrary is shown.

162. An entry made in a jamabandí under clause (*a*), clause (*b*) or clause (*c*) of section 156 shall, after the jamabandí has been published under section 159, be presumed for all purposes to be correct until the contrary is shown.

Certain other entries in jamabandí to be presumed to be correct.

163. All expenses incurred by the Government in carrying out the provisions of this chapter in any local area, in any case mentioned in section 151, clause (*a*) or clause (*b*), including the salaries of all officers employed exclusively in carrying out those provisions therein, and such portions as the Local Government may from time to time fix of the salaries of officers employed in carrying out those provisions therein in addition to their other public duties, shall be defrayed by the landlords and tenants in that local area whose rents are fixed or ascertained under this chapter, in such proportions as the Local Government, having regard to all the circumstances of each case, may determine; and the proportion of those expenses so to be defrayed by any person shall be recoverable from him as if it were an arrear of revenue due by him.

Expenses incurred in proceedings under this chapter how defrayed.

CHAPTER XII.

OF THE PREPARATION OF A RECORD-OF-RIGHTS BY A REVENUE-OFFICER.

164. (*1*) The Local Government may, in any case with the previous sanction of the Governor General in Council, and may, if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that a record-of-rights shall be prepared for all tenancies or any class of tenancies in a local area by Revenue-officers to be from time to time appointed by the Local Government.

Power to order preparation of record-of-rights.

(*2*) The cases in which an order may be made under this section without the previous sanction of the Governor General in Council are the following, namely:—

(*a*) where a large proportion of the landlords or of the tenants applies for such an order and deposits for the payment of expenses such amount as the Local Government directs;

(*b*) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally; and

(*c*) where the local area is comprised in an estate or tenure which belongs to or is managed by the Government or the Court of Wards.

(*3*) The Local Government shall, in any order made by it under this section, specify the particulars to be included in the record-of-rights to be prepared under that order.

(*4*) The particulars so specified may be all or some of the following, namely:—

(*a*) the name of each tenant;

(*b*) the class to which he belongs, that is to say, whether he is a tenure-holder, occupancy-raiyat, tenant of a bastu holding, ordinary raiyat or under-raiyat;

(*c*) the land held by him;

(*d*) the name of his landlord; [B. B. s. 181.]

(*e*) the rent payable;

(*f*) the mode in which that rent has been fixed, whether by contract, by order of a Court or otherwise.

(*5*) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

165. Every entry in a record-of-rights prepared under section 164 shall be presumed to be correct until the contrary is proved.

Presumption as to entries in record.

CHAPTER XIII.

OF THE RECOVERY OF RENTS FROM RAIYATS AND UNDER-RAIYATS BY DISTRAINING THE PRODUCE OF THE HOLDING.

166. Where an arrear of rent is due to the landlord of a raiyat or under-raiyat, and has not been due for more than a year, and no security has been accepted therefor by the landlord, the landlord may, in addition to any other remedy to which he is entitled by law, present an application to the Court, having jurisdiction to entertain a suit for the recovery of the arrear, requesting the Court to recover the arrear by distraining, while in the possession of the cultivator,

[B. B. ss. 101, 104, 123.]

Cases in which an application for distraint may be made.

(*a*) any crops or other products of the earth standing or ungathered on the holding;

(*b*) any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding, on a threshing-floor, or place for treading out grain or the like (whether in the fields or within a homestead) or in a storehouse.

Provided that an application shall not be made under this section—

(*1*) by a proprietor or manager as defined under the Bengal Land Registration Act, 1876, or a VII (B. C.) of 1876.

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mortgagee of such a proprietor or manager, unless his name and the extent of his interest in the land in respect of which the arrear is due have been registered under the provisions of that Act; or

(*2*) for the recovery of any sum in excess of the rent payable for the holding in the preceding agricultural year, unless that sum is payable under a written contract or in consequence of a proceeding under this Act or an enactment hereby repealed; or

[B. B. ss. 71, 125.]

(*3*) in respect of the produce of any part of the holding which the tenant has sublet with the written consent of the landlord.

[B. B. ss. 104-5.]

167. (*1*) Every application under section 166 shall specify—

Form of application and fee payable.

(*a*) the holding in respect of which the arrear is claimed, and the boundaries thereof, or such other particulars as may suffice for its identification;

(*b*) the name of the tenant;

(*c*) the period in respect of which the arrear is claimed;

(*d*) the amount of the arrear, with the interest, if any, claimed thereon, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the contract, or proceeding as the case may be, under which that amount is payable;

(*e*) the nature and approximate value of the produce to be distrained; and

(*f*) the place where it is to be found, or such other particulars as may suffice for its identification.

(*2*) Every such application shall be liable to the court-fee which would be payable in a suit instituted for the recovery of the arrear therein claimed.

(*3*) Every such application shall be signed and verified in the manner prescribed by the Code of Civil Procedure for the signing and verification of plaints; and, if the application so verified contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

[B. B. ss. 105 & 106.]

168. (*1*) The applicant shall, at the time of filing an application under section 166, or as soon after as the Court permits, file in Court such documentary evidence (if any) as he may consider necessary for the purposes of the application.

Procedure on receipt of application.

(*2*) The Court may examine the applicant, and may admit the application or reject it, or permit the applicant to furnish additional evidence in support of it.

169. If the application is admitted, the Court shall depute an officer to distrain the produce specified therein, or such portion of that produce as it thinks fit; and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it himself or placing some other person in charge of it in his behalf, and publishing a notification of the distraint in accordance with rules to that effect to be made by the High Court:

[B.B.s. 107.]

Procedure if application is admitted.

Provided that produce, which from its nature does not admit of being stored, shall not be distrained under this section at any time less than twenty days before the time when it would be fit for reaping or gathering.

D. s. 111.

170. (*1*) The distraining officer shall, at the time of making the distraint, serve on the defaulter a written demand for the arrear due, and the costs incurred in making the distraint, together with an account exhibiting the grounds on which the distraint is made.

[B.B. s. 108.]

Service of demand and account.

(*2*) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

(*3*) The demand and account shall, if practicable, be served personally; but if a person on whom they are to be served absconds or conceals himself, or cannot otherwise be found, the officer shall affix copies of the demand and account on the outer door of the house in which he usually resides.

171. (*1*) A distraint under this chapter shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

[B. B. ss. [illegible] and 110.]

Right to reap, &c., produce.

(*2*) In default of the person entitled to do so, the distraining officer shall cause any standing crops or ungathered products distrained to be reaped or gathered when ripe, and shall store the same in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood.

(*3*) In either case the distrained property shall be placed in the charge of the distraining officer, or of some other person appointed by him in this behalf.

172. (*1*) Unless the demand, with all costs of the application for distraint, be immediately satisfied, an officer distraining property

[B.B. s. [illegible]]

Sale proclamation to be issued unless demand is satisfied.

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under section 169 shall issue a proclamation specifying the particulars of the property distrained and demand for which it is distrained, and notifying that he will, at a place and on a specified day, not being less than three or more than seven days after the time of making the distraint, sell the distrained property by public auction.

(2) The proclamation shall be stuck up on a conspicuous place in the village in which the land is situate for which the arrears of rent are claimed.

[B.B. s. 114.] **173.** The sale shall be held at the place where the distrained property is, or at the nearest place of public resort, if the distraining officer is of opinion that it is likely to sell there to better advantage.

Place of sale.

[D. s. III.] **174.** Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter upon the land by himself, or by any person appointed by him in this behalf, and do all that is necessary for the purpose of tending and reaping or gathering them.

Power to sell produce before it is reaped or gathered.

[B. B. s. 115.] **175.** The property shall be sold by public auction in one or more lots, as the officer holding the sale may think advisable; and if the demand, with the costs of distraint and sale, is satisfied by the sale of a portion of the property, the distraint shall be immediately withdrawn with respect to the remainder.

Manner of sale.

[B.B. s. 116.] **176.** If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorised to act in his behalf, applies to have the sale postponed till the next day or (if a market be held at the place of sale) the next market-day, the sale shall be postponed until such day, and shall be then completed, whatever price may be offered for the property.

Postponement of sale.

[B.B. s. 117.] **177.** The price of every lot shall be paid in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks necessary, and in default of such payment the property shall be put up again and sold.

Payment of purchase-money.

[B.B. s. 118.] **178.** When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Certificate to be given to purchaser.

[B. B. s. 119.] **179.** (1) From the proceeds of every sale of distrained property under this chapter, the officer holding the sale shall pay to the applicant for distraint the expenses incurred by him on account of the distraint, calculated on a scale of charges prescribed by rules to be made by the Board of Revenue in this behalf.

Proceeds of sale how to be applied.

(2) The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale, and the surplus (if any) shall be paid to the person whose property has been sold.

180. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers. [B. B. s. 120.]

Certain officers may not purchase.

181. (1) If at any time after a distraint has been made under this chapter, and before the sale of the distrained property, the defaulter, or the owner of the distrained property where he is not the defaulter, deposits in the Court issuing the order of distraint, or in the hands of the distraining officer, the amount specified in the demand served under section 170, together with all costs which may have been incurred after the service of the demand, the Court or officer, as the case may be, shall grant a receipt for the same and the distraint shall forthwith be withdrawn. [B. B. ss. 111, 121 & 123.]

Procedure where demand is paid before the sale.

(2) When the distraining officer receives the deposit, he shall forthwith pay the same into the Court.

(3) A receipt granted under this section to an owner of distrained property not being the defaulter shall afford a full protection to him against any subsequent claim for the arrears of rent on account of which the distraint was made.

(4) After the expiration of one month from the date of a deposit being made under this section, the Court shall pay over the same to the applicant for distraint, unless in the meanwhile the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation in respect of the same.

182. (1) When an inferior tenant, on his property being lawfully distrained under this chapter for the default of a superior tenant, makes any payment under section 181, he shall be entitled to deduct the amount of that payment from any rent payable by him to his immediate landlord, and, if that landlord is not the defaulter, he shall in like manner be entitled to deduct the amount so deducted from any rent payable by him to his immediate landlord and so on until the defaulter is reached. [B. B. s. 124.]

Amount paid by under-tenant for his lessor may be deducted from rent.

(2) Nothing in this section shall affect the right of an inferior tenant making a payment under section 181 to institute a suit for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

Bengal Tenancy Bill.
(Chapter XIII.—Recovery of Rents. Secs. 183—192.)

[B.B. s. 126.] **183.** When land is sublet, and any conflict arises under this chapter between the rights of a superior and of an inferior landlord who distrain the same property, the right of the superior landlord shall prevail.

Conflict between rights of superior and inferior landlords.

184. When any conflict arises between an order for distraint issued under this chapter and an order issued by a Civil Court for the attachment or sale of the property which is the subject of the distraint, the order for distraint shall prevail, but, if the property is sold under that order, the surplus proceeds of the sale shall not be paid to the owner of the property under section 179 without the sanction of the Court by which the order of attachment or sale was issued.

Distraint of property which is under attachment.

[B. B. ss. 91, 122.] **185.** Any person who, otherwise than in accordance with this Act or some other enactment for the time being in force, distrains or attempts to distrain the produce of a tenant's holding, or prevents or attempts to prevent any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code.

Penalty for illegal distraint.

XLV of 1860.

[New.] **186.** When any offence punishable under section 185 is committed for the benefit of, or in behalf of, any person owning or claiming any interest in the land in respect of which the offence is committed, or having or claiming any interest in a dispute which has led to the commission of the offence, or when any person has accepted or derived any benefit from the commission of any such offence, he shall be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both, if, having reason to believe that the offence was likely to be committed, he has not used all lawful means in his power to prevent its commission.

Persons benefiting, &c., by offences under section 185 liable to punishment.

187. (1) The Local Government may, by an order published in the official Gazette, suspend the provisions of sections 166 to 184 (both inclusive) in any local area for such time as it thinks proper.

Power to suspend provisions of sections 166 to 184.

(2) So long as an order under this section continues in force, in respect of any local area, no Court shall receive an application for distraint for arrears of rent due on lands situate within that local area.

CHAPTER XIV.

SPECIAL RULES OF PROCEDURE APPLICABLE TO SUITS BETWEEN LANDLORD AND TENANT.

A.—Rules applicable to suits between landlord and tenant generally.

188. The cause of action in all suits between landlord and tenant as such shall, for the purposes of the Code of Civil Procedure, be deemed to have arisen within the local limits of the jurisdiction of the Civil Court which would have jurisdiction to entertain a suit for the recovery of the land in respect of which the relation of landlord and tenant exists between the parties. D. s. 174. C. B. s. 148. B. B. s. 165. XIV of 1882.

Place of suing.

189. Every náib or gumáshta of a landlord empowered in this behalf by a written authority under the hand of the landlord shall, for the purposes of every such suit, be deemed to be the recognized agent of the landlord within the meaning of the Code of Civil Procedure, notwithstanding that the landlord may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending. D. s. 169. C. B. s. 150. B. B. s. 167(a).

Náibs or gumáshtas to be authorised agents.

190. The particulars referred to in section 58 of the Code of Civil Procedure shall, in the case of such suits, instead of being entered in the register of civil suits prescribed by that section, be entered in a special register to be kept by each Civil Court, in such form as the Local Government may from time to time prescribe in this behalf. D. s. 173. C. B. s. 147. B. B. s. 164. XIV of 1882.

Special register of suits.

B.—Rules applicable to particular classes of suits between landlord and tenant.

191. Sections 121 to 127 (both inclusive), 129, 194 to 197 (both inclusive), 305, and 320 to 325C (both inclusive) of the Code of Civil Procedure shall not apply in any suits of the following classes between landlord and tenant as such, namely:— C. B. s. 165. B. B. s. 167. XIV of 1882.

Sections 121 to 127, 129, 194 to 197, 305, and 320 to 325C of Code not to apply in suits for possession, rent or damages.

(a) suits for the recovery of rent:

(b) suits for penalties claimable under any provision of this Act:

(c) suits to recover possession of the land.

192. The plaint in every suit of a description mentioned in section 191 shall contain, in addition to the particulars specified in section 50 of the Code of Civil Procedure, a statement of the extent, situation, designation and boundaries of the land held by the tenant; or, where the plaintiff is unable to give the boundaries, in lieu thereof a description sufficient for identification. D. s. 185. C. B. s. 167. B. B. s. 166. XIV of 1882.

Particulars to be specified in plaint in such suits.

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(Chapter XIV.—Procedure in Suits between Landlord and Tenant. Secs. 193—202.)

D. s. 192. C. B. s. 173. B. B. s. 195.

193. The summons shall in every such suit be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the settlement of issues only.

Summons in such suits to be for final disposal.

194. The service of a summons on a defendant in any such suit may, if the Court so directs, be effected by forwarding the summons by post in a letter addressed to the defendant and registered under Part III of the Indian Post, Office Act, 1866.

Service of summons in such suits by registered letter.

XIV of 1866.

D. s. 108. C. B. s. 184. B. B. s. 206.

195. A written statement shall not be filed in any such suit without the leave of the Court.

Written statements not to be filed in such suits without leave.

B. B. s 214.

196. The rules for recording the evidence of witnesses prescribed by section 189 of the Code of Civil Procedure shall apply in all such suits whether an appeal is allowed in them or not.

Mode of recording evidence in such suits.

XIV of 1882.

D. ss. 177 & 223. C. B. ss. 155 & 197. B. B. ss. 171 & 219.

197. When a decree, not being a decree of the description referred to in section 111, sub-section (*2*), is passed in any such suit, the Court may, when passing the decree, order on the oral application of the decree-holder the execution thereof.

Execution in such suits on oral application.

D. s. 179. C. B. ss. 157 & 220. B. B. ss. 173 & 242.

198. An appeal shall not lie from any decree or order passed, whether in the first instance or on appeal in any suit instituted by a landlord, for arrears or by a tenant for a penalty claimable under any provision of this Act where—

No appeal in certain suits for arrears and penalties.

(*a*) the decree or order is passed by a District Judge, Additional Judge or Subordinate Judge, and the amount claimed in the suit does not exceed one hundred rupees, or

(*b*) the decree or order is passed by any other judicial officer specially empowered by the Local Government to exercise final jurisdiction under this section, and the amount claimed in the suit does not exceed fifty rupees;

unless in either case the decree or order has decided a question relating to title to land or to some interest in land as between parties having conflicting claims thereto, or a question of a right to enhance or vary the rent of a tenant:

Provided that the District Judge may call for the record of any case in which a judicial officer as aforesaid has passed a decree or order to which this section applies, and, if he is satisfied that a failure of justice has been caused by a substantial error, defect or irregularity in the proceedings or in the decision, may pass such order as he thinks fit.

[New.]

199. (*1*) When, in a suit for an arrear of rent instituted against a tenant, the defendant admits that the arrear is due by him, but pleads that it is due to a person other than the plaintiff, the Court may, if it thinks fit, refuse to take cognizance of the plea until the defendant has paid the amount of the arrear into Court.

Defendant in suit for arrear admitting arrear is due, but disputing plaintiff's title, to pay into Court.

(*2*) When the amount of an arrear has been paid into Court under this section, the Court shall give the defendant a receipt for the same, and the receipt so given shall operate as an acquittance for the arrear, in the same manner and to the same extent as if it had been paid to the person entitled to it.

(*3*) The Court shall forward the amount paid in to the officer to whom an application to deposit the rent would be made under section 103 and it shall thereupon be deemed to be a deposit received under clause (*c*) of that section.

[C. B. s. 108 B. B. s. 220.]

200. Notwithstanding anything contained in section 232 of the Code of Civil Procedure, an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the land has become, and is vested in him.

When assignee of decree for arrears may apply for execution.

[B. B. ss. 128 & 130, cl. (*b*).]

201. (*1*) A decree for enhancement of rent under this Act, if passed in a suit instituted in the first eight months of an agricultural year, shall not take effect before the commencement of the agricultural year next following, and, if passed in a suit instituted in the last four months of the agricultural year, shall not take effect before the commencement of the agricultural year next but one following.

Date from which decree for enhancement takes effect.

(*2*) Subject to the provisions of sub-section (*1*), it shall be in the discretion of the Court to fix the date from which any such decree shall take effect.

[B. B. ss. 21. (*e*), 31, 44 & 45 Vic. C. 41 s. 14.]

202. (*1*) A suit for the ejectment of a tenant, on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment, shall not be entertained unless the landlord has requested the tenant, where the damage or breach is capable of remedy, to remedy the same, and, in any case, to pay reasonable compensation for the damage or breach, and the tenant has failed to comply within a reasonable time with that request.

Relief against forfeitures.

(*2*) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the damage or breach, and whether, in

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(Chapters XIV, XV.—Procedure in Suits between Landlord and Tenant. Sale of Transferable Holdings in Execution, &c. Secs. 203—208.)

the opinion of the Court, the damage or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the damage or breach is declared to be capable of remedy, to remedy the same.

(*3*) The Court may from time to time extend a period fixed by it under sub-section (*2*) for remedying a damage or breach.

(*4*) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the damage or breach is declared by the Court to be capable of remedy, remedies the damage or breach to the satisfaction of the Court, the decree shall not be executed.

[C. B. s. 80. B. B. s. 73.]

203. The following rules shall be applicable in the case of every raiyat ejected from a holding:—

Rights of ejected raiyats in respect of crops and land prepared for sowing.

(*a*) When the raiyat has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the crops as estimated by the Court executing the decree for ejectment.

(*b*) When the raiyat has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejectment, together with reasonable interest on that value:

Provided that a raiyat shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage.

[C. B. s. 80. B. B. s. 73.]

204. When a landlord elects, under section 203, clause (*a*), to allow a raiyat to retain possession of any land for the purpose specified in that clause, the raiyat shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejectment may deem reasonable.

Payment by raiyat for occupation of land under section 203.

[New.]

205. In all suits and proceedings for ejectment, the Court shall inquire into and determine all claims under this Act by the landlord against the tenant as such, or by the tenant against the landlord as such.

All claims between landlord and tenant to be determined in ejectment-proceedings.

206. (*1*) When it appears to a Court making an inquiry under section 205 that the amount payable by the landlord to the tenant as such exceeds the amount payable by the tenant to the landlord as such, the decree or order for ejectment (if any) shall, unless the landlord and tenant come to an arrangement regarding the payment of the excess sum, specify a time within which it must be paid into Court.

Procedure when, on ejectment, money is due by the landlord to the tenant.

(*2*) If it is so paid within the time specified, the Court shall eject the tenant; and

if it is not so paid, the Court shall refuse to eject the tenant.

C.—Suit to determine status, &c., of tenant.

[C. B. s. 151. B. B. s. 188.]

207. Every landlord may institute a suit against his tenant, and every tenant against his landlord, for the determination of all or any of the following matters, namely:—

Suit to determine status, &c., of tenant.

(*a*) the land held by the tenant;

(*b*) the class to which he belongs, that is to say, whether he is a tenure-holder, occupancy-raiyat, tenant of a bastu holding, ordinary raiyat, or under-raiyat, and, if he is a tenure-holder, whether his rent is liable to enhancement; and

(*c*) the rent payable by him at the time the suit is instituted.

CHAPTER XV.

OF THE SALE OF TRANSFERABLE HOLDINGS IN EXECUTION OF DECREES FOR ARREARS DUE ON THEM.

D. s. 155. C. B. ss. 206 Expl. & 210. B. B. ss. 228 Expl. & 232.

208. (*1*). "Incumbrance" in this chapter, used with reference to a tenancy, means any lien, sub-tenancy, easement or other right or interest created upon the holding by the tenant in limitation of his own interest therein, except—

Definitions.

(*a*) a tenure existing from the time of the permanent settlement;

(*b*) a tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;

(*c*) a tenure of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals,

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(Chapter XV.—Sale of Transferable Holdings in Execution, &c. Secs. 209—214.)

places of worship or burning or burying grounds have been made;

(*d*) a right of occupancy;

(*e*) a right conferred on an occupancy-raiyat to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and

(*f*) any right or interest which the landlord has expressly and in writing given the tenant permission to create.

[C. B. s. 206 Expl. B. B. s. 228 Expl.] (2) "Registered incumbrance" in this chapter, used with reference to a tenancy on which an arrear of rent is due, means any incumbrance which the defaulter or his predecessor in interest has created by an instrument registered under the Registration Act for the time being in force, and of which, after it has been registered, a copy has been served on the landlord under section 223, not less than six months before the arrear became due.

[C. B. s. 201. B. B. s. 223.]

Application for sale of holding.

209. (*1*) When a decree has been passed for an arrear of rent due for a transferable holding, and the decree-holder applies under section 235 of the Code of Civil Procedure for the attachment and sale of the holding in execution of the decree, his application shall contain, in addition to the particulars specified in that section and section 237 of the said Code, a statement of the annual rent of the holding.

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(2) When the holding is a permanent tenure, there shall be filed with the application a copy of so much of the register kept under Chapter III as relates to the tenure.

[D. s. 152. C. B. s. 203. B. B. s. 225.]

Proclamation announcing sale.

210. (*1*) When an order has been passed for the sale of a holding upon an application made under section 209, the proclamation made under section 287 of the Code of Civil Procedure shall, in addition to stating and specifying the particulars mentioned in that section, announce—

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(*a*) in the case of a tenure, that the tenure will first be put up to auction subject to the registered incumbrances and will be sold subject to those incumbrances if the sum bid is sufficient to liquidate the amount of the decree and costs, and that otherwise it will, if the decree-holder so desires, be sold on a subsequent day of which due notice will be given with power to annul all incumbrances; and

(*b*) in the case of an occupancy-holding, or bastu holding, that the holding will be sold with power to annul all incumbrances.

(2) The proclamation shall, besides being made in the manner prescribed by section 289 of the said Code, be published in such manner as the Local Government may, from time to time, direct in this behalf.

Sale of tenure subject to registered incumbrances and effect thereof.

C. B. s. 206. B. B. s. 228(*a*) and Expl.

211. (*1*) When a tenure has been advertised for sale under section 210, it shall be put up to auction, subject to registered incumbrances; and, if the bidding reaches a sum sufficient to liquidate the amount of the decree and costs, including the costs of sale, the tenure shall be sold subject to such incumbrances.

(2) The purchaser at a sale under this section may, in manner provided by section 214, and not otherwise, annul any incumbrance upon the tenure not being a registered incumbrance.

Sale of tenure with power to avoid all incumbrances and effect thereof.

C. B. s. 207(*a*) B. B. s. 229(*a*)

212. (*1*) If the bidding for a tenure put up to auction under section 211 does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, and if the decree holder thereupon desires that the tenure be sold with power to avoid all incumbrances, the officer holding the sale shall adjourn the sale and make a fresh proclamation under section 289 of the Code of Civil Procedure, announcing that the tenure will be put up to auction and sold with power to avoid all incumbrances upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure shall be put up to auction and sold with power to avoid all incumbrances.

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D. s. 155. C. B. s. 210. B. B. s. 232.

(2) The purchaser at a sale under this section may, in manner provided by section 214, and not otherwise, annul any incumbrance on the tenure.

B. B. s. 228(*b*).

Sale of occupancy-holding with power to avoid all incumbrances and effect thereof.

213. (*1*) When an occupancy-holding or bastu holding has been advertized for sale under section 210, it shall be put up to auction and sold with power to avoid all incumbrances.

(2) The purchaser at a sale under this section may, in manner provided by section 214, and not otherwise, annul any incumbrance on the holding.

Procedure for annulling incumbrances under the foregoing sections.

214. (*1*) A purchaser having power to annul an incumbrance under section 211, section 212, or section 213, and desiring to avoid the same, may within one year from the date on which he first has notice of the incumbrance, present to the Collector an application in writing, requesting him to serve on the incumbrancer a notice declaring that the incumbrance is annulled.

(2) Every such application must be accompanied by such fee for the service of the notice as the Board of Revenue may fix in this behalf.

(3) When an application for a service of a notice is made to the Collector in manner prescribed by this section, he shall cause the notice to be served in compliance therewith, and the incumbrance shall be deemed to be annulled from the date on which it is so served.

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B. B. s. 225(*c*).

Power to direct that occupancy-holdings be dealt with under foregoing sections as tenures.

215 (*1*) The Local Government may, from time to time, by notification in the official Gazette, direct that occupancy-holdings in any local area put up for sale in execution of decrees for rent due on them shall, before being put up with power to avoid all incumbrances, be put up subject to registered incumbrances, and may by like notification rescind any such direction.

(2) While any such direction remains in force in respect of any local area, all occupancy-holdings in that local area shall, for the purposes of sale under the foregoing sections of this chapter, be treated in all respects as if they were tenures.

D. s. 246. C. B. s. 211. B. B. s. 233.

Rules for disposal of the sale-proceeds.

216. (*1*) In disposing of the proceeds of a sale under this chapter, the following rules, instead of those prescribed by section 295 of

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the Code of Civil Procedure, shall be observed, that is to say:—

(*a*) There shall first be paid to the decree-holder the costs incurred by him in bringing the holding to sale.

(*b*) There shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made.

(*c*) If there remains a balance after these sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have fallen due to him in respect of the holding between the institution of the suit and the date of the sale, but not more than six months after the date of the final decree.

(*d*) The balance (if any) remaining after the payment of the rent mentioned in clause (*c*) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application.

(2) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (*c*), the Court shall determine the dispute, and the determination shall have the force of a decree.

D. s. 153. C. B. s. 204. B. B. s. 226.

Holding to be released from attachment only on payment into Court of amount of decree with costs, or on confession of satisfaction by decree-holder.

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217. (*1*) Sections 278 to 283 (both inclusive) of the Code of Civil Procedure shall not apply to a holding attached in execution of a decree for arrears due thereon.

(2) When an order for the sale of a holding in execution of such a decree has been made, the holding shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree, including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the holding on the ground that the decree has been satisfied out of Court.

(3) Nothing in this section shall affect the right of any person to institute a suit to set aside the sale of a holding under this chapter.

D. ss. 35, 36, 154. C. B. s. 205. B. B. s. 227.

Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the holding.

218. (*1*) When any person having, in a holding advertized for sale under this chapter, an interest which would be voidable upon such sale, pays into Court the amount requisite to prevent the sale,

(*a*) the amount so paid by him shall be deemed to be a debt bearing interest at twelve per cent. per annum and secured by a mortgage of the holding to him;

(*b*) his mortgage shall, subject to the provisions of section 125, be deemed to be the first charge on the holding; and

(*c*) he shall be entitled to take possession of the holding as mortgagee, and retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(2) Nothing in this section shall affect any other remedy to which any such person would be entitled.

D. ss. 35, 36, 154. C. B. s. 227.

Inferior tenant paying into Court may deduct from rent.

219. When a holding is advertised for sale under this chapter in execution of a decree against a superior tenant defaulting, and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court in order to prevent the sale, he may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord; and, if that landlord is not the defaulter, he may in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

C. B. s. 205(1). B. B. s. 230(1).

Decree-holder may bid at sale; judgment-debtor may not.

XIV of 1882.

220. (*1*) Notwithstanding anything contained in section 294 of the Code of Civil Procedure, the holder of a decree in execution of which a holding is sold under this chapter may without the permission of the Court bid for or purchase the holding.

(2) The judgment-debtor shall not bid for or purchase a holding so sold.

XIV of 1882.

Operation of sections 313 and 326 of Code of Civil Procedure excluded.

221. Sections 313 and 326 of the Code of Civil Procedure shall not apply to any sale under this chapter.

New.

Registration of certain instruments creating incumbrances.

III of 1877.

222. Notwithstanding anything contained in Part IV of the Indian Registration Act, 1877, an instrument creating an incumbrance upon any transferable holding which has been executed before the commencement of this Act, and is not required by section 17 of the said Registration Act to be registered, shall be accepted for registration under that Act if it is presented for that purpose to the proper officer within one year from the commencement of this Act.

C. B. s. 208 Expl. B. B. s. 228 Expl.

Registration-officers to serve copies of instruments creating incumbrances.

223. Every officer who has, whether before or after the passing of this Act, registered an instrument executed by a tenant of a transferable holding and creating an incumbrance on the holding, shall, at the request

of the tenant or of the person in whose favour the incumbrance is created, and on payment by him of such fee as the Local Government may fix in this behalf, cause a copy of the instrument to be served on the landlord in the manner prescribed in Part VII of the Indian Registration Act, 1877, for the service of summons.

III of 1877.

CHAPTER XVI.

OF LIMITATION.

Limitation in suits, appeals and applications in Schedule IV.

224. The suits, appeals and applications specified in Schedule IV annexed to this Act shall be instituted and made within the time prescribed in that schedule for them respectively; and every such suit or appeal instituted, and application made, after the period of limitation so prescribed, shall be dismissed, although limitation has not been pleaded.

XV of 1877.

Portions of the Indian Limitation Act not applicable to such suits, &c.

225. Sections 7, 8 and 9 of the Indian Limitation Act, 1877, shall not apply to the suits and applications mentioned in section 224.

CHAPTER XVII.

SUPPLEMENTARY.

Saving as to service-tenures.

226. Nothing in this Act shall confer a right to transfer or bequeath a service-tenure which, before the passing of this Act, was not capable of being transferred or bequeathed.

Power to make rules regarding procedure and powers of officers.

227. The Local Government may, from time to time, by notification in the official Gazette, make rules consistent with this Act to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

(*a*) any power exercised by a Civil Court in the trial of suits;

(*b*) power to enter upon any land, and to survey, demarcate and make a map of the same; and

(*c*) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil.

Procedure for making, publication and confirmation of rules.

228. (*1*) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(*2*) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may in its opinion be sufficient for giving information to persons interested, and in the case of rules made by any other authority, in the prescribed manner.

(*3*) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(*4*) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*5*) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

Náibs and gumáshtas of landlords.

229. Any appearance, application or act in, before, or to, any Court or other authority required or authorized by this Act to be made or done by a landlord may, unless the Court or authority otherwise directs, be made or done also by a náib or gumáshta of the landlord empowered in this behalf by a written authority under the hand of the landlord; and every notice required by this Act to be served on, or given to, a landlord shall, if served on, or given to, a náib or gumáshta of the landlord empowered as aforesaid to accept service of or receive the same, be as effectual for the purposes of this Act as if it had been served on, or given to, the landlord in person.

Rights of pasturage, forest-rights, &c.

230. The provisions of this Act applicable to suits for the recovery of arrears of rent shall, as far as may be, apply to suits for the recovery of anything payable or deliverable in respect of any rights of pasturage, forest-rights, rights over fisheries and the like.

SCHEDULE I.

(*See Section 2.*)

REPEAL OF ENACTMENTS.

Regulations of the Bengal Code.

Number and year.	Subject of Regulation.	Extent of repeal.
VIII of 1793 .	A Regulation for re-enacting with modifications and amendments the rules for the Decennial Settlement of the Public Revenue payable from the lands of the zemindars, independent talukdars, and other actual proprietors of land in Bengal, Behar, and Orissa, passed for those Provinces respectively on the 18th September 1789, the 25th November 1789, and the 10th February 1790, and subsequent dates.	Sections 51, 52, 53, 54, 55, 64, and 65.
XII of 1805 .	A Regulation for the settlement and collection of the Public Revenue in the zila of Cuttack, including the parganas of Pattáspur, Kummadichour, and Bagrae, at present included in the zila of Midnapur.	Section 7.
V of 1812 .	A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.	Sections 2, 3, 4, 26 and 27.

SCHEDULE I—*contd.*

Number and year.	Subject of Regulation.	Extent of repeal.
XVIII of 1812 .	A Regulation for explaining Section 2, Regulation V, 1812, and rescinding Sections 3 and 4, Regulation XLIV, 1793, and Sections 3 and 4, Regulation L, 1795, and enacting other rules in lieu thereof.	Preamble and Sections 2 and 3.
VIII of 1819 .	A Regulation to declare the validity of certain tenures, and to define the relative rights of zamíndárs and patní taluqdárs; also to establish a process for the sale of such taluqs in satisfaction of the zamíndár's demand of rent, and to explain and modify other parts of the system established for the collection of rents generally throughout Bengal.	The whole Regulation.
I of 1820 .	A Regulation for providing that all sales of certain taluqs, made answerable by sale for arrears of the zamíndár's rent, shall be conducted in the mode prescribed by Regulation VIII, 1819, for the sales therein described.	The whole Regulation.
XI of 1825 .	A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea.	In Clause 1 of Section 4, from and including the words "nor if annexed to a subordinate tenure" to the end of the Clause.

Acts of the Bengal Council.

Number and year.	Subject of Act.	Extent of repeal.
VI of 1862 .	An Act to amend Act X of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	The whole Act.
VIII of 1865 .	An Act to amend the law for the sale of such undertenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.	The whole Act.
IV of 1867 .	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.
VIII of 1869 .	An Act to amend the Procedure in suits between Landlords and Tenants.	The whole Act.
VIII of 1879 .	An Act to define and limit the powers of Settlement officers.	The whole Act.

Acts of the Governor General in Council.

Number and year.	Subject of Act.	Extent of repeal.
XXV of 1850 .	An Act for the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII, 1819, and Act I V, 1846.	So much a is unrepealed.
XXXIIIof 1850 .	An Act for amending the forms necessary for the sale of patní tenures in Bengal.	The whole Act.
VI of 1853 .	An Act relating to summary suits for arrears of rent, to sales of pátní taluqs and other saleable Tenures, and to sales of land in satisfaction of summary decrees for rent.	The whole Act.
X of 1859 .	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.

SCHEDULE II.

(*See Section 36.*)

Extract from Preamble to Regulation VIII of 1819.

"In the exercise of the privilege * * * conceded to zamíndárs under direct engagements with Government, there has been created a tenure which had its origin on the estates of the Rájá of Bardwán, but has since been extended to other zamíndárís; the character of which tenure is, that it is a taluq created by the zamíndár, to be held at a rent fixed in perpetuity, by the lessee and his heirs for ever; the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he is excused from this obligation at the zamíndár's discretion; but even if the original tenant be excused, still, in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbent has always in practice been liable to be so called upon at the option of the zamíndár.

Bengal Tenancy Bill.
(Schedule III.—Summary Sale of Patní Tenures.)

"By the terms also of the engagements interchanged, it is, amongst other stipulations, provided that, in case of an arrear occurring, the tenure may be brought to sale by the zamíndár, and if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand.

"These tenures have usually been denominated patní taluqs, and it has been a common practice of the holders of them to underlet on precisely similar terms to other persons who, on taking such leases, went by the name of darpatní taluqdárs: these, again, sometimes similarly underlet to be-patnídárs; and the conditions of all the title-deeds vary in nothing material from the original engagements executed by the first holder."

SCHEDULE III.

SUMMARY SALE OF PATNÍ TENURES.

(See section 42.)

Extract from Regulation VIII of 1819, amended in accordance with subsequent enactments.

8. *First.*—Zamíndárs, that is, proprietors under direct engagements with the Government, shall be entitled to apply in the manner following for periodical sales of any tenures upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure.

Zamíndárs allowed sales of tenures, in which right to sell for arrears is reserved.

The exercise of this power shall not be confined to cases in which the stipulation for sale may have been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for a sale at the end of the year, in conformity with the practice heretofore allowed by the Regulations in force.

Second.—On the first day of Baisákh, that is, at the commencement of the following year from that of which the rent is due, the zamíndár shall present a petition to the Collector, containing a specification of any balances that may be due to him on account of the expired year, from all or any taluqdárs or other holders of an interest of the nature described in the preceding clause of this section.

First sale to be applied for on first Baisákh.

The same shall then be stuck up in some conspicuous part of the kachahrí, with a notice that if the amount claimed be not paid before the first of Jeth following, the tenures of the defaulters will on that day be sold by public sale in liquidation.

Should, however, the first of Jeth fall on a Sunday or holiday, the next subsequent day, not a holiday, shall be selected instead; a similar notice shall be stuck up at the sadr kachahrí of the zamíndár himself, and a copy or extract of such part of the notice as may apply to the individual case shall be by him sent to be similarly published at the kachahrí or at the principal town or village upon the land of the defaulter.

The zamíndár shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the mufassal shall be served by a single peon, who shall bring back the receipt of the defaulter, or of his manager, for the same; or in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood, in attestation of the notice having been brought and published on the spot.

If it shall appear from the tenor of the receipt or attestation in question that the notice has been published at any time previous to the fifteenth of the month of Baisákh, it shall be a sufficient warrant for the sale to proceed upon the day appointed.

In case the people of the village should object or refuse to sign their names in attestation, the peon shall go to the kachahrí of the nearest munsif, or if there should be no munsif, to the nearest tháná, and there make voluntary oath of the same having been duly published; certificate to which effect shall be signed and sealed by the said officers and delivered to the peon.

Third.—On the first day of Kártik, in the middle of the year, the zamíndár shall be at liberty to present a similar petition, with a statement of any balances that may be due on account of the rent of the current year, up to the end of the month of Asin, and to cause similar publication to be made of a sale of the tenures of defaulters, to take place on the first of Aghan, unless the whole of the advertised balance shall be paid before the date in question, or so much of it as shall reduce the arrear, including any intermediate demand for the month of Kártik, to less than one-fourth or a four-anna proportion of the total demand of the zamíndár, according to the kistbandí, calculated from the commencement of the year to the last day of Kártik.

Mid year sale to be applied for on first of Kártik.

9. All sales of saleable tenures applied for under the rules of this Regulation shall be made in public kachahrí; the land shall be sold to the highest bidder, and every one not the actual defaulter shall be free to bid, not excepting the person in satisfaction of whose demand the sale may be made, nor the under-tenants of the defaulter; fifteen per cent. of the purchase-money shall be paid immediately the lot is knocked down, and the officer conducting the sale shall be competent to refuse to accept a bid, or to knock down a lot to any bidder, unless he has assurance to his satisfaction that the amount

Sales how conducted.

Bengal Tenancy Bill.
(Schedule III.—Summary sale of Patní Tenures.)

required to be deposited is in hand for the purpose, or will be produced within two hours.

If the fifteen per cent. be not paid in cash, * * * * * * * * * * within two hours of the sale, or an equivalent amount in Government securities be not lodged, the lot shall be resold on the same day, and if the remainder of the purchase-money be not paid by noon of the eighth day, notice shall be given of resale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the bázár of the sadr station of the zila, after which the lot shall be resold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen per cent. already made, and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one; such deficiency to be levied by the process for the execution of decrees of the Civil Courts.

The forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be credited to Government.

10. At the time of the sale, the notice previously stuck up in the kachahrí shall be taken down, and the lots be called up successively in the order in which they may be found in that notice.

Forms to be observed in selling.

A person shall attend on the part of the zamíndár, with a particular statement of the payments made up to the day of sale, on account of the balance of each advertised lot, together with the receipt for, or certificate of, the notice directed to be published in the mufassal, nor shall any lot be put up to sale until the statement produced shall have been inspected, and the existence of a balance for the year ascertained therefrom, nor until the receipt for the notice shall have been read; the observance of which forms shall be recorded in a separate rubakárí to be held upon each lot sold.

If the sale be of the description provided for in the third clause of section 8 of this Regulation, the kistbandí of the defaulter shall likewise be produced, in order that it may be seen that the balance remaining unpaid exceeds a four-anna proportion of the demand up to the date of sale; nor shall the sale take place unless this be ascertained.

The zamíndár shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the public officer making the sale be answerable in any respect, except for its fairness and publicity, and for the observance of the rules prescribed for his guidance in this Regulation.

11. *First.*—It is hereby declared, that any taluq or saleable tenure that may be disposed of at a public sale, under the rules of this Regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said taluq may have been held.

Tenure to be sold free of incumbrance by act of defaulter.

No transfer by sale, gift or otherwise, no mortgage or other limited assignment, shall be permitted to bar the indefeasible right of the zamíndár to hold the tenure of his creation answerable, in the state in which he created it, for the rent which is in fact his reserved property in the tenure, except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such zamíndár.

Second.—In like manner, on sale of a taluq for arrears, all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred; the possessors of such interests must consequently lose the right to hold possession of the land and to collect the rents of the raiyats; this having been enjoyed merely in consequence of the defaulter's assignment of a certain portion of his own interest, the whole of which was liable for the rent.

No under-lease to stand after sale.

* * * * *

13. *First.*—With reference to the injury that may be brought upon the holder of a taluq of the second degree by the operation of the preceding rules, in case the proprietor of the superior tenure purposely withholds the rent due from himself to the zamíndár, after having realised his own dues from the inferior tenantry, it is deemed necessary to allow such taluqdárs the means of saving their tenures from the ruin that must attend such a sale; and the following rules have accordingly been enacted for this purpose.

Reason for allowing under-tenants means of staying sale.

Second.—Whenever the tenure of a taluqdár of the first degree may be advertised for sale in the manner required by the second and third clauses of section 8 of this Regulation, for arrears of rent due to the zamíndár, the taluqdárs of the second degree, or any number of them, shall be entitled to stay the final sale, by paying into the Collectorate the amount of balance that may be declared due by the person attending on the part of the zamíndár on the day appointed for sale; in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answering any demand that may remain due on the day fixed for the sale, and should the amount lodged be sufficient, the sale shall not proceed, but after

How under-tenants may stay sale.

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(Schedule III.—Summary sale of Patní Tenures.)

making good to the zamíndár the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it.

Third.—If the amount so lodged shall be rent due by the inferior taluqdár to the holder of the advertised tenure, the same shall be stated at the time of making the deposit, and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim of rent that may at the time be pending, or be thereafter brought forward against him or them by the proprietor of the advertised tenure, on account of the year or months for which the notice of sale may have been published.

Procedure in case of amount lodged being rent due from under-tenant;

Fourth.—If the person or persons making such a deposit, in order to stay the sale of the superior tenure, shall have already paid the whole of the rent due from himself or themselves, so that the amount lodged is an advance from private funds, and not a disbursement on account of the said rent, such deposit shall not be carried to credit in, or set against, future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the taluq so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereupon, in the same manner as if the loan had been made upon mortgage, and he or they shall be entitled, on applying for the same, to obtain immediate possession of the tenure of the defaulter, in order to recover the amount so advanced from any profits belonging thereto.

and in case of amount lodged being advanced from private funds.

If the defaulter shall desire to recover his tenure from the hands of the person or persons who, by making the advance, may have acquired such an interest therein, and entered on possession in consequence, he shall not be entitled to do so, except upon repayment of the entire sum advanced, with interest at the rate of twelve per cent. per annum up to the date of possession having been given as above, or upon exhibiting proof, in a regular suit to be instituted for the purpose, that the full amount so advanced, with interest, has been realised from the usufruct of the tenure.

14. *First.*—Should the balance claimed by a zamíndár on account of the rent of any under-tenure remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve, in the manner provided for in sections 9 and 10 of this Regulation; nor shall it be stayed or postponed on any account, unless the amount of the demand be lodged.

Sale not to be stayed unless arrear claim be lodged.

It shall, however, be competent to any party desirous of contesting the right of the zamíndár to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the zamíndár for the reversal of the same, and upon establishing a sufficient plea, to obtain a decree with full costs and damages.

But suit to lie for its reversal.

The purchaser shall be made a party in such suits, and upon decree passing for reversal of the sale, the Court shall be careful to indemnify him against all loss, at the charge of the zamíndár or person at whose suit the sale may have been made.

Second.—In cases also in which a taluqdár may contest the zamíndár's demand of any arrear, as specified in the notice advertised, such taluqdár shall be competent to apply for a summary investigation at any time within the period of notice; the zamíndár shall then be called upon to furnish his kabuliyat and other proofs at the shortest convenient notice, in order that the award may, if possible, be made before the day appointed for sale.

Defaulter may apply for summary investigation.

Such award, if so made, will of course regulate the ulterior process; but if the case be still pending, the lot shall be called up in its turn, notwithstanding the suit; and if the zamíndár or his agent in attendance insist on the demand, the sale shall be made on his responsibility, nor shall it be stayed, or the summary suit be allowed to proceed, unless the amount claimed be lodged in cash, * * * * * * * * * or in Government securities, by the taluqdár contesting the demand; and if such deposit be not made, the alleged defaulter will have no remedy, but by a regular action for damages and for a reversal of the sale.

Sale not to be stayed unless amount claimed be deposited.

15. *First.*—So soon as the entire amount of the purchase-money shall have been paid in by the purchaser at any sale made under this Regulation, such purchaser shall receive from the officers conducting the sale a certificate of such payment.

Delivery of possession to purchaser.

The purchaser shall then proceed with the certificate in question to procure a transfer to his name in the kachahrí of the zamíndár, and upon furnishing security, if required, to the extent of half the jama or annual rent, he shall receive the usual 'amaldastak' or order for possession, together with the notice to the raiyats and others to attend and pay their rents henceforward to him.

The zamíndár shall also be bound to furnish access to any papers connected with the tenure purchased, that may be forthcoming in his kachahrí; and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished or tendered on requisition, the new purchaser shall be entitled to apply direct to the Collector; and he shall receive the orders for possession, and shall be

Bengal Tenancy Bill.

(Schedule III.—Summary sale of Patní Tenures.)

put in possession, of the lands by means of the názir, in the same manner as possession is obtained under a decree of Court; * * *

* * * * * * *

Second.—When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the collections of the new purchaser, from the lands composing his purchase, the latter shall be at liberty to apply immediately to the Collector for the aid of the public officers in obtaining possession of his just rights.

Procedure in case of opposition to purchaser.

A proclamation shall then issue under the seal and signature of the Collector declaring that the new incumbent having, by purchase at a sale for arrears of rent due to the zamíndár, acquired the entire rights and privileges attaching to the tenure of the late taluqdár, in the state in which it was originally derived by him from the zamíndár, he alone will be recognized as entitled to make the zamíndárí collections in the mufassal, and no payments made to any other individual will on any account be credited to the raiyats or others in any suit for rent or on any other occasion whatever when the same may be pleaded.

Third.—Should the late incumbent or his late under-tenants continue to oppose the entry of the new purchaser, notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the Police-officers and of all other public officers who may be at hand and capable of affording assistance shall be given to the new purchaser, on his presenting a written application for the same; and in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.

Procedure in case of continued opposition.

* * * * *

17. *First.*—The following rules have been enacted for the disposal of the proceeds of any sale made under the rules of this Regulation.

Disposal of proceeds of sales.

Second.—One per cent. shall first be deducted from the nett proceeds realised, and shall be carried to the account of Government, for the purpose of meeting the expense of any extra establishments which it may be necessary to maintain for carrying into effect the provisions of this Regulation.

Deduction on account of Government.

Third.—The balance on account of which the sale may have been made shall next be made good in full (with interest and all charges incurred in bringing the taluq to sale) to the zamíndár or other person to whom the same may be due; provided, however, that no former balances, beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year), shall be included in the demand to be thus satisfied.

Payment to zamíndárs.

Such antecedent balances, if the zamíndár shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will have become in fact mere personal debts of the individual taluqdár, and must be recovered in the same way as other debts by a regular suit in the Court.

Fourth.—Any excess that may remain after satisfying the demand of the zamíndár, in the manner above described, shall be forthwith sent by the officer conducting the sale to the treasury of the Collector or Assistant Collector of the district, to be there held in deposit to answer the claims of the taluqdárs of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest on the land composing the taluq sold, or on any part of it.

Disposal of remainder.

Fifth.—It shall be competent to any one conceiving himself to possess such an interest to bring forward his claim to the price he may have paid for the same, or for a just compensation for the loss sustained by him in consequence of the sale, by instituting a regular suit at any time within two months from the date of sale.

Under-tenants free to prosecute for price of their interest or compensation.

If the Court shall, on investigation, consider the plaintiff's claim to be an equitable one, the Court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any other amount that may be deemed just and equitable under all the circumstances.

If there be more claimants than one, payment shall not be made from the deposit, until the whole of the claims be settled; and in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately, and the remainder stand as a personal debt against the defaulter, to be realised from him by the usual process for the execution of decrees.

Sixth.—Provided, however, that no taluqdár of the second degree or other possessor of an assigned interest upon the land of the tenure sold, who may

Suit not to lie if under tenant be himself in arrear at time of sale.

Bengal Tenancy Bill.
(Schedule IV.—Limitation.)

be holding under a stipulation for the payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or assignment upon its becoming cancelled by sale of the superior taluq, except after exhibiting proof that the whole amount of the rent demandable from himself has been paid or lodged for the purpose prior to the date of sale.

When defaulter to receive excess unclaimed.

Seventh.—Should no claims upon the purchase-money of a taluq sold as above be brought forward by any under-tenants or assignees, within the period of two months from the date of sale, or should the amount claimed by those who may have sued not equal the entire deposit, the defaulter whose tenure may have been sold shall be at liberty to petition the Court for the amount so held in deposit, or for the excess thereof, as the case may be, and he shall receive a certificate under the seal of the Court, of there being no claims to afford ground of detention for the whole or any part of the deposit; and upon exhibiting such certificate to the Collector, the amount set free thereby shall be paid to his receipt.

In the same manner, upon executing a decree passed in favour of any under-tenants or assignees, they shall receive certificates under the seal of the Court, declaring the amount adjudged to them out of the deposit; and upon exhibiting these certificates, the amount shall be paid severally to their receipts by the Collector.

Substitution of Government securities for cash in deposit.

Eighth.—It shall be competent to any party interested in a deposit, to withdraw the whole or any part thereof, on substituting Government securities, bearing interest, in lieu of the money so held in deposit; such securities to be taken at the rate of discount or premium of the day, as shown by the Government Gazette last received.

SCHEDULE IV.

(See Section 224.)

PART I.—*Suits.*

Description of suit.	Period of Limitation.	Time from which period begins to run.
1. To eject any tenure-holder or raiyat on account of any breach of a condition in respect of which there is a contract expressly providing that ejectment shall be the penalty of such breach.	One year .	The date of the breach.

SCHEDULE IV—continued.

PART I.—*Suits.*—concluded.

Description of Suit.	Period of Limitation.	Time from which period begins to run.
2. For the recovery of an arrear of rent—		
(*a*) when the arrear fell due before a deposit was made on account of the rent of the same holding under section 103.	Six months .	The date of the deposit.
(*b*) in other cases .	Three years .	The last day of the Bengali year in which the arrear fell due, where that year prevails, and the last day of the month of Jeyt of the Amli or Fasli year in which the arrear fell due, where either of those years prevails.

PART II.—*Appeals.*

Description of Appeal.	Period of Limitation.	Time from which period begins to run.
3. From any decree or order under this Act to the Court of a District Judge.	Thirty days .	The date of the decree or order appealed against.
4. From any order of a Collector under this Act to the Commissioner.	Thirty days .	The date of the order appealed against.

PART III.—*Applications.*

Description of Application.	Period of Limitation.	Time from which period begins to run.
5. For the execution of a decree or order made under this Act, or any Act repealed by this Act, and not being a decree for a sum of money exceeding Rs. 500, exclusive of any interest which may have accrued after decree upon the sum decreed, but inclusive of the costs of executing such decree, except where the judgment-debtor has by fraud or force prevented the execution of the decree.	Three years .	(1) The date of the decree or order; or (2) where there has been an appeal, the date of the final decree or order of the Appellate Court; or (3) where there has been a review of judgment, the date of the decision passed on the review.

STATEMENT OF OBJECTS AND REASONS.

THE history of landlord and tenant legislation in Bengal, and of the circumstances which have led to the preparation of the present Bill, is given in full detail in the papers which have been published. A very brief summary of it must suffice here.

Immediately before the Permanent Settlement was made, the Court of Directors, in conveying instructions to the Government here regarding it, wrote as follows*:—

"In order to leave no room for our intentions being at any time misunderstood, we direct you to be accurate in the terms in which our determination is announced. * * * * You will, in a particular manner, be cautious so to express yourselves as to leave no ambiguity as to our right to interfere, from time to time, as it may be necessary, for the protection of the raiyats and subordinate landlords, it being our intention, in the whole of this measure, effectually to limit our own demands, but not to depart from our inherent right as sovereigns of being the guardians and protectors of every class of persons living under our Government."

2. In conformity with these instructions, an article was inserted in section 8 of Regulation I of 1793, by which the Permanent Settlement was effected, expressly saving the right of the Government to legislate for the protection of persons having interests in the soil below those of the zamíndárs. It need hardly be said that any such saving was, strictly speaking, superfluous, inasmuch as the Government of an agricultural country like India would, apart altogether from it, be entitled, or rather bound, to legislate from time to time, as occasion might require, for the protection of the inferior occupants of the soil. But the article is important as showing that the view taken of the relations between the Government, the zamíndárs and the inferior landholders under the Permanent Settlement was the same in 1793 as it is to-day.

The article runs as follows:—

"To prevent any misconstruction of the foregoing articles" (fixing the Government revenue for ever) "the Governor General in Council thinks it necessary to make the following declarations to the zamíndárs, independent taluqdárs and other actual proprietors of land:—*First*, it being the duty of the ruling power to protect all classes of people, and more particularly those who, from their situation, are most helpless, the Governor General in Council will, whenever he may deem it proper, enact such regulations as he may think necessary for the protection and welfare of the dependent taluqdárs, raiyats and other cultivators of the soil; and no zamíndár, independent taluqdár or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay."

3. Again, it was enacted by section 67 of Regulation VIII of 1793 (a Regulation re-enacting, with modifications, the rules for the Decennial Settlement) that proprietors should be bound by the restrictions in their kabuliyats, and the 9th of these, as stated by Harington (Vol. II, page 255), was "that implicit obedience be shown to all regulations which have been or may be prescribed by Government concerning the rents of the raiyats and the collections from undertenants and agents of every description, as well as from all other persons whatever."

4. The most important enactment passed in pursuance of these provisions is Act X of 1859, the substantive provisions of which, either in their original form or as re-enacted in Act VIII of 1869† (of the Bengal Council), still govern the relations of landlord and tenant in Bengal.

The effect of Act X of 1859 is admitted to have been on the whole beneficial; but on certain important points it cannot be considered a success. In particular, as will presently be explained at greater length, it placed the right of occupancy, which it recognized in the tenant, and the right to enhance rent, which it recognized in the landlord, on a most precarious footing. The result of this has been that, as usually happens with a law which is uncertain in its operation, it has added strength to the strong and further weakened those who were already weak. In Bihár, where the social and economical conditions of the country tend to give the landlords the upper hand, we hear of tenants rack-rented, subjected to *quasi*-feudal oppressions and arbitrarily ousted from their holdings; in Eastern Bengal, on the contrary, where circumstances favour the tenants, we hear of landlords who not only cannot obtain the enhancements of rent to which they are entitled, but at times, when tenants combine against them, cannot even recover what is admitted to be due at existing rates.

5. The difficulties connected with Act X of 1859 began to be felt at an early period. It received the assent of the Governor General on the 29th of April, 1859, and before the end of 1863 its amendment had been suggested by Sir Barnes Peacock, the Chief Justice of Bengal, and by the Revenue-authorities of the North-Western Provinces. Of late years, successive Lieutenant-Governors of Bengal have borne witness to the existence of chronic evils, which nothing short of comprehensive legislation could cure. In 1873, Sir George Campbell had no

* Harington II, pp. 191-92.

† Throughout this Statement Act X of 1859 only will be referred to. It will be understood that what is said regarding it applies equally to Act VIII of 1869.

doubt that the Government would be eventually compelled to deal with the whole question of the relations of landlords and raiyats in Bengal. In 1876, in the course of the debates on the Agrarian Disputes Act, a measure devised to meet the difficulties between landlords and tenants in Eastern Bengal, the Hon'ble Kristodás Pál, a representative of the zamíndárs, urged that the indefiniteness of the principles of Act X of 1859 had brought suits for the adjustment of rents to a dead-lock. Sir R. Temple concurred in the opinion that some principle for determining rates of rent should be fixed by legislation, and in August, 1876, proposed to introduce a Bill to define the principles on which the rights of occupancy-raiyats and tenure-holders should be fixed, to simplify the procedure for realizing arrears of rent in undisputed cases, to extend the definition of "occupancy-raiyat," and to render the interest of a raiyat of that class liable to sale for default in paying rent and transferable by private agreement.

These proposals had not, however, been fully considered when Sir R. Temple, early in 1877, made over charge of the Lieutenant-Governorship to Sir Ashley Eden; and it was then arranged that the larger amendment of the law should be deferred, and a Bill providing only for the realization of undisputed arrears introduced at once.

6. It was, however, found, when the Bill was introduced, that it was impracticable to limit its scope in this way. The discussion as to the transferability of the right of occupancy had materially advanced, and it had been recognized that the legislature would have to alter the law with reference to ejectment, distraint, instalments and deposits of rent, and possibly sub-letting. It began to be apparent that many of the proposed provisions would eventually prove to be intimately connected with other portions of the existing law not ostensibly affected by them; and in February, 1879, a majority of the Select Committee on the Bill recommended that the whole subject of a revision of the Rent Law should be once for all fairly faced. This proposal was supported by Sir Ashley Eden; and in April, 1879, the Government of India sanctioned the formation of a Commission to prepare a digest of the existing statute and case law, and to frame the draft of a consolidating Bill.

7. Meanwhile, a separate discussion had been proceeding with reference to the abuses already mentioned as prevailing in the relations between landlords and tenants in Bihár. As far back as the year 1868, Lord Lawrence, then Governor General, had recorded a minute relating to the depressed state of the peasantry in Bihár, in which he had said that he believed "that it would be necessary for the Government sooner or later to interfere and pass a law which should thoroughly protect the raiyat and make him—what he is now only in name—a free man, a cultivator with the right to cultivate the land he holds, provided he pays a fair rent for it." Again, in the years 1875 and 1876, when the condition of Bihár came under consideration, it was acknowledged that some remedies must be applied. Two years later, the Lieutenant-Governor appointed a committee of experienced Bihár officials to advise upon the matter; and on the 8th March, 1879, they submitted their report, proposing so many changes of the existing law that they did not consider that the requirements of the case would be properly met by a mere amending Bill. They were of opinion that the whole rent law should be recast.

8. Thus, two independent committees arrived simultaneously at the same conclusion, namely, that the time for a complete revision of the existing law had arrived.

The report of the Bihár committee was referred to the Rent Law Commission, which was appointed under the sanction referred to above (paragraph 6), and that Commission, on the 19th June, 1880, submitted its report with a draft Landlord and Tenant Bill, which, having been revised by the Government of Bengal, has furnished the basis of the present Bill.

9. Before proceeding to give the explanations usual in a statement of this description, it should be mentioned, first, that these explanations will, as far as possible, be confined to points on which it is proposed to alter the existing law, and secondly, that the Bill is no more than it purports to be, namely, a Bill to amend and consolidate existing enactments.

10. With reference to this latter remark, it will be observed that the Bill prepared by the Rent Commission was intended to be in some sense a code of the law relating to agricultural tenancies. It, in many instances, incorporated portions of the common law or case law which have not hitherto been embodied in any legislative enactment in this country. In this respect the present Bill does not follow that of the Rent Commission; but it must not be inferred from this that the views of the Government of India on the important subject of codification have undergone any change. It may be desirable, at some future time, to carry out the design of the Rent Commission in its integrity, and make the Bengal Tenancy Act a complete and self-contained statement of the whole law; but it has been considered that the work of codification is one to be undertaken at a season of leisure, and not at a time like the present, when those, who are responsible for the framing of our legislative measures, are absorbed in the consideration of important substantive amendments of particular portions of the existing law, and are consequently unable to devote to the law as a whole that amount of attention, which would be required in order to carry out the work of codification with any prospect of success.

In the following portions of this Statement the order of the Bill will, as far as possible, be adhered to.

CHAPTER I.—*Preliminary.*

11. The Bill, it will be observed (section 1), extends by its own vigour to the whole of the territories under the administration of the Lieutenant-Governor of Bengal, except the town of Calcutta, the Division of Orissa and the Scheduled Districts.

The Lieutenant-Governor is specially empowered by section 1 to extend the whole Bill, or any portion of it, to the Orissa Division, with the sanction of the Governor General in Council, and he can, with like sanction, extend the whole, or any portion of it, to any Scheduled District under the power conferred on him by the Scheduled Districts Act.

12. The classes of tenants, to which the provisions of the Bill apply, are (section 3 (8)) tenure-holders, raiyats, under-raiyats and persons having a certain interest in *bastu* land, which will be found explained further on under the head of Chapter VII.

13. The term "tenure-holder" as used in the Bill is defined (section 3 (3) and (4)) to include what are commonly known as undertenure-holders, that is to say, darpatnídárs, sepatnídárs, darijaradárs and such like; and also tenants of the class hitherto known as raiyats at fixed rates. The inclusion of tenants of this latter class in the definition is convenient from the draftsman's point of view, but is, it is believed, otherwise of little importance, inasmuch as the incidents which are attached to their holdings place them to all practical intents and purposes on the same footing as tenure-holders.

14. The term "raiyat" has, following the Bill prepared by the Rent Law Commission, been limited to tenants holding land for purposes of agriculture, horticulture or pasture, or who have come into possession for such purposes, except where *bastu* or homestead land is included in a raiyat's agricultural holding, in which case it will be treated in the same way as the rest of the holding, and he will be deemed to hold it as a raiyat.

15. Except as just stated, no attempt has been made to define the terms "tenure-holder" and "raiyat," or to settle the distinction between these two classes of tenants.

The importance of this distinction for the purposes of the Bill has not been overlooked, nor has the possibility that cases may occur near the line of separation between the two classes, in which a doubt will arise as to whether the tenant is a tenure-holder or a raiyat; but it is believed that the distinction is generally well understood, and that, save in exceptional cases, no difficulty will arise. However this may be, no complete definition has as yet been suggested which would not be certain to give rise to difficulties greater than those which it is intended to remove.

16. Under-raiyat, as defined in the Bill, includes all tenants holding whether immediately or mediately below a raiyat.

17. Section 4, besides saving certain special laws which would, as a matter of course, be saved in a general enactment of this description, provides that nothing in the Bill "shall affect any custom or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions."

A saving of this description is unavoidable in a measure which, as already observed, does not purport to be an exhaustive code, and its importance will be seen from the illustration appended, which shows that it will protect such rights as rights of occupancy enjoyed under a custom by under-raiyats, a class of tenants protected only to a limited extent by the Bill.

CHAPTER II.—*Of the distinction between khámár and raiyatí land.*

18. The second chapter of the Bill deals with the distinction between "khámár land," or the private land of the proprietor, and raiyatí land, or the land destined for occupation by raiyats. The importance of this distinction arises chiefly from the circumstance that raiyats occupying land of the latter class will, under the Bill, enjoy a much larger measure of protection than those occupying land of the former class. Bearing this in mind, and having regard to the efforts made by landlords in some parts of the country, under the existing law, to get into their own hands as large an amount of the raiyatí land as possible and convert it into khámár land, it has been thought necessary to make it clear by the definition that the existing stock of khamar land cannot hereafter be increased, and further to enact (section 6) that all land which is not khamar land shall be deemed to be raiyatí land, and that all land shall be presumed to be raiyatí land until the contrary is proved.

19. In Bihár, owing to the large extent of the khámár, or, as it is there termed, "zeraat", land, and the persistent efforts made by the landlords and their lessees to increase its extent, the question is one of cardinal importance; and there may be other exceptional tracts where the necessity of distinguishing clearly and finally between khámár and raiyatí land may prove to be pressing. To meet such cases, it is further thought necessary to provide (sections 7 to 13)

for making a complete survey and record of the existing khámár or zeraat, and thus preclude all possibility of future disputes on the point.

CHAPTER III.—*Of Tenure-holders generally.*

20. The alterations which it is proposed to make in the existing law regarding tenures, are not of great importance.

Section 14 converts the present raiyats at fixed rates into tenure-holders, but, as already explained (*supra*, paragraph 13), the change is unimportant.

21. Section 20, which saves to a landlord in a temporarily-settled tract a right to raise the rent of any tenure when a new settlement of the revenue is made, is new; but it may be defended as being in accordance with the views that prevail as to the relative position of the landlord, the tenant and the Government in such tracts. The Government has an undoubted right to raise its revenue on the occasion of a fresh settlement. Of this right no act of the landlord can deprive it; and accordingly, if the landlord were to be bound by a grant at fixed rates, made by him so as to extend beyond the term of the settlement, the result would be that, on the occasion of a new settlement, he might be exposed to the risk of having to pay an enhanced revenue without the possibility of recovering it from his tenant.

22. The Rent Commissioners observe that there are in the existing law no express provisions for the enhancement of the rents of tenures, and that the want of a definite enactment on the point has given rise to much expensive litigation. The sections of the Bill relating to this matter are based on those drafted by the Commissioners, and the grounds on which they rest will be best seen from the following extract from the Commissioners' report:—

"We have," they say, "provided for the enhancement of the rent of tenures and undertenures, by enacting that, in any case in which such rent is liable to enhancement,—there are cases in which it is not so liable,—it may be enhanced up to the limit of the customary rate payable by persons holding similar tenures or undertenures in the vicinity, or, where no such customary rate exists, up to such limit as to the Court shall appear fair and equitable, but so that the profit of the tenure-holder or undertenure-holder shall not (in the absence of certain special circumstances, to be noticed hereafter) exceed thirty per centum of the balance which remains after deducting, from the gross rents payable to him, the expenses of collecting such rents. It may be observed that, according to the rule contained in section 8 of Regulation V of 1812, ten per cent. of the balance just mentioned was allowed to the tenure-holder. This section was repealed by Act X of 1859, but, by some oversight, no provision was substituted by this Act, though the principle, as being fair and equitable in itself, and usual by reason of the provisions of the Regulation, was, on several occasions, acted upon by the Courts after that Act was passed. It appears to a majority of us, after careful consideration, that the limit of *ten* per cent. is too low, and we have accordingly allowed a higher limit, namely, that of a maximum not exceeding *thirty* per cent. in ordinary cases.* We have provided for the special and well-known case of *jangalbari* holdings by enacting that, when more than one hundred bighás of land have been demised for reclamation purposes, more than half being at the time unreclaimed, and the whole having been subsequently reclaimed, the rent of the tenant may not be enhanced so as to leave him a profit of less than twenty per cent. of the net balance above-mentioned, and the Court may allow him such profit in excess of twenty per cent. as to it appears fair and equitable. In order to prevent these new provisions from working hardship by any sudden and great change, we have annexed the following checks:—(*a*) the enhanced rent shall not in any case be more than double the previous rent: (*b*) the Court may direct that the enhancement shall take effect gradually, or, in other words, that the rent shall increase yearly during any number of years not exceeding five, until the limit of the enhancement allowed has been reached: and (*c*) that rent once enhanced shall not be altered for ten years unless on account of alluvion or diluvion."

23. The only further points calling for notice in connection with these sections are, that it has been provided that the tenure-holder's profits shall never be less than 10 per cent. of the net balance, that the provision regarding jangalburi tenures has been made applicable to all such tenures irrespective of the area comprised in them, and that a clause has been added providing that, when a tenure-holder has made improvements other than those referred to by the Commissioners, the Court may allow him such amount, by way of profit, as it thinks fit, provided it be not less than 10 per cent.

* Mr. Justice Levinge mentions, in his Minute on Act X, a case in which *two-thirds* (he does not say, whether of the gross or net collections) were given to the landlord and the residue to the middleman. If the calculation was here made on the net collections, the collection expenses being at ten per cent., the middleman got 30 per cent., being $\frac{100-3(100-10)}{3}-10$.

24. In section 26, it is enacted that a permanent tenure-holder shall not be ejected by his landlord except under a decree of Court passed on the ground that he has broken a condition, on breach of which he is, under a written contract between him and his landlord, liable to be ejected.

25. The alterations which are made in the existing law by sections 27 to 35, relating to the registration in the landlord's serishta of transfers of, and successions to, permanent tenures, are (so far as they seem to call for notice) as follows:—

(*a*) A fee is made payable in respect of the registration of every succession and every transfer other than a transfer on a sale for arrears of rent.

(*b*) An application for the registration of a voluntary transfer or a succession may, instead of being made to the landlord, be made to a Revenue-officer, who will serve a notice on the landlord requiring him to register.

(*c*) Where a tenure is sold in execution of a decree other than a decree for arrears of rent, the Court will cause a notice to be served on the landlord requiring him to register the transfer.

(*d*) If a landlord refuses or neglects to register for one month after he is bound to do so, the persons interested may apply to the Civil Court to compel him to register.

(*e*) Similarly, if the party or parties concerned do not apply for registration within six months from the date of a voluntary transfer or a succession, the landlord may apply to have him or them compelled to allow the registration and pay the requisite fee.

(*f*) The landlord is required to give to the parties concerned copies of entries in his register; the first copy to be given free of charge, subsequent copies on payment.

(*g*) The Board of Revenue is empowered to make rules regulating registration.

26. The proposal of the Rent Commission to extend the registration system to occupancy-holdings has not been adopted, as it is feared that there would be great difficulty in bringing home to persons of the raiyat class the details of such a system.

CHAPTER IV.—*Of Patní Tenures.*

27. The law relating to patní tenures is left substantially unchanged. The various proposals which have been made for the amendment of the summary sale procedure have not been overlooked; but it is thought that, as they touch only matters of detail relating to an institution of a very special nature, they would be best considered at the Select Committee stage of the Bill, when it is hoped it may be found possible to simplify the form of the law very much without materially changing its substance. Meantime, the existing enactments have been thrown into Schedule III of the Act, and are made operative by section 42.

CHAPTER V.—*Of Raiyats with a Right of Occupancy.*

28. Chapter V, which treats of the acquisition of the occupancy-right and of the incidents generally of that right, is one of the most important chapters in the Bill.

It will be seen, from the papers that have been published in connection with this measure, that a controversy has arisen, and has been conducted on both sides with much ability and research, as to whether some such right as that which we usually term a right of occupancy did not originally belong, and ought not now to be recognized as belonging, to all raiyats in Bengal except those whose occupation of the land is of a merely transitory nature. It is unnecessary now to enter upon the merits of that question, inasmuch as, after a full consideration of the position, it has been determined that the legislation to be undertaken by the Government shall proceed on the assumption that the occupancy-right is to be recognized as appertaining only to such tenants as may be shown to be in some special sense settled or permanent. But the problem of defining the class of tenants in whom such a right should be recognized is, when limited by this assumption, one of considerable difficulty.

29. The conditions requisite to confer the status of the "khudkásht raiyat," so frequently referred to in our revenue enactments and records, may in earlier times, and especially when thoroughly organized village-communities prevailed, have been to a certain extent definite and ascertainable; but, in spite of all the learning and research which have been brought to bear, they are not now to be discovered. The probability is that they were always very vague; that, notwithstanding their vagueness, no difficulty arose so long as land was abundant, the pressure of the Government revenue heavy and the status of a privileged cultivator of little value; and that it was only with the progress of agriculture, the increase in the value of landed property and the consequent disputes regarding interests in land, that the need of some more precise definition came to be felt.

30. A definition framed under such circumstances would necessarily be to a great extent artificial, and in moulding its details there would necessarily be a good deal of room left for considerations of equity and expediency. We find accordingly, on referring to the proceedings connected with Act X of 1859, that those who framed that Act assumed a considerable latitude in settling the conditions on which the occupancy-status should be acquired. In the Bill

as read a first time, they proposed to confer on every "resident" raiyat a right of occupancy in the "land held by him," and they justified this on the ground that the word "khudkásht," as used in the Regulations, seemed to be synonymous with "resident"; but subsequently, it having been pointed out to them by the Revenue-authorities of the North-Western Provinces that "residence was not always a condition of occupancy," they adopted the rule embodied by them in the Act, namely, that twelve years' holding of the same land shall give a right of occupancy in that land. This rule, which was obviously to a large extent artificial, was copied by them from a similar rule which was issued by the North-Western Provinces Government, apparently as a mere executive suggestion to its officers, in the year 1836, as that "most consistent with the existing practice and recognized rights" in those provinces. The only feature common to the two rules is that of a raiyat in some sense permanent in, or settled in, the locality, and it would seem that the persons who framed those rules considered that as long as they maintained this feature, they were at liberty to define, in such manner as they might think equitable and expedient, the circumstances which should be taken to constitute the requisite degree of permanency or settlement. This is quite intelligible in the view above suggested, that, though the status of the khudkásht raiyat was still a recognized institution, the conditions requisite to establish it were so vague that they could not be described otherwise than as resting on a certain ill-defined degree of permanency in a particular locality.

31. Act X of 1859 is admitted to have done much towards improving the relations between landlord and tenant, but, in this particular matter of defining the conditions requisite to the establishment of a right of occupancy, it cannot be pronounced a success. It would be unjust to charge this want of success altogether against the Act itself. It has been held by the highest judicial authority that the provisions of the Act with respect to the establishment of the right of occupancy should be construed as cumulative and not as exhaustive or exclusive of all other modes of establishing that right; but, as a matter of fact, the Act has come to be regarded as a Code complete in itself, and as superseding all other modes of establishing the right. Its effect has consequently been to injure seriously the rights of the old established raiyats, by throwing upon them the burden of proving, not merely that they have held for twelve years in the village or estate, but further that they have so held in every one of the particular fields or plots, in respect of which they claim to have rights of occupancy, a burden which, it need hardly be said, it is impossible for them, in the absence of any trustworthy agricultural records, to discharge. And, as regards the acquisition of rights of occupancy by new comers,—a matter which is always regarded as absolutely necessary for the prosperity of the agriculturist class in this country,—it becomes almost impossible under a law which enables the landlord to prevent it by the simple device of shifting the tenant from one holding to another before the period of twelve years has run out.

32. It is unnecessary to state here the various remedies which have been proposed for these evils. They will be found described and discussed in paragraph 61 of the letter of the Government of India to the Secretary of State, No. 6, dated 4th March, 1882. It is enough to state the amendment of the law which the Government, after a very full discussion of the question, has resolved to propose. That amendment follows with certain modifications a suggestion of the Famine Commissioners, and consists in making the acquisition of the status of the khudkásht raiyat, or, as he is termed in the Bill, the "settled raiyat," depend not on the holding of one and the same plot of land for twelve years, but (section 45) on the holding of any raiyatí land (whether the same or not it does not matter) in the same village or estate for a period of twelve years whether before or after the passing of the Act. The raiyat may, by ceasing for one year to hold land as a raiyat in the village or estate (section 46), lose the status so acquired, but while it continues to adhere to him, he will, notwithstanding any contract to the contrary, be deemed to have acquired a right of occupancy in any raiyatí land held by him as a raiyat in the village or estate after the 2nd March, 1883, the date on which it is proposed to introduce the Bill. It should be added that, in order to obviate the effect which the minute partitions of estates, so common of late in certain parts of the country, would have in reducing the area in respect of which a settled raiyat of an estate would enjoy his status as such, it is in effect provided by section 43 that the estate shall, for the purposes of this portion of the Act, be taken to be the estate as it would have existed if no partition had taken place since the 1st of January, 1853.

33. It will be observed from the above that a right of occupancy is acquired by a settled raiyat holding raiyatí land "*notwithstanding any contract to the contrary.*" It is considered essential to carry the enactment to this extent. As observed by the Government of India in paragraph 85 of their letter No. 6 of the 21st March, 1882, "such is the power of the zamíndárs, so numerous and effective are the means possessed by most of them for inducing the raiyats to accept agreements which, if history, custom and expediency be regarded, are wrongful and contrary to good policy, that to uphold contracts in contravention of the main purpose of the Bill would be, in our belief, to condemn it to defeat and failure. It is absolutely necessary that such contracts should be disallowed, and in this conclusion we have the support not only of the Bengal Government but also of the almost unanimous opinions of the Bengal officers."

34. These provisions apply only to raiyatí land. The acquisition of a right of occupancy in the landlord's khamar land is, by section 49, kept on the same footing as under the existing law

35. It is only necessary to add, as regards the acquisition of the right, that it is provided by section 44 of the Bill that every raiyat, who immediately before the commencement of the Act has, by the operation of any enactment, by custom or otherwise, a right of occupancy in any land, shall, when the Act comes into force, become an occupancy-raiyat of that land for the purposes of the Act, and that (section 48) a right of occupancy may be acquired by a grant from he landlord.

36. As regards the probable effect of the new provisions regarding the acquisition of the right of occupancy, it should be stated that no great increase of the area at present subject to that right is looked for from them; indeed, if the statement which has been made by a high authority, that 90 per cent. of the raiyats in Bengal already have that right, is correct, any such increase would scarcely be possible; but what is hoped for is, first, that a stop may be put to the vigorous efforts, which are at present being made by landlords in some parts of the country, to withdraw land from the operation of the right by preventing the natural growth of a fresh occupancy-right in the place of an old right which has determined; and secondly, that, where occupancy-rights do as a matter of fact exist, the proof of their existence may be a matter of less difficulty than it is at present to the ignorant and helpless raiyat.

37. Section 50 states in general terms the more important incidents of the occupancy-right. They attach to the tenancy notwithstanding any contract between the landlord and raiyat, and are briefly as follows:—

(1) the raiyat may use the land in any manner which does not render it unfit for the purposes of the tenancy;

(2) he may make improvements on it as provided by the Bill;

(3) he must pay rent at fair and equitable rates as determined by the Bill;

(4) he cannot be ejected except under a decree passed for breach of certain conditions, or for using the land in such a way as to render it unfit for the purposes of the tenancy;

(5) he may sublet the land;

(6) his interest is to be transferable subject to certain rights reserved to the landlord; and

(7) his interest is to descend as if it were land.

38. Several of these incidents will be referred to at greater length in connection with the portions of the Bill specially relating to them. The sixth falls to be considered here, inasmuch as most of the remaining sections of the chapter are occupied with the rules regulating the rights reserved to the landlord when an occupancy-holding is transferred by sale, mortgage, gift or bequest.

The question whether the right of occupancy should be made by express enactment freely transferable everywhere, as it is at present held to be by custom throughout a very large portion of the area to which the Bill applies, has been most fully and carefully considered. It has to be looked at from two points of view, namely, first, from the point of view of the landlord, and secondly, in the interests of the tenant.

39. From the former point of view the question presents comparatively little difficulty. The landlord is concerned only to see that we do not allow an objectionable tenant to be forced on him against his will, and this we can readily guard against by giving him a right of pre-emption, or something equivalent thereto, in every case of transfer. It has accordingly been provided that, in cases of voluntary sale, gift or bequest, the landlord shall have a right to purchase at a price to be fixed by the Civil Court; that in the case of a sale in execution of a decree, when the landlord and any other person bid the same amount, the landlord shall have the right of pre-emption; and that, when an order is passed for foreclosing a mortgage of an occupancy-right, the landlord shall be allowed an opportunity of paying in the amount of the mortgage-debt and taking the place of the mortgagee. The only doubt that has been felt about these provisions is whether, in the case of a voluntary sale, the landlord should not be required, if he exercised his right of pre-emption, to pay the price at which the raiyat has actually agreed to sell the occupancy, right instead of a price to be fixed by the Court; but, on considering the difficulties, by which the right of pre-emption would be clogged in cases of collusion between the vendor and purchaser, and in cases in which a spiteful neighbour might be willing to pay an exorbitant sum for an occupancy-right with a view to harassing the landlord, it has been thought best to put the case of voluntary sale on the same footing as those of gift and bequest.

40. Looking at the question of transferability next from the point of view of the occupancy-raiyat's interest, the Local Government and the Government of India have come to the conclusion that, in the absence of evidence of any evil consequences which have already followed from such transfers, or which may be anticipated as likely to occur in the near future, it would be unwise to oppose the growth of the very strong tendency towards transferability, which the prevailing customs show to existin rights of this class in almost all parts of the country,

The existence of such a tendency indicates—what, indeed, is clear from other evidence—that those most concerned regard the quality of transferability as an important incident of the right; and it cannot be doubted that the enactment of a law absolutely forbidding transfer would, even if it saved existing customs, be regarded as a hardship. It may be added that, if the custom of transferability is so widely established as is stated by some very competent authorities, the operation of a law of this sort would be so limited as to be of but little importance.

41. That the powers of transferring and sub-letting which the Bill recognizes may in time lead to a state of things, in which the great bulk of the actual cultivators would be not occupancy-raiyats but under-raiyats with but little protection from the law, is indeed within the range of possibility; but, if such a state of things should ever arise, we may rest assured that the Government of the day will know how to deal with it. There is nothing in the present Bill which ought in any way to hamper them in doing so—nothing to affect the principle that, in an agricultural country like India, the great mass of the actual cultivators of the soil whoever they may be, and however they may have come into the possession of the land, must be protected by the law.

42. The only other provision of Chapter V which appears to call for notice here is that contained in section 56, and is to the effect that, where a landlord, by way of pre-emption under the foregoing sections or otherwise, acquires an occupancy-right in his own land, any tenant, who subsequently takes the land from him, shall have a right of occupancy in it, and if the rent of the land was previously payable in money, shall be entitled to hold it at a money-rent to be fixed under the Act. There is nothing in the Bill to prevent a landlord, so acquiring an occupancy-right in land, from keeping the land in his own hands and cultivating it by his servants or by hired labourers. All the section would enact is that, if he chooses to let it to a tenant, that tenant shall at once acquire an occupancy-right. This seems necessary in order to guard against the possibility of a landlord buying up on a great scale the occupancy-rights existing on his estate or tenure with a view to locating ordinary raiyats on the land. To a landlord, who buys an occupancy-right, as contemplated by the pre-emption sections of the Bill, merely with a view to excluding an intending purchaser whom he objects to have as his tenant, there would be no appreciable hardship in the restriction.

CHAPTER VI.—*Of the Rent payable by Occupancy-raiyats.*

43. Chapter VI is devoted to the important subject of the rents payable by occupancy-raiyats. In regard to this particular matter, as in regard to that of the acquisition of the right of occupancy, Act X of 1859, whether owing to its inherent defects or to the peculiar construction put upon it by the Courts it is unnecessary now to enquire, has not proved a success. Leaving out of consideration the matter of additions to the rent of a holding on account of an increase of its area, a matter which is relegated to a completely separate division of the present Bill, Act X of 1859 provided by its 17th section that the rent payable by an occupancy-raiyat should be liable to enhancement only where—

1st—its rate was below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in places adjacent, or

2nd—the value of the produce or the productive powers of the land had been increased otherwise than by the agency or at the expense of the raiyat.

44. Having thus stated the cases in which the rent was to be liable to enhancement, the Act stopped, giving no indication, except such as might be gathered from the statement of those cases, as to the extent to which the Courts were to enhance the rent. In the first of the two cases, no difficulty would arise from this, as the intention of the Act in respect of that case was clear enough; but in the second of the two cases, the question as to the limit of enhancement gave rise to an important discussion, which was at length brought to a close in what is known as "the great rent case." The rule laid down in that case is commonly spoken of as "the rule of proportion," and is to the effect that the enhanced rent should bear to the previous rent the same ratio as the increased value of the produce or increased productive power bears to the value or productive power at the time the previous rent was fixed.

45. This rule, whatever may be said for it on theoretical grounds, has proved to be absolutely unworkable by the Courts in practice, inasmuch as it throws on them the necessity of undertaking elaborate and laborious inquiries into economical questions, with which they are altogether incompetent to deal, and which have reference not merely to the present time but also to past and possibly very remote times, for which no such evidence as could be acted on by a Court of justice is likely to be forthcoming. Moreover, it necessitates enquiries, which are of such a nature that they could with advantage be undertaken only generally, on a great scale, and once for all, being, instead of this, undertaken over and over again in a most imperfect and unsatisfactory manner in individual cases.

46. The result of this is that, though the right of the landlord to enhance is distinctly recognized by the law, and though definite rules are laid down for its enforcement, the law has become to a great extent a dead letter.

The most important object of the chapter we are now considering is, while guarding and limiting the right to enhance in certain respects, which will be presently noticed, to put it on such a footing that it will be readily enforceable in practice; and the chief means adopted for attaining this object is that of separating off the statistical and economical inquiries of a general nature, which have just been referred to, and providing for their being undertaken once for all on a large scale by Revenue-officers.

47. Passing from these preliminary observations to the details of Chapter VI of the Bill, it will be seen that section 60 provides that, except on account of an addition to the area of the holding by alluvion or otherwise, a money-rent payable by an occupancy-tenant shall not be enhanced except by a decree of a Civil Court under the Bill, or by a contract of the nature described in the foregoing section.

48. It is considered, for reasons similar to those stated above in paragraph 33, that it would be destructive of the objects of the Bill if occupancy-raiyats were left perfectly free to deprive themselves by their contracts of the right to hold at fair and equitable rates secured to them by the law. But, on the other hand, absolutely to prevent such contracts would, it is thought, involve too great an interference with the freedom of the parties. A middle course has accordingly been adopted in section 59, which provides that a money-rent payable by an occupancy-raiyat may be enhanced by a contract in writing, approved of and registered by a Revenue-officer appointed by the Local Government in this behalf, and which goes on in its second sub-section to enact that a Revenue-officer shall not approve or register such a contract until he has satisfied himself that it is fair and equitable, and that he shall be absolutely debarred from registering any contract, by which a raiyat engages to pay a rent more than six annas in the rupee higher than the existing rent, or more than one-fifth* of the estimated annual value of the gross produce of the land.

49. This 59th section, which, it will be remembered, relates only to the enhancement of the rents of existing tenancies, is supplemented in section 61 by a somewhat similar provision applicable to cases in which a settled raiyat comes in as a new tenant on land previously held by another tenant at a money-rent. Here, too, it is considered that the objects of the law might be defeated if the parties were left absolutely free to contract; and it is accordingly provided that a settled raiyat, taking land under the circumstances referred to, shall not be bound to pay for it a higher rent than that paid by the previous tenant, unless that higher rent has been fixed by a contract registered and approved as already described.

50. Turning now to the matter of enhancement by a decree of the Civil Court, the sub-divisions of Chapter VI which are marked B and C proceed on the assumption that there are, at least in some parts of the country, certain rates of rent generally recognized as the rates payable by occupancy-tenants for the various classes of land held by them. Where this is so, it would, it is presumed, be not very difficult for a Revenue-officer to ascertain those rates, and then, starting from them as a basis, and taking into account such changes in the productive powers of the soil and in the prices of produce as may have occurred since they were fixed, to prepare tables of the enhanced rates, which, subject to allowance in exceptional cases, might fairly and equitably be demanded by the landlord for each class of land under the existing conditions. The Revenue-officer, it is thought, might further show in his tables the average gross produce of each class of land and its estimated value. Supposing this to be done, the Civil Courts would be relieved almost entirely of those economical and statistical enquiries, which at present are involved in enhancement-suits. They would accept the rates and produce-statistics shown in the tables as *primâ facie* correct for lands of the classes to which the tables referred, and might restrict themselves to considering the comparatively simple and limited questions as to whether the particular lands in question in the suit belonged to the class alleged, and whether there were any exceptional circumstances connected with them which would require the rent to be fixed at a different rate from that set down in the table.

51. It is, of course, well understood that there would be many parts of the country for which, owing to the non-existence of recognized rates of rent or to the great varieties of the soil, no such tables could be prepared, and further that, even where it is possible to prepare such tables, their preparation must be a work of time. With a view to these considerations, the Bill has been so drawn as to provide, first, in sub-division B of Chapter VI, for suits to enhance money-rents where a table of rates has been prepared, and secondly, in sub-division C, for such suits where a table of rates has not been prepared.

52. It will be convenient, in explaining the details of these portions of the Bill, to begin with the latter set of provisions. The cases, in which a suit may be brought to enhance the money-

* See as to this limitation, para. 54 *infra*.

rent of an occupancy-holding situated in a tract, for which a table of rates has not been prepared, are stated in section 74. They will be found to be in the main the same as those provided for in the section of Act X of 1859 referred to in paragraph 43, the only difference of sufficient importance to call for notice here being, that, for the purpose of estimating the increase in the productive powers of the land or in prices, on which a right to enhance depends, the Court is not compelled, as under the present law, to look to the time at which the rent was fixed, but, when that time cannot be ascertained (as it frequently cannot), or when the productive power and the prices prevailing at that time are undiscoverable, may take, for the purposes of comparison, any other time which may appear to it fair and equitable.

53. Section 75, supplying the defect in Act X of 1859 referred to above (paragraph 44), fixes the limits up to which the Court is to enhance in cases, in which the enhancement is claimed on the ground of an increase in the productive powers of the land or of prices. It provides that, if the increase has been effected wholly by the agency or at the expense of the landlord, he shall be entitled to the whole benefit of it; that, if it has been effected partly by the agency or at the expense of the landlord and partly by the agency or at the expense of the tenant, the benefit shall be divided between them in such shares as, having regard to all the circumstances of the case, the Court thinks fair and equitable; and that, if it is not proved that the increase has been effected by the agency or at the expense either of the landlord or of the tenant, each of them shall be entitled to one-half the benefit: provided in this last case that the enhanced rent shall not bear to the previous rent a higher proportion than the increased productive powers or increased prices bear to the former productive powers or former prices, as the case may be. Thus the rule of proportion, instead of being, as it is at present, under the decision in the "great rent case," the measure of enhancement in all cases, will merely supply a maximum limit in one of the three cases dealt with by section 75; and, as it is not apprehended that landlords will often seek to press their rights of enhancement to the full extent, it seems unlikely that it will give rise to any considerable difficulty.

54. The only other rule relating to the limit of enhancement contained in section 75 is the concluding provision, that the enhanced rent shall not in any case exceed one-fifth of the estimated average annual value of the gross produce of the land in staple crops calculated at the price at which raiyats sell at harvest-time. This limit has been substituted for that of one-fourth originally proposed, as the present Lieutenant-Governor of Bengal considers that one-fourth of the value of the average crop would be too high a limit. It is to be understood, however, that the point is still under the consideration of the Government.

55. Coming next to the scheme for enhancement by means of a table of rates, it will be seen that section 62 empowers the Local Government to direct a Revenue-officer to prepare for any local area, with the aid of assessors, a table showing, for each class of land comprised in that area, the rate of rent fairly and equitably payable by occupancy-raiyats, the average gross produce of the land, and the average value of that produce. The land is to be classified (section 63 (*a*)) according to the nature of the soil, situation, means of irrigation and other like considerations, and section 64 enacts that, in fixing the rates for each class, regard is to be had—

(*a*) to the rates of rent ordinarily payable by occupancy-raiyats for land of that class at the time the table is prepared;

(*b*) to the value of the average gross produce of land of that class, and the cost of raising that produce, about the time those rates were fixed, or, where these matters cannot be ascertained for that time, about such other time as it may be fair and equitable to take for the purpose of comparison;

(*c*) to the value of the average gross produce and the cost of raising that produce at the time the table is prepared; and

(*d*) to the following rule, namely, that, where the rate of rent for any class of land is raised on account of an increase in the value of the produce, the new rate shall not bear to the old rate a higher proportion than the increased value of the produce bears to the former value.

The section concludes with a proviso, corresponding to that mentioned above in connection with section 75, limiting the enhanced rate of rent fixed for land of any class to one-fifth of the average gross produce of land of that class.

56. Sections 65 to 69 provide for a preliminary publication in the vernacular language of the table prepared by the Revenue-officer; for the consideration of objections urged against it by those interested; for the submission to the higher Revenue authorities, and by them to the Government, of the table, with a report setting forth the grounds of the Revenue-officer's decision on each point, and of all objections preferred; and for the further publication of the table when finally settled and approved of.

A table prepared under these provisions will remain in force for such period, not less

than ten years or more than thirty years, as the Local Government may direct, and while it remains in force it will (section 71) be conclusive evidence—

(*a*) that, except as provided by certain clauses to be presently referred to, the rates shown in it for each class of land are the fair and equitable rates payable for land of that class by occupancy-raiyats within the local area to which the table applies; and

(*b*) that the statistics of gross produce and value given in the table are correct.

58. Section 72 empowers the Local Government to charge the expenses connected with the preparation of a table for any local area to the raiyats and their landlords in that local area in such proportions as it thinks fit.

59. Section 73 contains the rules for the guidance of a Court in suits instituted to enhance the rent of an occupancy-raiyat in a local area, for which a table of rates has been prepared, and a glance at it will show what an important simplification of the work of the Court will be effected by the table. The general rule is that the Court shall enhance up to the rate shown in the table for the class of land in question, or, where maximum and minimum rates are shown for land of that class (as will occasionally be the case) to such rate, not higher than the maximum or lower than the minimum, as it thinks fit. It is only in certain exceptional cases that the Court will be required to go behind the rates. Those exceptional cases are of two classes.

60. The first class comprises cases, which may be described with sufficient accuracy for our present purpose as cases in which, owing to some improvement having been effected or having taken place in reference to the land since the commencement of the tenancy, the land has been raised from a lower to a higher class of the table. The rules laid down for cases of this class by the first clause of the proviso to section 73 closely follow the corresponding rules laid down in section 75 and referred to above, paragraph 53. They are to the effect that, if the improvement has been effected solely by the agency or at the expense of the raiyat, the rent shall be fixed as if the land belonged to the lower class; that if the improvement has been effected partly by the agency or at the expense of the landlord, and partly by the agency or at the expense of the raiyat, the rent shall be fixed at such rate intermediate between that of the higher class and that of the lower class as the Court, having regard to all the circumstances of the case, thinks fair and equitable; and that, if it is not proved that the improvement has been effected by the agency or at the expense either of the landlord or of the raiyat, the rent shall be fixed at a rate half-way between the rate of the higher and that of the lower class.

The effect of these rules will be best seen from the illustrations appended to section 73 of the Bill, which are as follows:—

Illustrations.

(*a*) The rates shown in the table for land of a certain description are—

When the land is irrigated from a well	Rs. 4	per acre.
When the land is not so irrigated	„ 2	„

The holdings of A, B, C and D, occupancy-raiyats, are composed of land of that description irrigated from wells constructed on these holdings respectively.

The well on A's holding is an ancient one, existing from a time anterior to the tenancy: that on B's holding has been constructed by the landlord since the commencement of the tenancy: that on C's holding has been constructed by the raiyat: that on D's holding has been constructed by the landlord and raiyat, each contributing some portion of the labour and materials. The rents of the holdings of A and B must be fixed at Rs. 4 per acre, that of C's holding at Rs. 2 per acre, that of D's holding at such rate intermediate between Rs. 2 and Rs. 4 as the Court thinks fair and equitable.

(*b*) The rates shown in the table for land of a certain description are as follows:—

When such land is irrigated from a branch of a river . . .	Rs. 4	per acre.
When such land is not so irrigated	„ 2	„

The holdings of E and F, occupancy-raiyats, are composed of land of that description, and were not irrigable until 40 years ago, when, owing to a change in the course of a neighbouring river, a new branch established itself contiguous to them. E has been in occupation of his holding 50 years, F only 30; the rent of E's holding must be fixed at Rs. 3, that of F's holding at Rs. 4.

61. The other class of exceptional cases in which the Court will have to go behind the rates is that referred to in the second clause of the proviso to section 73, where the raiyat proves that by contract, or by custom, or on some equitable ground, he is entitled to hold at a rate lower than that fixed by the table for land of the class to which his land belongs; and in cases of this class, the Court is required to fix the rent at the lower rate at which the raiyat proves that he is entitled to hold.

62. To complete this portion of the subject it is only necessary to add that all suits for enhancement, whether under a table of rates or otherwise, are by sections 76 to 78 of the Bill made subject to the three rules already referred to under the head of tenures, namely, that a rent shall not be enhanced so as to be more than double the previous rent; that the Court may

order the enhancement to take effect by degrees for any number of years not exceeding five; and that, when rent has been enhanced, it shall not be again enhanced for 10 years.

63. How far it will be possible to give effect to the provisions of this chapter regarding the preparation of a table of rates it would be difficult to predict. The members of the Rent Law Commission entertained hopes of those provisions being largely used, and they appear to have thought that, in some cases, if the rates were once settled by authority, landlords and tenants would soon be able to adjust their differences. On the other hand, the result of recent inquiries would seem to show that, in some parts of the country, the rates vary so much from holding to holding as to render the preparation of a table impossible or practically useless. It must, however, be pointed out that it will not follow that, because a table of rates has not been, or cannot be, prepared for a local area, the landlords of that area will necessarily be reduced to the ordinary procedure by civil suit. They will, in many cases, be able to invoke the aid of a Revenue-officer for the settlement of their rents under the provisions of Chapter XI, which will be noticed in their proper place.

64. Section 79 contains the provisions relating to the reduction of money-rents payable by occupancy-tenants. The cases, in which a claim for reduction is allowed are, with certain modifications in detail, which it is unnecessary to notice here, the same as under the existing law, that is to say, a reduction can be claimed only where there has been a decrease of productive power or of prices; and such cases are so rare that it has been thought unnecessary to lay down any elaborate rules for their treatment. Section 79 therefore simply provides that, when a case for reduction is made out, the Court may direct such reduction as it thinks fair and equitable.

65. The case of rents payable for pasture lands, which is provided for in section 80, is likewise one of no great practical importance, inasmuch as such lands are but rarely let to a tenant in this country. Accordingly, no provision for the reduction of rent has here been considered necessary, and it has been thought sufficient, as regards enhancement, to provide that a suit to enhance may be instituted on the ground that the rent is below the prevailing rate paid by raiyats of the same class for similar lands in the vicinity, or that, having regard to the increase of rent on arable land in the vicinity, an enhancement would be reasonable. In either of these cases, the Court is empowered to fix the rent at such rate as it thinks fair and equitable.

66. The next sub-division of the chapter relates to rents payable in kind or varying with the crop, and is of greater importance. Section 81 provides that, when the rent is of this nature, the following rules shall apply, namely:—

(*a*) notwithstanding any contract or custom to the contrary, the landlord shall not be entitled to recover, in respect of any portion of the holding on which staple crops (such as rice, wheat, and so forth) are grown, more than half the gross produce or its value; and

(*b*) the landlord shall not, except under a contract in writing, be entitled to recover, in respect of any portion of the holding, on which other crops are grown, any other description or any greater amount of rent than a sum equal to one-half of the estimated average value of the produce of that portion of the holding, supposing staple crops to be grown on it.

67. The only objection which it is apprehended might be taken to these provisions is that in some cases a landlord, whose rent is payable in kind, contributes in the shape of seed, labour or otherwise, towards the production of the crop, recovering the price of his assistance in the form of an additional rent, and that, in such cases, the limits which it is proposed to fix might be too low. To meet this, a sub-section has been added, providing that nothing in the section shall prevent a landlord recovering from the tenant the value of assistance so rendered. The result accordingly will be that, though the landlord can no longer include the value of such assistance in the rent, where, by so doing, he would bring the rent above the prescribed limit, he can recover the same amount under another name.

68. Section 82 provides for the commutation into fixed money-rents of rents payable in kind or consisting of the value of a certain share of the actual gross produce.

It provides that an occupancy-raiyat, paying such a rent may, notwithstanding any contract to the contrary, sue to have his rent commuted, and that the Court shall fix the money-rent at its discretion either—

(*a*) according to the prevailing money-rent payable by raiyats of the same class for similar land in the vicinity, or

(*b*) according to the average value of the rent actually received by the landlord during the preceding five years, subject, however, in this latter case, to a deduction of such amount as the Court thinks reasonable, in consideration of the whole risk of cultivation being taken by the raiyat.

69. The remaining provisions of Chapter VI are merely of a supplementary or subsidiary nature. Section 83 provides for the preparation of price-lists, which, when published with the sanction of the Board of Revenue, will be deemed to be conclusive evidence in proceedings under Chapter VI, and will thus save the Courts a certain amount of work, for the performance of which they are but ill-suited.

Section 84 empowers the Board to make rules for the guidance of officers and (as regards certain matters) of Courts acting under Chapter VI, in particular for determining what crops are to be deemed staple crops for the purposes of the chapter.

CHAPTER VII.—*Of the Right of a settled Raiyat in Bastu Land.*

70. The Bill prepared by the Rent Commission contained elaborate provisions regarding the use of land for building purposes, which were justified at length in paragraphs 108—113 of their Report. It is unnecessary here to discuss those provisions on their merits. It is enough to say that the present measure is strictly confined to the amendment of the law regarding agricultural tenancies, and can properly deal with the holding of land for building purposes only where the holding of such land is in some sense ancillary to an agricultural tenancy, as *e.g.*, where an occupancy-raiyat has built himself a house in a village with a view to living near his agricultural holding. In such a case there is so close a connection between his house and his agricultural holding that it would in many cases be vain to protect him in the possession of the holding without, at the same time, protecting him in the possession of the house. Besides the inconvenience he might be put to in being ejected from his house and compelled to reside at a distance from his work, it is clear that, if he were left at the landlord's mercy as regards the house, he would be liable at any time to have pressure brought upon him in regard to the holding also, which he might be unable to resist.

71. When the site of the house is included in an occupancy-holding, the raiyat is sufficiently protected under Chapters V and VI, but, when it is a separate holding, some special provision seems necessary; and it is thought that the requirements of the case will be best met by enacting that every settled raiyat of a village or estate shall, notwithstanding any contract to the contrary, have a permanent heritable and transferable right in any *bastu* or other homestead land in that village or estate which is held by him as the site of a dwelling-house for himself and his family; that a person having such a right shall not be ejected except under a decree of the Civil Court for breach of a condition; that, if so ejected, he shall be entitled to compensation; and that his rent may be enhanced at intervals of ten years, so that it may be equal to the rent paid for similar lands in the neighbourhood, or, at the option of the landlord, so that it may be equal to five per centum of the market-value of the land.

CHAPTER VIII.—*Of Ordinary Raiyats.*

72. Chapter VIII deals with ordinary raiyats, that is to say (section 88) raiyats holding raiyatí land but not having a right of occupancy in respect of it. The principle on which this chapter is based is that, while it is desirable to interfere as little as possible between tenants of this class and their landlords, they should not be exposed to arbitrary rack-renting and eviction at the hands of their landlords, and, further, that the acquisition by them of the status of settled raiyat should in every reasonable way be promoted.

73. Section 89 accordingly provides that, subject to a certain maximum fixed for the rents of all raiyats and under-raiyats, which will be presently referred to, an ordinary raiyat shall pay such rent as may from time to time be fixed by agreement between him and his landlord; but, in order to check extravagant enhancements by the landlord, it is provided in the following sections that, if the landlord proposes an enhancement of the rent, to which the raiyat does not agree, the landlord shall not eject him without paying him, besides any amount that may be due to him as compensation for improvements under the provisions of the Bill, a further sum, by way of compensation for disturbance, equal to a certain multiple of the yearly increase of rent demanded. *Ten* times the increase is the amount provided for in the Bill as it stands; but it need hardly be said that a figure of this sort is, at this stage of a Bill, entered only tentatively and subject to future consideration. The object in view, it will be understood, is to fix a multiple of the increase high enough to deter the landlord from making an extravagant demand, but not so high that the raiyat would be induced by the prospect of obtaining it to refuse to accede to a reasonable enhancement.

74. The details of the procedure requisite to give effect to this important provision occupy the greater part of the chapter, but they are not such as to call for notice here. The only other provision of the chapter to which it seems necessary to refer is the rule in section 90

limiting the landlord's right to eject, and which is to the effect that a landlord shall not eject an ordinary raiyat except—

(*a*) for arrears of rent;

(*b*) on the ground that the raiyat has used the land in a manner, which renders it unfit for the purposes of the tenancy, or that he has broken some condition, on breach of which he is, under the terms of a written contract, liable to be ejected; or

(*c*) that he has refused to agree to an enhancement of rent on which the landlord insists.

It is in this last case that the provision as to compensation for disturbance will apply.

CHAPTER IX.—*Provisions regarding Rent applicable to several classes of Tenants.*

75. We now pass from the chapters dealing with particular classes of tenants to those dealing with matters common to several classes. Chapter IX, which is the first of these, contains most of the general provisions of the Bill regarding rent. It begins with a section (96) providing for such additions to, and deductions from, the rents of tenure-holders and occupancy-tenants as are made on account of an alteration in the area of the holding by alluvion or diluvion, by encroachment, eviction by title paramount to that of the landlord, and so forth. This section applies, in the case of a tenure-holder, only in the absence of a contract to the contrary, but, in the case of an occupancy-raiyat, it overrides any such contract.

76. In the case of land being added to the area of a holding, it provides that the amount added to the rent shall be calculated on the rates payable by occupancy-raiyats for land of a similar description, less a deduction, in the case of a tenure-holder, of thirty per cent. for profits, risk and cost of collection. This seems to be the fairest rule to apply in such a case, and it is, moreover, as observed by the Government of Bengal, in harmony with the law regulating additions to the Government revenue in alluvion cases.

77. On the other hand, in the case of a loss of a portion of an area, for the whole of which a single rent has been payable, the only equitable principle to adopt seems to be that the abatement from the rent should bear to the rent previously payable the same proportion as the yearly value of the land lost bears to the yearly value of the holding prior to the loss, and this is what sub-section (3) of section 96 enacts, adding, however, that, when the yearly value of the land lost cannot be satisfactorily proved, the abatement shall bear to the previous rent the same proportion as the area lost bears to the area of the holding prior to the loss.

78. Sections 97 to 99 give power to the Board of Revenue to fix the instalments in which rents are to be paid. The power is of little importance in the case of tenures, inasmuch as it can be exercised in respect of them only in the absence of any agreement or custom regulating the matter. In the case of raiyats' holdings, however, it is of considerable importance. Much of the harassment, to which the raiyats are subjected, is said to arise from the number of instalments in which their rents are payable, and, to remedy this, the Board is empowered, subject to certain reservations regarding agreements entered into and customs prevailing before the commencement of the Act, to fix the instalments, in which the rents of raiyats are to be payable, so that there may not be more than four in each year.

79. Section 100 requires every landlord to give to a tenant paying him rent a receipt, containing much fuller details than those prescribed by the existing law, and to keep a counterpart of every receipt so given. It also provides that, when a receipt does not contain the requisite particulars, it shall be deemed to be an acquittance in full up to date.

Section 101 requires every landlord to furnish to his tenant, for each agricultural year, a detailed statement of the account between them for that year, and to keep a counterpart of every statement so furnished.

Section 102, following the existing law regarding receipts, imposes penal damages for refusal or neglect to give receipts or furnish accounts, and further makes it an offence punishable with a fine, not exceeding fifty rupees, to neglect to keep a counterpart as required by the preceding sections.

It is believed that, if these provisions are fully enforced, much advantage will result to both parties. Not only will the tenants be supplied with proper evidence of the payments made by them and of the state of their accounts, but the landlords, if they keep their counterpart statements in a proper manner, will find them useful as evidence before the Courts.

80. Under the existing law, there is but one case, in which a tenant can deposit his rent in a public office, so that the deposit may operate as a payment to his landlord, namely, when he is prepared to declare solemnly that he has tendered the rent to his landlord, and that the landlord has refused to receive it.

It has been found that this declaration has become a mere form, and it is thought better to allow the tenant to deposit his rent whenever he has reason to believe that the landlord will not receive it and grant a receipt. It is also thought advisable that a tenant should be allowed to deposit his rent in two other cases, namely:—

(1) when it is payable to co-sharers jointly, and he is unable to obtain their joint receipt, and no person has been empowered to receive the rent on their behalf; and

(2) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent.

81. This extension of the right to deposit rent necessitates our conferring on the officer empowered to receive deposits a certain discretion not allowed by the present law. He is accordingly given by section 104 a discretion to refuse the deposit, if he does not think the circumstances of the case warrant its being made, and he is further given by section 106 a discretion to pay away the deposit, if he thinks fit, to such one of several rival claimants as may seem to be entitled to it, but subject, of course, to the right of any person actually entitled to it to recover the amount from the person, to whom it is so paid. As regards this last point, however, it will be seen that the officer will have power to retain the deposit if he thinks fit, pending the decision of the Civil Court as to the person entitled to it; and this latter course is doubtless that which he would adopt in all cases in which there might be any reasonable doubt as to the person entitled.

82. The provisions, contained in sections 112 to 116, for the division or appraisement of a crop by a public officer in cases, where the rent is paid in kind or is the value of a certain share of the gross produce, and a dispute arises between the parties, are based on the proposals made for Bihár by the Bihár Committee and the Rent Law Commission; but they are made generally applicable, and their details are taken, for the most part, from enactments in force in Upper India, where rent is very commonly paid in kind or in appraisement of the crops. They enact that, if either party neglects to attend at the proper time for making the division or appraisement, or if there is a dispute regarding the division or appraisement, the Collector may, on application made to him, issue a commission to such person as he thinks fit, directing him to divide or appraise the crop, and may further direct him to associate with himself any other persons as assessors for this purpose. If, in a division made in this way, either party receives less than his proper share, he may, within three months from the date of the division, sue the other party to recover the value of the additional portion of the crop due to him, and, if he does not so sue, the division will be deemed to have been rightly made. When the case is one of appraisement, the commissioner is required to submit his appraisement in writing to the Collector, who shall, after such hearing and enquiry as he thinks necessary, pass an order either confirming or varying it, and that order will be final.

It will be seen that these provisions proceed upon the principle, already referred to in connection with the subject of enhancement, of entrusting to the Revenue authorities the duty of inquiring into, and adjusting, matters, which they are presumably more competent to deal with than the Civil Courts. It is, it will be observed, only the mechanical act of division and the mere framing of the estimate of the crops that, in the cases now in question, are to be entrusted to the Collector and the persons appointed by him, all questions of right being reserved for the Civil Court.

83. Section 117 provides that, if the landlord of any land, of which the rent is payable by division or appraisement of the crop, or any other person, interferes in any way, without the tenant's consent, with the cutting or harvesting of a crop, except by an application to the Collector, under the provisions just referred to, he shall be deemed to have committed criminal trespass within the meaning of the Penal Code. This is considered necessary in order to put a stop to the oppressive action of landlords in certain parts of the country, who are found to assume a power to prevent the cutting or harvesting of the crops, and to use it as an engine of extortion against their tenants.

84. Section 118, which applies only to Bihár, provides that all danabandi papers shall, within 15 days after the making of an appraisement, be filed in the Collector's office.

85. Section 119 provides that, notwithstanding any contract made after the 2nd March, 1883, the date on which it is proposed to introduce the Bill, a raiyat or under-raiyat shall not, in any case, be bound to pay a money-rent exceeding five-sixteenths of the estimated gross produce of his holding. The limit originally proposed was thirty-five per cent. It has now been lowered at the suggestion of the Lieutenant-Governor; but the figures must be regarded as merely provisional and subject to reconsideration.

86. Section 120 in effect enacts that contracts fixing rents shall, in temporarily-settled tracts hold good only until a fresh settlement is made. The reasons for this provision are similar to those stated above (paragraph 21) in connection with section 20.

87. Section 124 makes the rent of a transferable holding the first charge on that holding.

CHAPTER X.—*Other provisions applicable to several classes of Tenants.*

88. The question as to the right of a raiyat to make improvements, and to claim compensation therefor on ejectment will, if the proposal to make occupancy-rights freely saleable in execution

of a decree is adopted, be of less importance in Bengal than in some other parts of British India. The great mass of the raiyats having a right of occupancy, and not being liable to be ejected except under peculiar circumstances of rare occurrence, and the question of compensation adjusting itself when an occupancy-right is sold in execution of a decree, claims for compensation for improvements will be comparatively few. But the importance, from an economical point of view, of encouraging improvements is so great in this country, that special provision has been made for the matter to meet the case of ordinary raiyats, and such cases as may, from time to time, occur of occupancy-raiyats being ejected from their holdings.

The principle on which the sections of the Bill relating to this subject proceed is that that party to a tenancy whose interest in the land preponderates should have the preferential right to improve and take the full benefit of his improvements; but that, if the party having this preferential right is unable or unwilling to avail himself of it, it should be open to the other party to make an improvement and reap the benefit of it.

Section 127 accordingly confers upon an occupancy-raiyat the preferential right to improve, and provides (subject to one exception to be presently noticed) that, if he does not avail himself of this right and the landlord desires to have any improvement made, he may call upon the raiyat to make it, and that, if the raiyat does not within a reasonable time comply with the request, the landlord may make the improvement himself. Section 128 enacts what may be termed the inverse of these provisions for the case of the ordinary raiyat, that is to say, it gives the preferential right to the landlord, and allows the raiyat to improve only if the landlord, upon being requested by the raiyat to make an improvement, neglects to do so within a reasonable time.

89. There is however, as has been intimated, an exception made to these rules in the case of one sort of improvement, namely, a dwelling-house for the raiyat and his family. This, it is considered, is an improvement which every raiyat, an ordinary as well as an occupancy-raiyat, should be entitled to make; and it is further considered that it is not an improvement, which a landlord should be empowered to force on a raiyat against his will. As regards this improvement, accordingly, it is provided simply that any raiyat may make it; no right to make it, whether preferential or otherwise, being conferred on the landlord.

90. When a landlord makes an improvement under these sections, he will be entitled to reap the full benefit of it in the shape of an enhancement of the rent under the provisions of the Bill relating to that subject. When a raiyat makes an improvement under these sections, he will, if ejected, be entitled, under section 129 of the Bill, subject to certain exceptions which it is unnecessary to notice here, to receive compensation for it. An occupancy-raiyat will further, while he continues to hold, reap the full benefit of his improvements, inasmuch as his rent cannot, under Chapter VI, be enhanced on account of an improvement made by him. An ordinary raiyat under similar circumstances may possibly not be able, in all cases, to retain the full benefit of his improvements, but the check placed on the landlord by the provisions of Chapter VIII will, as a rule, amply protect him in the enjoyment of that benefit.

91. The only other provisions of the Bill, relating to improvements, which seem to call for notice here, are the last clause of section 129, which enacts that improvements made by a raiyat before the commencement of the Act shall be deemed to have been made in accordance with the Act (and therefore to give a claim to compensation), unless it is shown that the landlord forbade the raiyat to make them and was ready to make them himself, and section 132, which makes void all stipulations in contracts providing (*a*) that a landlord may prevent a raiyat from improving or eject him for improving, or (*b*) that a raiyat when ejected shall not be entitled to compensation for improvements.

92. In section 133, providing for the landlord's right to measure lands comprised within an estate or tenure the rents of which are payable to him, the existing law has been modified so as to give a landlord the right to measure all lands lying within the estate or tenure, whether rent-paying or not. As observed by the Government of Bengal, "a landlord has at present no right to measure lákhiráj, and a rent-free holder may, in virtue of a valid grant of ten bíghás, be holding double as much or more. The mere measuring by the landlord cannot harm him, as he could not be ousted from possession save through the Civil Court. But the landlord seems entitled to make a complete survey of his estate." (*Letter from Government of Bengal, No. 849T, dated 27th July, 1881, page 25.*)

93. The proviso to section 133 enacts that, when land has been measured under that section, it shall not again be measured for ten years without the written permission of the Collector. This seems but reasonable, a right to measure once in ten years being sufficient in all ordinary cases.

94. The only other provisions of this sub-division of the chapter, which deviate in any material respect from the existing law, are those of sections 137 and 138, relating to the standards of measurement. They adhere so closely to the corresponding provisions of the Bill prepared by the Rent Law Commission that the following extract from the Commission's Report (para. 140) will best explain them :—

"The length of the local standard pole, with which a measurement of land should be made, is a fertile subject of dispute and litigation. It is not uncommon for a landlord to make a measurement of his lands with a pole of his own selection, the actual length of which must be a subject of doubt upon the evidence, while the raiyats concerned aver not only that the standard pole of the pargana is different, but that during the measurement a third pole has occasionally been substituted for that which the landlord claims to be the standard. In order to remedy these difficulties as far as possible, we have enacted that all measurements made by order of the Civil Court or Collector shall be made according to the Government measure of 14,400 square feet to one standard bíghá. It it be shown that the rights of the parties to the suit are regulated by any different local measure depending upon a pargana standard pole, the Government measure shall be converted into local measure for the purposes of the suit. In case of dispute as to the standard pole, the Collector shall, in any suit before himself, or in any suit before a Civil Court, on a reference made for this purpose by such Court, determine the proper length of such pole. We have followed the present law, as settled by the decisions, in enacting that an appeal shall lie from the Collector's decision to the District Judge, but that, if no such appeal be preferred, the decision of the Collector shall be final."

95. It is stated in Mr. Field's digest, section 12 (4), as the result of decided cases, that a raiyat's interest in the land determines when he ceases to cultivate the land and leaves the neighbourhood without arranging for the payment of the rent. Mr. Field observes that the cases leave the matter thus indefinite, and that, if the proposition is adopted by the legislature, it should be made more precise. Section 140 of the Bill, following this suggestion, provides that, when a tenant of a non-transferable holding leaves the holding uncultivated and the rent of it unpaid for a period of one year, he shall be deemed to have surrendered, except in cases in which, owing to an inundation or any other accident to the land beyond his control, it may have been impossible for him to cultivate.

96. Section 141, relating to the doctrine of merger, follows the corresponding provisions (sections 43 and 44) of the Bill prepared by the Rent Commissioners, who state in their Report that some such enactment is needed to settle the law in Bengal. It provides, subject to certain exceptions and qualifications which it is unnecessary to specify here, that, when, in the case of any tenancy, the interest of the landlord and that of the tenant become by transfer, succession or otherwise united in the same person, so as to be owned by him in the same right, the interest of the tenant shall, during the three months following, be presumed to be merged in that of the landlord, unless the person shows that he has not intended it to be so, and shall, after the expiration of the three months, be conclusively deemed to be so merged, unless, within the three months, the person has executed an instrument declaring his intention that a merger should not take place, and the instrument has been registered and published in a certain prescribed manner.

97. Sections 142 to 148, relating to the appointment of a manager on behalf of co-owners of an estate or tenure, are taken, with slight alterations in the drafting, from the Bill framed by the Rent Law Commission. Their history and the nature of the provisions they contain will be best seen by an extract from the Commission's report. After describing at some length (paragraph 134) the complications, litigation and even riots which arise when co-owners of an estate or tenure (or, as they are sometimes termed, coparceners) quarrel among themselves, and the grievous harassment, to which the tenants are exposed, in such cases, the report proceeds as follows:—

"135. The necessity of a remedy for this state of things was felt at an early period of British administration, and in 1812 it was enacted that, inasmuch as inconvenience to the public and injury to private rights had been experienced in certain cases from disputes subsisting among the proprietors of joint undivided estates, whenever sufficient cause shall be shown by the Revenue-authorities, or by any of the individuals holding an interest in such estates, for the interposition of the Courts of Judicature, it shall be competent to the Zila Judges to appoint a person duly qualified and under proper security to manage the estate; that is, to collect the rents and discharge the public revenue, and provide for the cultivation and future improvement of the estate (Regulation V of 1812, section 26). The Judge was also competent, upon the representation of the Revenue-authorities, or of any such person as aforesaid, to remove any manager so appointed (*ib.*, section 27). A subsequent Regulation (V of 1827) enacted that, when the Zilla Court thought it just and proper under the provision of that Regulation to provide for the administration or management of landed property, it should issue a precept to the Collector, directing him to hold the estate in attachment and appoint a person for the due care and management thereof, under good and adequate security for the faithful discharge of the trust in a sum proportionate to the extent thereof. The reference in Regulation V of 1827 to Regulation V of 1812 was repealed by Act XVI of 1874, so that it is not now competent to a District Judge to send a precept to the Collector directing him to provide for the management of an estate belonging to a joint undivided family. The fragment of Regulation V of 1812 which is still in force is incomplete, and in consequence almost inoperative.

"136. Such being the present state of the law, a majority of us have thought that this fragment might well be repealed and a complete set of effective provisions substituted

therefor. We have accordingly enacted that, when coparceners, who jointly own an estate, tenure or under-tenure, disagree as to the joint management thereof, and in consequence there has ensued, or is likely to ensue, (*a*) inconvenience to the public, (*b*) injury to private rights, the District Judge may, upon the application in case (*a*) of the Collector, and in case (*b*) of any one having an interest in such estate, tenure or under-tenure, direct a notice to be served upon the coparceners, calling upon them to show cause why they should not appoint a common manager. If the coparceners do not, within a month, show cause why they should not appoint a common manager, the District Judge may direct them to do so. If they fail to obey that direction, the District Judge may either appoint a manager, or direct that the estate, tenure or under-tenure be managed by the Court of Wards, if it is willing to undertake the charge. We have thought it advisable to give the coparceners an opportunity of appointing a manager of their own selecting, before the District Judge proceeds virtually to depose them. When the Court of Wards undertakes the charge, it will govern itself by the provisions of *the Court of Wards Act*, IX (B.C.)of 1879. It is discretionary with the Court of Wards to undertake the charge or not. A majority of us have thought it advisable to render this system of management possible, as there may be cases in which no other management will be available. Mr. O'Kinealy doubts if it is advisable to extend the exceptional jurisdiction of the Court of Wards and empower it to manage the estates of persons who happen to disagree amongst themselves. When the District Judge appoints a manager, he is empowered to settle his remuneration, and the manner of it, whether, that is to say, by a fixed salary or a percentage of the collections. He is also empowered to require reasonable security for the proper discharge of the duties of the office. The manager is authorized to exercise the same powers as the coparceners jointly might, but for his appointment, have exercised. He is required to keep regular accounts and to allow the coparceners to inspect and take copies of them. He may be removed upon the application of the Collector, or of any person interested in the estate, tenure or under-tenure. The District Judge may at any time direct that the management be restored to the coparceners, if he is satisfied that they will conduct it without inconvenience to the public or injury to private rights."

98. The only other section in this chapter which calls for notice is section 149, which enacts that no tenant shall be ejected from his holding except in execution of a decree.

CHAPTER XI.—*Of the Settlement of Rents by a Revenue-officer.*

99. It has been stated, in the remarks above made on Chapter VI, that it is apprehended that, in many parts of the country, the framing of a table of rates will be impossible. It should be added that, in many instances, the mere framing of a table of rates will not suffice to settle the disputes between landlords and tenants. In either case the only satisfactory remedy may be a settlement of individual rents by a Revenue-officer, conducted somewhat in the same manner as in a Government estate at present; and it is with a view to providing such a remedy that Chapter XI has been framed.

100. There is, however, one cardinal difference between the provisions of this chapter and those of the existing settlement law which should be noted at the outset. Under the existing settlement law, when a Settlement-officer has, after the most careful and protracted inquiry, settled the rents of an estate, and his proceedings have been scrutinized and checked by the superior Revenue-authorities, every individual rent fixed by him is liable to be called in question in the Civil Courts, and that not merely on the ground of error in respect of some matter, such as the status of a tenant or the validity of an alleged lease, falling most appropriately within the cognizance of a Civil Court, but also on the ground of an error in regard to the quality of the soil, the estimated amount of the produce, or some other such matter with which the Revenue-authorities, conducting their inquiries on a great scale, are far more competent to deal than any Civil Court trying a suit relating to a single holding can possibly be; in other words, an important portion of the work, after being done by those authorities, who are most competent to perform it, is liable to be pulled to pieces by another set of authorities, who are far less competent to perform it. The enormous amount of unnecessary expense, trouble and vexation, which this system entails on all concerned can be estimated from the fact, stated by the Board of Revenue in referring to a recent settlement, that out of 2,391 decisions in suits brought to contest the Settlement-officer's rates, 2,202 were absolutely adverse to the plaintiffs. An attempt has been made to avoid this in Chapter XI of the Bill by distinguishing, among the various questions which may arise in a settlement of rents, those which the Revenue-authorities are most competent to determine, and those which a Civil Court is most competent to determine, making the decision of the Revenue-authorities final on the former, and providing that the latter may ultimately be brought for decision before the Civil Court.

101. The procedure of this chapter, besides being available for the purpose of Government settlements, may be made applicable by the Local Government—

(*a*) when a large proportion of the tenants or of the landlords desires that it should be applied, and

(*b*) when a resort to it is likely to settle or avert a serious dispute, existing or likely to arise, between landlords and tenants generally.

It is applicable to tenants of any class, but would probably be made use of chiefly for settling the rents of occupancy-tenants.

102. When the rents to be settled are rents, which are subject to alteration by order of a Court, they will be *fixed* according to the principles embodied in the Bill, and so that they shall not exceed the maximum prescribed by the Bill in cases of enhancement. When, on the contrary, the rents are not of this description, they will be merely ascertained and recorded as rents are under Regulation VII of 1822.

103. The Revenue-officer, having settled the rents, will prepare a jamabandi, showing the status of each tenant, the land held by him, the name of his landlord, whether the rent has been fixed or ascertained, and the amount of the rent fixed or ascertained. This jamabandí will be published, and, after an opportunity for urging objections against it has been allowed, will be submitted to the higher Revenue-authorities with the objections and a report setting forth the grounds, on which the Revenue-officer has proceeded. If ultimately sanctioned by the Local Government, it will be again published, and will then continue in force for 10 years.

104. While it remains in force it will be conclusive (except as will be presently explained) as to the rents payable by those tenants, whose rents are shown in it as fixed. As regards rents shown in it merely as ascertained, and as regards all other matters contained in it, it will be merely presumed to be correct until the contrary is proved.

105. It will be observed that, in thus empowering a Revenue-officer to fix rents so as to bind the parties, we necessarily empower him to decide certain questions (as, *e. g.*, that of the status of a tenant) which more properly appertain to the jurisdiction of the Civil Courts and ought not to be finally decided by any other authority. It is not, however, intended that the Revenue-officer should finally decide such questions. He may, if he thinks fit, when such a question arises, abstain altogether from deciding it, and, under section 155, refer it to a Civil Court, or leave it to be raised before a Civil Court in a suit instituted by any party interested.

In most cases, he would probably decide the question on such evidence as might be readily available; but, whenever he takes this course, his decision will be liable to be challenged in a Civil Court under section 160, which provides that nothing contained in it shall prevent the rent fixed being called in question on the ground—

(*a*) that the tenancy does not exist, or that the tenant is not liable to pay rent, or

(*b*) that the tenant belongs to a class different from that to which he is shown in the jamabandi to belong, or

(*c*) that the land comprised in the tenancy is different from, or more or less than, that shown in the jamabandí, or

(*d*) that a rent different from that shown in the jamabandi has been fixed by contract.

It is believed that the above list exhausts all the matters, in regard to which a Civil Court may be regarded as a better tribunal than the Revenue-authorities, and, if this is so, the determinations of the Revenue-authorities in regard to all other matters may safely be made final and conclusive.

106. It only remains to add that, by section 163, the Local Government is empowered to charge the expenses of all proceedings, other than Government settlements, under this chapter to the landlords and tenants concerned, in such shares as it thinks fit

CHAPTER XII.—*Of the Preparation of a Record-of-rights by a Revenue-officer.*

107. The provisions of Chapter XII are somewhat similar to those of Chapter XI, and have been introduced into the Bill with a similar object, but are more limited in their scope, inasmuch as the operations to be undertaken under them do not, like those under Chapter XI, embrace the *fixing* of rents, but are confined to the ascertaining and recording of existing rights and existing rates of rent. Moreover, as existing rights and existing rates of rent are matters the determination of which properly belongs to the Civil Courts, an entry in the record-of-rights prepared by a Revenue-officer under this chapter, is in every case merely to be presumed to be true until the contrary is proved.

108. The only other points calling for notice under this chapter are, first, that the Local Government may apply its provisions not only in the cases, in which it is empowered to apply those of Chapter XI, but also in any other case, in which the Governor General in Council may sanction their being applied, and secondly, that the provisions of this chapter being considered a sufficient substitute for those contained in Act VIII (B. C.) of 1869, sections 38-40, these latter are not reproduced in the present Bill.

CHAPTER XIII.—*Of the Recovery of Rents from Raiyats and Under-raiyats by distraining the produce of the Holding.*

109. This chapter may be said to be the result of a compromise. The Rent Commission, concurring with the Bihár Rent Committee, proposed to abolish the existing law of distraint as an offset of English law, of which the efficacy was impaired by the legislation of 1859, and which had been abused in Bihár and not always applied in a regular manner in other parts of the country. To this strong objections were urged, and the procedure provided by this chapter was then devised by the Government of Bengal, as being likely to secure to the landlords most of the advantages afforded by the existing law, without exposing their tenants to the evils now complained of.

110. The modified power of distraint, which it is now proposed to allow, can be used by any landlord of a raiyat or under-raiyat for the recovery of an arrear of rent, which has not been due for more than a year. It extends, as a rule, to all the produce of the holding, including what may have been grown by, and be the property of, a sub-lessee of the tenant, and it may be exercised though the produce has been stored, provided it has not passed out of the possession of the cultivator. The landlord cannot himself interfere with the produce to be distrained, but must apply to a Civil Court to distrain it. The Court, after a brief examination of the case, will depute an officer to distrain and sell the produce, and nothing will stay the sale except the payment into court of the amount of the demand. Any sum paid into court will be retained for one month, with a view to the possibility of the owner of the distrained property claiming compensation as for a wrongful distraint, and on the expiration of that period it will be paid to the landlord.

111. Sections 185 and 186 are directed against illegal distraint and interference with crops. Section 185 provides, in effect, that any person who, otherwise than in accordance with the provisions of the Bill, or some other enactment for the time being in force, distrains any produce of a tenant's holding, or interferes with the harvesting of a crop, shall be deemed to have committed criminal trespass within the meaning of the Penal Code; and section 186 imposes a penalty which may extend to three months' imprisonment, or two hundred rupees fine, upon any person who benefits by, or is interested in, the commission of an offence under section 185 if, having reason to believe that the offence was likely to be committed, he has not used all lawful means in his power to prevent its commission.

112. Section 187 empowers the Local Government to suspend in any local area, for such time as it thinks proper, the sections which entitle a landlord to distrain.

CHAPTER XIV.—*Special rules of procedure applicable to Suits between Landlord and Tenant.*

113. Sections 191 to 198 are intended to embody all those modifications of the ordinary procedure proposed by the Rent Commission and the Government of Bengal, which seem likely to expedite, in any material way, the disposal of suits between landlords and tenants.

Sections 191 to 197 apply to—

(*a*) suits for recovery of rent;
(*b*) suits for penalties claimable under any provision of the Bill; and
(*c*) suits to recover possession of land.

They provide that, in such suits, the summons shall, as a rule, be issued for the final disposal of the case; that the summons may be served by a registered letter; that no written statement shall be filed without the leave of the Court; that the provisions of the Code of Civil Procedure relating to interrogatories, discovery and affidavits shall not apply; that, whether an appeal lies or not, a simple memorandum of the substance of the evidence, such as is prescribed by the Code for unappealable cases, shall suffice; that, as a rule, execution may issue on the oral application of the decreeholder at the time the decree is passed; and that section 305 of the Code, which enables a judgment-debtor to obtain a suspension of an order made for the sale of his immoveable property, and sections 320 to 325C, which provide for the transfer of decrees to the Collector for execution, shall not apply.

114. A further simplification of the procedure is effected in suits for arrears of rent and for penalties (involving no question of title or of a right to enhance or vary rent) by taking away (section 198) the appeal in such cases from—

(*a*) a decree or order passed by a District Judge, Additional Judge or Subordinate Judge, where the amount claimed does not exceed Rs. 100; and

(*b*) a decree or order passed by any other judicial officer specially empowered by the Local Government, where the amount claimed does not exceed Rs. 50.

In so far as regards the class of cases marked (*a*), the Bill merely reproduces the existing law, with this difference, that it extends the rule to decrees and orders of Subordinate Judges, who, it is thought, may now safely be entrusted with final jurisdiction in cases of this class.

The extension of the provision to the class of cases marked (*b*) is based on a proposal of the Rent Law Commissioners supported by the Local Government. The Rent Commissioners would have fixed the limit of value in such cases at Rs. 10, but the Lieutenant-Governor, who must be regarded as the best judge of the qualifications of his officers, has recommended that it should be raised to Rs. 50, the limit fixed by the present Bill.

115. It will be observed that the final jurisdiction in this class of cases will be exercised only by specially selected officers, and that a power of revision is reserved to the District Judge by the proviso to the section.

116. Section 199 is completely new. It is intended for the benefit of a landlord in a suit for an arrear of rent, when, as sometimes happens, the defendant admits that the arrear is due, but pleads that it is due not to the plaintiff but to some rival claimant. In such a case, it seems only reasonable that the tenant should pay the amount of the rent into court; and the Bill accordingly provides that the Court shall refuse to take cognizance of his plea unless he does so.

117. It is hoped that, when the measure comes to be fully discussed, other expedients for simplifying the procedure in rent-suits may be discovered, but, with the exception of those above referred to, none have hitherto been suggested which the Government of India would be prepared to accept. As regards the possibility of devising any effectual procedure analogous to that on negotiable instruments under Chapter XXXIX of the Code of Civil Procedure, or any other form of summary or provisional remedy, the whole history of such remedies both in this country and elsewhere is against it.

A summary form of procedure can scarcely help a plaintiff unless his case is of the simplest description, admitting of being answered only in the simplest way, and he comes into court armed with documentary evidence of so reliable a character that the presumption against any defence being possible is extremely strong. In such cases the Court may very properly, and with great advantage to the plaintiff, be empowered to decline to hear the defendant, and to decide against him summarily and provisionally, unless he pays the amount of the claim into court or gives security for it. But what advantage could be hoped for from a procedure of this description in rent-suits in Bengal, which admit of the most varied and complicated defences, in which the evidence on both sides is usually of the most worthless character, and charges of forgery and perjury almost common forms in the pleadings? If the legislature consented to provide such a procedure for rent-suits, it would probably feel bound to surround it with so many safeguards that the plaintiff would gain nothing by adopting it; and, even if such safeguards were dispensed with in the Act, the Courts would naturally be so cautious about refusing leave to defend or requiring security from a penniless raiyat, that the so-called summary remedy would cease to be summary, and, like the summary suits of former days in some parts of India, become as lengthy and complicated as an ordinary suit, with the further disadvantage of not being final.

118. The truth would seem to be that facilities for recovering rents in Bengal should be sought for, not so much in novel forms of procedure as in a reliable record of tenancies and their incidents, and a simple mode of adjusting rents; in other words, by going to the root of the disputes which, though they may not always come to the surface, are believed to underlie a very large proportion of the contested rent-suits. If this view is correct, the provisions of the Bill regarding the preparation of tables of rates, settlement of rents and framing of records-of-rights, and those regarding receipts and accounts, may reasonably be expected to remove most of the difficulties of which the landlords now complain.

119. Section 200, following the Bill proposed by the Rent Law Commission, enacts that an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree, unless the landlord's interest in the land has become vested in that assignee.

120. Section 202, relating to relief against forfeitures, is based on section 14 of the Conveyancing and Law of Property Act, 1881. It enacts that a suit for ejectment of a tenant, on the ground of his having forfeited his interest by breach of a condition, or the like, shall not be entertained unless the landlord has given the tenant an opportunity of paying compensation and remedying the breach when it admits of remedy, and that, when a decree is passed in such a suit, it shall not be executed until the defendant is allowed a similar opportunity of repairing or atoning for his wrongful act.

121. The Rent Law Commissioners observe that "there are in the existing law no provisions regarding the away-going crop, and, as a natural consequence, when a tenant is ejected while the crop is on the ground, the right to this crop is a constant source of dispute and litigation." Sections 203 and 204 of the Bill have been framed to meet such cases. They provide, in effect, that it shall be in the option of the landlord to purchase the crop from the raiyat at a valuation, or to allow him to retain possession of the land at a reasonable rent till he gathers the crop. Similarly, when the raiyat has prepared the land for sowing before the date on which he is ejected, section 203 provides that he shall be entitled to receive from the landlord the esti-

mated value of the labour and capital expended by him in preparing the land, together with reasonable interest on the same. These sections are, however, guarded by a proviso that a raiyat shall have no claim under them when, after the commencement of the ejectment-proceedings, he has cultivated or prepared the land contrary to local usage.

122. Sections 205 and 206 require the Court in all suits and proceedings for ejectment to inquire into and adjust all claims between the landlord and the tenant. This provision will, it is believed, be found useful as tending to prevent a multiplicity of suits.

123. The origin and object of section 207, which provides for the institution of suits to determine the status of a tenant or the incidents of a tenancy, will be best explained by an extract from the report of the Rent Commissioners. After referring to the provisions of the existing law regarding suits for pattás and kabuliyats, they thus continue:—

"We have just observed that very little use has been made of these provisions by those for whose benefit they were intended. This observation was more particularly concerned with their use as a means of reducing to writing the conditions regulating the relation of landlord and tenant. There is, however, another purpose for which they might have been used, that is, as a means to obtain an authoritative settlement of some essential question connected with the tenancy and in dispute between the parties thereto; the rate of rent, for example, or the quantity of land held by the tenant. The landlord may contend that the raiyat holds twenty bíghás of land, while the raiyat declares that he has but fifteen. Year after year the contention is renewed. The landlord threatens a measurement, which the raiyat, afraid of a venal *amín* and a varying pole, desires to avoid. A bribe to the *gomáshta*, or compliance with some petty cess, defers the final settlement of the question for a year: and the following year it arises again, perhaps deterring the raiyat from going to his landlord's *kachahrí* to pay his rent, lest he should be subjected to a demand, the justice of which he will not admit. Or, some fields in the raiyat's holding are by him maintained to be second class rice-land and assessable with the prevailing or usual rate for land of this class, whilst the landlord avers that they are first class rice-land and should pay a higher rent. At every rent-day the point is discussed; and in a country where any discussion is prone to beget a wrangle, seldom conducted with a seemly choice of expressions, an amount of irritation is kept up, which is not in harmony with the friendly relations which should exist between a landlord and his tenantry. It is very desirable that facility be afforded for the ready settlement of questions like these, which are constantly arising in this country, more specially in consequence of the absence of boundaries and fences, and the want of an exact survey upon an uniform standard. It might have been thought that the landlord in the first case could easily have the questions settled by tendering a pattá and demanding a kabuliyat for twenty bíghás; and the landlord, in the second case, by tendering a pattá and demanding a kabuliyat for the field, as first class rice-land: but if the land turned out to be nineteen and a half bíghás instead of twenty, or one of the fields was found to be of some middle class kind of land, the suit, according to the decision of the highest tribunal in India, must fail, and the parties be sent away, the real question in dispute unsettled, and their feelings roused and embittered by litigation.'

"Thus these provisions of the existing law have become ineffectual for the only purpose for which the people cared to use them, and for which they might have been beneficially used. While omitting what has been found useless in practice, we have endeavoured to supply the want thus indicated by experience. Section 151 of the draft Bill accordingly allows either landlord or tenant to sue for the determination of any such questions which may arise between them. A copy of the decree passed in the case will have all the effect of a pattá or kabuliyat upon the point which the parties themselves wish to have determined."

CHAPTER XV.—*Sale of transferable Holdings in execution of Decrees for Arrears due on them.*

124. The provisions of this chapter are made applicable to all transferable holdings, including such tenures as are transferable, occupancy-holdings, and bastu holdings under Chapter VII, and involve, in certain other respects, substantive changes in the existing law.

The most important of those changes will be best explained in the words of the Rent Commissioners, with whom it originated:—

"The object," they say, "of making sub-leases and incumbrances voidable upon the sale of a tenure for arrears of rent is, that the superior landlord's security for his rent may not be impaired. If the sub-leases and incumbrances of a tenure have not absorbed so much of the tenure-holder's profits as to render the interest left him insufficient to meet the rent which he pays to the proprietor of whom he holds his tenure; if the tenure, subject to these sub-leases and incumbrances, will sell for a sum sufficient to satisfy any decree that can be passed for arrears of the rent payable by the tenure-holder, it cannot be said that the proprietor-landlord's security for his rent has been impaired so far as to bring the case within the above object. The right of sub-letting and creating incumbrances belongs to every tenure-holder: such is the common law of the country. So long as the landlord is certain of the rent to which he is entitled, he cannot justly complain of the exercise of this right, or claim to interfere with it. When, however, the exercise of the right extends so far as to endanger the landlord's rent, to impair the security for such rent afforded by the sale of the tenure by public auction, the case is altered, and the landlord may reasonably demand that these sub-leases and incumbrances be avoided, which have rendered the remaining interest of the tenure-holder an insufficient security for the rent payable by him.

"In this view of the matter, we have enacted that a tenure, under-tenure or occupancy-holding, about to be sold in execution of a decree for arrears of its own rent, shall first be put up to auction subject to certain incumbrances, and, if the sum bid is sufficient to liquidate the amount of the decree and costs, shall be sold subject to such incumbrances. If the highest amount bid is not sufficient to liquidate the decree, the decree-holder, that is, the landlord, may then claim to have the tenure, &c., sold free of incumbrances. Such sale is not to be had immediately, but upon a subsequent sale-day not less than fifteen or more than thirty days afterwards; and a notification of such tenure being about to be offered for sale free of incumbrances must be posted upon some conspicuous place upon the land of the tenure. The effect of these provisions will be that persons who hold sub-leases and incumbrances will not be endamaged if the bidding on the first sale-day reaches an amount sufficient to satisfy the decree and the tenure is in consequence sold subject to incumbrances. If, on the other hand, the bidding on the first sale-day does not reach an amount sufficient to satisfy the decree, such persons will have time to protect themselves from injury by paying in the amount of the decree (which they can subsequently recover from the defaulter), and so preventing such a sale of the tenure as will avoid incumbrances."

125. Among the objections to the scheme thus propounded by the Commissioners was one to the effect that it was unsuited to the case of occupancy-holdings. This objection is admitted by Mr. Reynolds and by the Government of Bengal to be as a rule well-founded, inasmuch as an ordinary-occupancy-holding is not likely to be saddled with incumbrances which should be respected at a sale. It appears, however, that there are, in some parts of the country, occupancy-holdings of large extent, the land of which is sub-let on such terms that the interest of the lessee is of considerable value. Under these circumstances, the proper course appears to be that proposed by the Government of Bengal, namely, that occupancy-holdings should as a rule be sold at once with power to annul all incumbrances, but that the Local Government should have power to direct that the occupancy-holdings in any local area should be in the first instance put up subject to incumbrances as if they were tenures; and it is on these lines that the present Bill is drawn.

126. The general outline of the chapter will be clear from what has been said, but there are certain details of sufficient importance to call for further explanation. In the first place, it should be stated that the word "incumbrance" is used throughout in a special sense. When it is said that a holding will be sold "free of incumbrances," or as the Bill puts it, "with power to avoid incumbrances," it is not meant that it will be discharged free of everything that might in the wide sense of the word be termed an "incumbrance."

The following interests, which might be termed incumbrances, will not be affected by any sale under this chapter:—

(*a*) a tenure existing from the time of the permanent settlement;

(*b*) a tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;

(*c*) a tenure of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made;

(*d*) a right of occupancy;

(*e*) a right conferred on an occupancy-tenant to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and

(*f*) any right or interest which the landlord has expressly and in writing given the tenant permission to create.

The last three of these are protected in similar sales under the existing law, and the first three have been added, because such interests, being protected under a sale for arrears of revenue, would seem to be *à fortiori* entitled to protection under a sale for rent.

127. Again, when the Commissioners propose that the holding shall be put up in the first instance subject to incumbrances, they do not mean that it should be sold subject to all incumbrances, but only to such incumbrances as have been created by a registered instrument of which a copy has been served on the landlord. This limitation they considered necessary to prevent sham incumbrances being fraudulently set up after the sale.

128. The Bill has been drawn in accordance with these views, and accordingly, if it becomes law, the result will be—

(*a*) that the interests referred to in paragraph 126 will be protected in the case of all sales;

(*b*) that, in the case of sales subject to encumbrances, the protection will extend also to incumbrances created by registered instruments of which a copy has been served on the landlord; and

(*c*) that, except as stated in (*a*) and (*b*), the holding will be sold with power to avoid all liens, sub-tenancies, easements and other rights or interests created upon it by the tenant in limitation of his own interest.

129. An incumbrance will not become void *ipso facto* on a sale under this chapter. It must be annulled by a notice served on the incumbrancer through the Collector within one year after the purchaser first has knowledge of the incumbrance. It may be added that it is proposed, by separate legislation, to apply a similar rule to the case of sales for arrears of revenue.

130. When an order for the sale of a holding is passed under this chapter, nothing will stop the sale, unless the amount due is paid into court or the decree-holder acknowledges that his claim has been satisfied.

131. When any person, having in a holding advertized for sale under this chapter an interest which would be voidable upon the sale, pays into court the amount requisite to prevent the sale, he will, with a view to the recovery of his money, be placed by section 218 in the position of a mortgagee of the holding with a first charge and a right to possession. If he is an inferior tenant of the holding, he will have a further remedy under section 219 which entitles him to deduct the amount from his rent.

132. The only other provision of this chapter which need be mentioned is section 220, which permits the decree-holder to bid at the sale without the permission of the Court, and precludes the judgment-debtor from bidding.

CHAPTER XVI.—*Limitation.*

133. The only provision of this chapter calling for notice is section 225, under which disability will not be recognised as affecting the running of limitation in suits for the recovery of rent. This is in accordance with the recommendation of the Rent Law Commissioners.

"We think," they say, "that a minor ought not to be competent on coming of age to sue a raiyat for rent, which had accumulated during the whole period of his minority; that this kind of debt, which a poor man usually discharges year by year out of the produce of the year, ought not to be allowed to accumulate; and that, if the manager of a minor's estate neglects his duty of realizing rents as they fall due, the minor's remedy ought to be in an action for damages against such manager."

C. P. ILBERT.

The 2nd March, 1883.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th March, 1883, and was referred to a Select Committee:—

No. 6 OF 1883.

THE INLAND STEAM-VESSELS BILL, 1883.

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Inland Steam-vessels Bill.

Chapter II.—Survey of Inland Steam-vessels.

A Bill to amend the law relating to the Survey, and the Examination and Grant of Certificates to Engineers, of Inland Steam-vessels, and to provide for certain other matters relating to those vessels.

WHEREAS it is expedient to amend the law relating to the survey of inland steam-vessels and the examination and grant of certificates to engineers of those vessels; (Preamble.)

And whereas it is also expedient to provide for the grant of certificates to the masters of inland steam-vessels, and for investigations into casualties affecting, and into charges against masters and engineers of, those vessels, and for the protection of passengers and goods carried thereon from danger by fire; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Inland Steam-vessels Act, 1883; and (*2*) It extends to the whole of British India. (Short title. Extent.)

2. (*1*) This Act shall come into force on such day as the Governor General in Council by notification in the official Gazette directs. (Commencement.)

(*2*) But any notification, rule or appointment may be made under this Act at any time after the passing thereof, but shall not take effect until the Act comes into force.

(*3*) And nothing in this Act shall apply to any ship belonging to, or in the service of, Her Majesty, or the Government of India, or belonging to any foreign Prince or State.

3. (*1*) On and from the day on which this Act comes into force, the Acts mentioned in the first column of the first schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof. (Repeal of enactments.)

(*2*) But all proceedings commenced, investigations held, and certificates granted, cancelled or suspended under any of the said Acts, shall be deemed to have been respectively commenced, held, granted, cancelled or suspended under this Act or under the Indian Steamships Act, 1883, as the case may be.

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

(*1*) "vessel" includes anything made for the conveyance by water of human beings or of property:

(*2*) "steam-vessel" means every description of vessel propelled wholly or in part by the agency of steam:

(*3*) "inland water" means any canal, river, navigable lake or water in British India:

(*4*) "inland steam-vessel" means a steam-vessel which ordinarily plies on inland water:

(*5*) "voyage" includes also the plying of a vessel at or about any place: [Ben. Act VII of 1879, s. 1.]

(*6*) "owner" includes also an agent: and

(*7*) "master" means any person (except a pilot or harbour-master) having for the time being the charge or control of a vessel.

CHAPTER II.

SURVEY OF INLAND STEAM-VESSELS.

5. An inland steam-vessel shall not make a voyage unless she is furnished under this Act with a certificate of survey then in force. (Inland steam-vessel not to make a voyage unless furnished with certificate under Act.) [Cf. Act XVI of 1871, s. 3. Bombay Act II of 1864, s. 1, as amended by Bom. Act IV of 1873, s. 4. Bengal Act V of 1862, s. 1, as amended by Bengal Act I of 1868, s. 1.]

6. (*1*) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such places within the territories under its administration as it may, from time to time, appoint to be places of survey. (Appointment of surveyors and places of survey.) [Cf. Act XVI of 1871, s. 4. Bom. Act II of 1864, s. 2. Bom. Act IV of 1873, s. 12. Ben. Act V of 1862, s. 2. Ben. Act I of 1868, s. 2.]

(*2*) Every surveyor so appointed may be suspended or removed by the Local Government which appointed him.

(*3*) Every surveyor so appointed shall, for the purposes of the survey, be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

7. (*1*) For the purposes of a survey under this Act, the surveyors appointed under section six may, at any reasonable time, go on board any inland steam-vessel, and may inspect the steam-vessel and every part thereof, and the machinery, equipments or articles on board thereof: (Powers of surveyors.) [Cf. Act XVI of 1874, s. 5. Bom. Act II of 1864, s. 3. Ben. Act V of 1862, s. 3.]

Provided that they shall not unnecessarily hinder the loading or unloading of the steam-vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(*2*) The owner, master and officers of the steam-vessel shall afford to the surveyors all reasonable facilities for a survey, and all such information respecting the steam-vessel, and her machinery and

Inland Steam-vessels Bill.

Chapter II.—Survey of Inland Steam-vessels.

equipments, or any part thereof, respectively, as they may reasonably require.

[Act XVI of 1871, s. 6. Bom. Act II of 1864, s. 4. Ben. Act V of 1862, s. 4.]

Grant of certificate by surveyors.

8. Every survey under this Act shall be made by not less than two surveyors, and, when the survey is completed, the surveyors making it shall forthwith, if each of them is satisfied that the steam-vessel is sufficient, so far as it is his duty to survey her, for service as an inland steam-vessel, grant to the owner or master of the steam-vessel surveyed, on payment by him of the fees hereinafter mentioned, a certificate of survey under this Act.

[Ct. Act XVI of 1871, s. 6. Bom. Act II of 1864, s. 4. Ben. Act V of 1862, s. 4.]

Form of certificate of survey.

9. Every certificate of survey granted under this Act shall be signed by each of the surveyors granting it, and shall contain a statement of the particulars specified, and be framed, as nearly as the circumstances of each case will admit, in the form set forth in the second schedule hereto annexed, or shall contain a statement of such other particulars, or be framed in such other form, as the Local Government may by rule prescribe.

[Cf. Act XVI of 1871, s. 10. Bom. Act II of 1864, s. 10, as amended by Bom. Act IV of 1873, s. 11. Ben. Act V of 1862, s. 10, as amended by Ben. Act III of 1871, s. 1.]

Fees for survey.

10. For every survey made under this Act, the owner or master of the steam-vessel surveyed shall pay to each of the surveyors making the survey—

(*a*) a fee calculated on the tonnage of the vessel according to the rates in the third schedule hereto annexed, or according to such other rates as the Local Government may, by notification, prescribe; and,

[Cf. Bom. Act IV of 1873, s. 13, and Ben. Act I of 1868, s. 5.]

(*b*) when the survey is made in any place of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the place, as the Local Government may, by notification, prescribe.

[Cf. Act XVI of 1871, s. 11. Bom. Act II of 1864, s. 11. Ben. Act V of 1862, s. 11.]

Certificate to be affixed in conspicuous part of vessel.

11. The owner or master of every steam-vessel for which a certificate of survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause it to be affixed, and kept affixed so long as it remains in force and the vessel is in use, on some conspicuous part of the vessel where it may be easily read by all persons on board thereof.

[Act XVI of 1871, s. 12. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12.]

Term of certificate.

12. A certificate of survey granted under this Act shall not be in force—

(*a*) after the expiration of twelve months from the date thereof; or

(*b*) after the expiration of the period, if less than a year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or

(*c*) after notice has been given by the Local Government, to the owner or master of the steam-vessel to which the certificate relates, that the Local Government has cancelled or suspended the certificate.

[Act XVI of 1871, s. 13. Bom. Act II of 1864, s. Ben. Act V of 1862, s. 13.]

Cancellation or suspension of certificate by Local Government.

13. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe—

(*a*) that the declaration in the certificate as to the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-vessel has been fraudulently or erroneously made; or

(*b*) that the certificate has otherwise been granted upon false or erroneous information; or

(*c*) that, since the granting of the certificate, the hull, boilers, engines or any of the equipments of the steam-vessel have sustained any injury, or have otherwise become insufficient.

[Act XVI of 1871, s. 12. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12.]

Power to require delivery of expired or cancelled certificate.

14. The Local Government may require any certificate of survey which has expired or has been cancelled or suspended to be delivered up to such person as it directs.

Report to be made of cancellation or suspension of certain certificates.

15. If the Local Government which cancels or suspends under section thirteen a certificate is not the Local Government of the place where the certificate was granted, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government of the place where the certificate was granted.

[Act XVI of 1871, s. 14. Bombay Act II of 1864, s. 14. Bengal Act V of 1862, s. 14.]

Power to order a second survey.

16. (*1*) If the surveyors making a survey under this Act refuse to give a certificate, or give a certificate with which the owner or master of the steam-vessel surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under section six to survey the steam-vessel.

(*2*) The surveyors so directed shall forthwith survey the steam-vessel, and may, after the survey, either refuse to give a certificate or give such certificate as under the circumstances seems to them proper, and their decision shall be final.

(*3*) Every survey made under this section shall be made subject to all the provisions and rules both as to the payment of fees and otherwise which are applicable to surveys made in ordinary cases under this Act.

[Cf. Act XVI of 1871, s. Bom. Act of 1864, s. Ben. Act of 1862,

Power for Local Government to make rules as to surveys.

17. (*1*) The Local Government may make rules to regulate the making of surveys under this Act.

(*2*) Rules under this section may, among other matters,

(*a*) declare the time and places at which, and the manner in which, surveys are to be made;

(*b*) assign and regulate the duties of each of the surveyors making a survey; and

(*c*) declare the form in which certificates of survey granted under this Act are to be framed, and the nature of the particulars which are to be stated therein.

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Chapter III.—Masters and Engineers of Inland Steam-vessels.

[New, but Cf. definition of surveyors in Act XVI of 1871, s. 2. Bom. Act II of 1864, s. 17. Ben. Act V of 1862, s. 16.]

Power for Local Government to exempt certain vessels.

18. The Local Government may, with the previous sanction of the Governor General in Council, by notification, declare that all or any of the provisions of this Act relating to the survey of inland steam-vessels shall not apply in the case of any specified class of inland steam-vessels, or shall apply to them with such modifications as the Local Government may prescribe.

CHAPTER III.

MASTERS AND ENGINEERS OF INLAND STEAM-VESSELS.

[Cf. Ben. Act VII of 1879, s. 3. See also Act XVI of 1871, s. 20, Bom. Act IV of 1873, s. 18, Ben. Act I of 1868, s. 11, which, however, lay down a different rule.]

Inland steam-vessels not to make voyage without certificated master and engineer.

19. (*1*) An inland steam-vessel shall not make a voyage unless she has as her master a person possessing a master's certificate, and as her first or only engineer a person possessing an engineer's certificate, duly granted under this chapter and then in force.

[Cf. Act XVI of 1871, s. 21. Bom. Act IV of 1873, s. 20. Ben. Act I of 1868, s. 13.]

Exception.

(*2*) Nothing in this section shall apply to any steam-vessel which does not ply with passengers or goods, or as a steam-tug, for hire, and which the Local Government may, by notification, exempt from its operation.

[Cf. Act XVI of 1871, s. 17. Bom. Act IV of 1873, s. 15. Ben. Act I of 1868, s. 8. Ben. Act VII of 1879, s. 2.]

Examiners to be appointed and rules of examination made.

20. The Local Government may, by notification, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as masters or as engineers of inland steam-vessels, and make rules—

(*a*) for the conduct of these examinations, and as to the qualifications to be respectively required of persons desirous of obtaining either of these certificates, and

(*b*) for the fees to be paid by all applicants for examination.

Grant of masters' certificates of competency.

21. (*1*) The Local Government shall grant, to every person who is reported by the examiners to possess the necessary qualifications, a master's certificate of competency to the effect that he is competent to act as master of an inland steam-vessel.

(*2*) Every certificate granted under this section shall be in such form as the Local Government may by rule prescribe.

[Cf. Act XVI of 1871, s. 18. Bom. Act IV of 1873, s. 16. Ben. Act I of 1868, s. 9.]

Grant of engineers' certificates of competency.

22. (*1*) The Local Government shall grant to every person—

(*a*) who is reported by the examiners to possess the necessary qualifications, or

(*b*) who possesses an engineer's certificate under the Imperial Merchant Shipping Acts for the time being in force, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869,

[Cf. Act XVI of 1871, s. 19. Bom. Act IV of 1873, s. 17. Ben. Act I of 1868, s. 10. 32 & 33 Vic., c. 11.]

an engineer's certificate of competency to the effect that he is competent to act as engineer of an inland steam-vessel.

(*2*) Every certificate granted under this section shall be in such form as the Local Government may, by rule, prescribe.

(*3*) Before granting a certificate under section twenty-one or this section, the Local Government, if it has reason to believe that the report of the examiners regarding any applicant has been unduly made, may require a re-examination of the applicant or a further inquiry into his testimonials and character.

[Cf. Act XVI of 1871, s. 19. Bom. Act IV of 1873, s. 17. Ben. Act I of 1868, s. 10.]

Grant of engineers' certificates of service.

23. (*1*) The Local Government shall grant to every person—

(*a*) who, before the passing of this Act, has served for a period of not less than one year as first or second engineer in any foreign-going steam-vessel having engines of one hundred nominal horse-power or upwards, or as first or only engineer in any other steam-vessel, or

(*b*) who has obtained or shall obtain the rank of first class assistant engineer in the service of Her Majesty,

an engineer's certificate of service under this Act: Provided that a certificate of service shall not be granted to any person until he—

(*c*) has proved himself to have served or obtained such rank as aforesaid, and has given his name and a full and satisfactory account of the length and nature of his previous services, and

(*d*) has paid such fees as the Local Government may, by notification, direct.

(*2*) Every certificate of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is granted, and shall be in such form as the Local Government may, by rule, prescribe.

[Cf. Act XVI of 1871, s. 24. Bom. Act IV of 1873, s. 22. Ben. Act I of 1868, s. 16.]

Certificates to be made in duplicate.

24. Every certificate granted under this chapter shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Local Government may by rule prescribe.

[Cf. Act XVI of 1871, s. 25. Bom. Act IV of 1873, s. 23. Ben. Act I of 1868, s. 17.]

Copy of certificate to be granted in certain cases.

25. Whenever a master or an engineer proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as prescribed under section twenty-four, he appears to be entitled shall be granted to him, and shall have all the effect of the original.

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Chapter IV.—Investigation into Casualties.

[Cf. Ben. Act VII of 1879, s. 5.]

Certificated masters to be deemed pilots under Indian Ports Act.

26. (*1*) Every master of an inland steam-vessel who possesses a master's certificate duly granted under this Act and then in force shall, in ports to which section 38 of the Indian Ports Act, 1875, has been extended, be deemed, for the purposes of that section, to be the pilot of the steam-vessel of which he is in charge.

XII of 1875.

[Cf. Bom. Act I of 1863, ss. 9 *et seq.*]

(*2*) Nothing in this section shall be deemed to affect the provisions of Bombay Act I of 1863, which require persons in charge of vessels passing through any of the channels or tidal channels at the mouths of the river Indus to pay fees for pilotage.

CHAPTER IV.

INVESTIGATIONS INTO CASUALTIES.

[See Ben. Act VII of 1879, s. 6. Cf. Act V of 1883, s. 8.]

Report of casualties to be made to Local Government.

27. (*1*) Whenever—

(*a*) any inland steam-vessel has been wrecked, abandoned or materially damaged, or

(*b*) by reason of any casualty happening to or on board of any inland steam-vessel, loss of life has ensued, or

(*c*) any inland steam-vessel has caused loss or material damage to any other vessel,

the master shall give immediate notice of the wreck, abandonment, damage, casualty or loss to the nearest Magistrate.

(*2*) The Magistrate receiving the notice shall, without delay, communicate it to the Local Government.

[See Act V of 1883, s. 7, and Ben. Act VII of 1879, s. 7.]

Power for Local Government to appoint special Court of Investigation.

28. (*1*) If in any such case a formal investigation into the facts referred to in section twenty-seven, clause (*a*), (*b*) or (*c*), appears to the Local Government to be requisite or expedient, the Local Government (whether the notice is given or not) may appoint a special Court, consisting of not less than two nor more than four persons, and direct the Court to make the investigation, and may fix the place for making the same.

(*2*) One of the members of the Court shall be a Magistrate acting in or near the place where the investigation is made; another shall be some person conversant with maritime affairs or the navigation of inland steam-vessels; and the other or others (if any) shall be conversant with either maritime or mercantile affairs or with the navigation of inland steam-vessels.

[See Act V of 1883, s. 10.]

Power for principal Court of ordinary criminal jurisdiction to hold investigations into casualties when so directed.

29. Any principal Court of ordinary criminal jurisdiction and the Court of any District Magistrate may, when so directed by the Local Government, make the investigation referred to in section twenty-eight.

[See Act V of 1883, s. 9, and Ben. Act VII of 1879, s. 7.]

Power for Court of Investigation to inquire into charges against masters and engineers.

30. (*1*) Any Court making an investigation under section twenty-eight or section twenty-nine may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master or engineer, as well as into any charge of a wrongful act or default on his part causing any wreck, abandonment, damage, casualty or loss referred to in section twenty-seven.

[Act XIII of 1875, s. 3.]

(*2*) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default as aforesaid, arises against any master or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

[See Act V of 1883, s. 10, & Ben. Act VII of 1879, s. 7.]

Power for Local Government to direct investigation into charges of incompetency or misconduct.

31. (*1*) If the Local Government has reason to believe that there are grounds for charging any master or engineer of an inland steam-vessel with incompetency or misconduct, otherwise than in the course of an investigation under section twenty-eight or section twenty-nine, it may transmit a statement of the case to the principal Court of ordinary criminal jurisdiction, or the Court of the District Magistrate, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge.

[See Act V of 1883, s. 9 (2), & Ben. Act VII of 1879, s. 7.]

(*2*) Before commencing the investigation, the Court shall cause the master or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.

[See Act V of 1883, ss. 11 & 12, & Ben. Act VII of 1879, s. 7.]

Person accused to be heard.

32. For the purpose of an investigation under this chapter into any charge against a master or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence, either in person or otherwise.

[See Act V of 1883, s. 13, & Ben. Act VII of 1879, s. 7.]

Assessors.

33. (*1*) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master or engineer, the Court making the investigation under section twenty-nine or section thirty-one shall constitute as its assessors, for the purposes of the investigation, two persons having experience in the merchant service or in the navigation of inland steam-vessels; and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor, for the purposes of the investigation, any person conversant with maritime affairs or the navigation of inland steam-vessels and willing to act as assessor.

(*2*) Every person appointed under this section shall attend during the investigation and deliver his opinion in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act shall rest with the Court.

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[Cf. Act V of 1883, s. 12 (*a*), & Ben. Act VII of 1879, s. 7.]

Power of Court as to evidence and regulating proceedings.

34. For the purpose of any investigation under this chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

(*a*) if the Court is a special Court—the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;

(*b*) if the Court is a principal Court of ordinary criminal jurisdiction or the Court of the District Magistrate—the same powers as are exercisable respectively by either Court in the exercise of its criminal jurisdiction.

[See Act V of 1883, s. 15. Cf. Ben. Act VII of 1879.]

Power to arrest witnesses and cause entry and detention of vessels.

35. (*1*) If any Court making an investigation under this chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

(*2*) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

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(*3*) No person shall be detained by virtue of this section for more than forty-eight hours.

[See Act V of 1883, s. 15. Cf. Ben. Act VII of 1879, s. 7.]

Power to commit for trial and bind over witnesses.

36. (*1*) Whenever, in the course of any investigation, it appears that any person has committed, within the jurisdiction of any Court in British India, an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court; and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

(*2*) For the purposes of this section the Recorder of Rangoon shall, within the local limits of his ordinary civil jurisdiction, be deemed to be the High Court.

[See Act V of 1883, s. 16(1). Cf. Ben. Act VII of 1879, s. 7.]

Depositions.

37. (*1*) Whenever, in the course of any such trial, the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making an investigation under this chapter shall, if authenticated by the signature of the Magistrate or presiding Judge or Magistrate, be admissible in evidence on proof—

(*a*) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and

(*b*) that it was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(*2*) A certificate by the Magistrate or presiding Judge or Magistrate that the deposition was made in the presence of the accused and that he had that opportunity shall, unless the contrary be proved, be sufficient evidence that it was so made and that he had that opportunity.

[See Act V of 1883, s. 16 (1) Cf. Ben. Act VII of 1879, s. 7.]

Report by Court to Local Government.

38. The Court shall, in the case of every investigation under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

[See Act XVI of 1871, s. 16, Bom. Act IV of 1873, s. 3, Ben. Act I of 1868, s. 6.]

Power to investigate causes of explosions.

39. (*1*) Whenever any explosion occurs on board any inland steam-vessel, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

(*2*) The person or persons so directed may enter into and upon the steam-vessel, with all necessary workmen and labourers, and remove any portion of the steam-vessel, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what in their opinion was the cause of the explosion.

(*3*) Every such person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

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CHAPTER V.

SUSPENSION AND CANCELLATION OF MASTERS' AND ENGINEERS' CERTIFICATES.

[See Ben. Act VII of 1879, s. 8, and Cf. Act V of 1883, s. 20.]

Power for Local Government to suspend or cancel certificates in certain cases.

40. Any certificate granted under this Act to any master or engineer may be suspended or cancelled by the Local Government which granted it, or by any other Local Government, in the following cases, that is to say:—

(*a*) if, on any investigation made under this Act, the Court reports that the wreck or abandonment of, or loss or damage to, any inland steam-vessel, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct; or

(*b*) if he is proved to have been convicted of any non-bailable offence:

Provided that, in any case in which an investigation has been made, into a charge against any master or engineer, a certificate shall not be suspended or cancelled under clause (*a*) of this section unless the Local Government is satisfied that the holder of the

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certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section thirty or section thirty-one, as the case may be.

[See Act V of 1883, s. 21.]

Obligation to deliver up cancelled or suspended certificate.

41. Every master or engineer whose certificate is cancelled or suspended under section forty shall deliver it to such person as the Local Government which cancelled or suspended it directs.

[See Act V of 1883, s. 22.]

Report to other Local Governments.

42. If the Local Government which cancels or suspends, under section forty, a certificate is not the Local Government which granted the certificate, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to the Local Government which granted the certificate.

[See Act V of 1883, s. 24.]

Power to revoke cancellation or suspension and to grant new certificate.

43. (*1*) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section forty, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination.

CHAPTER VI.

PROTECTION OF INLAND STEAM-VESSELS FROM DANGER BY FIRE.

[New.
Cf. Act IV of 1879, s. 8, cl. (*d*).]

Power for Governor General in Council to declare dangerous goods.

44. The Governor General in Council may, by notification, declare what shall be deemed to be, for the purposes of this Act, dangerous goods.

[New.
Cf. Act IV of 1879, s. 26.]

Carriage of dangerous goods.

45. (*1*) A person shall not take with him on board an inland steam-vessel, and a person shall not deliver or tender for carriage on an inland steam-vessel, any dangerous goods without giving notice of their nature to the owner or master of the steam-vessel, or, in the case of goods delivered or tendered for carriage, without distinctly marking their nature on the outside of the package containing the goods.

(*2*) The owner or master of an inland steam-vessel may refuse to carry upon an inland steam-vessel any luggage or parcel which he suspects to contain dangerous goods, and may require the luggage or parcel to be opened to ascertain the fact previously to carrying the same; and, in case any such luggage or parcel is received for the purpose of being carried in any inland steam-vessel, the owner or master of the vessel may stop the transit thereof until he is satisfied as to the nature of its contents.

[36 & 37 Vic., c. 85, s. 26.]

Power to throw overboard dangerous goods.

46. Where any dangerous goods have been sent or brought on board any inland steam-vessel in contravention of section forty-five, the owner or master of the steam-vessel may cause the goods to be thrown overboard, together with any package or receptacle in which they are contained, and neither the owner nor the master shall, in respect of his having so thrown the goods overboard, be subject to any liability, civil or criminal, in any Court.

[New.]

Power for Local Government to make rules for protection of inland steam-vessels from danger by explosion or fire.

47. (*1*) The Local Government may make rules for the protection of inland steam-vessels from danger by explosion or fire.

(*2*) Rules under this section may provide for the following among other matters, that is to say:—

(*a*) the conditions on, and subject to, which dangerous goods shall be carried on board inland steam-vessels;

(*b*) the precautions to be taken to prevent explosions or fires on board inland steam-vessels; and

(*c*) the apparatus for the purpose of extinguishing fires, which is to be kept on board inland steam-vessels.

(*3*) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VII.

PENALTIES AND LEGAL PROCEEDINGS.

[Act XVI of 1871, s. 27. Bom. Act II of 1864, s. 5. Ben. Act V of 1862, s. 5.]

Penalty for steam-vessel making a voyage in contravention of section 5.

48. If any inland steam-vessel makes a voyage in contravention of section five, the owner and master of the steam-vessel, or either of them, shall be punished with fine which may extend to one thousand rupees:

[Act XVI of 1871, s. 12. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12 as amended by Ben. Act I of 1868.]

Provided that, if any steam-vessel is not in any place of survey when her certificate expires, no penalty shall be incurred for the want of a certificate in respect of any voyage which the steam-vessel may make from the place where she is when her certificate expires to the nearest place of survey.

[Act XVI of 1871, s. 28. Bom. Act II of 1864, s. 6. Ben. Act V of 1862, s. 6.]

Liability of master or officer, when a licensed pilot, to lose his license.

49. If the master or any other officer on board of an inland steam-vessel which makes a voyage in contravention of section five is a licensed pilot, he shall be liable to have his license as a pilot taken away from him entirely, or suspended for any period by the Local Government, as the Local Government may see fit to order.

[Act XVI of 1871, s. 30. Bom. Act II of 1864, s. 11. Ben. Act V of 1862, s. 11.]

Penalty for neglect to affix certificate of survey.

50. The owner and master of any inland steam-vessel, or either of them, on which the certificate of survey granted under this Act is not kept affixed, in manner provided by section eleven, shall be punished with fine which may extend to one hundred rupees.

[Act XVI of 1871, s. 31. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12.]

Penalty for neglect or refusal to deliver up certificate as required under section 14.

51. If the owner or master of an inland steam-vessel, without reasonable cause, neglects or refuses to deliver up a certificate as required under section

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fourteen, he shall be punished with fine which may extend to one hundred rupees.

[Cf. 25 & 26 Vic., c. 63, s. 5 (5), & Act I of 1859, s. 13. See also Act XVI of 1871, s. 32. Bom. Act IV of 1873, s. 19. Ben. Act I of 1868, s. 12. Ben Act VII of 1879, s. 4.]

Penalty for serving, or engaging a person to serve, as master or engineer without certificate.

52. (*a*) Whoever, having been engaged to serve as master or first or only engineer of any inland steam-vessel to which section nineteen applies, proceeds on any voyage in that steam-vessel as master or first or only engineer without being at the time entitled to and possessed of the certificate required by that section, and

(*b*) Whoever employs any person as a master or first or only engineer of any inland steam-vessel to which section nineteen applies without ascertaining that he is at the time entitled to, and possessed of, a master's or an engineer's certificate, as the case may be, under this Act,

shall be punished with fine which may extend to five hundred rupees.

[See Act V of 1883, s. 6. Ben. Act VII of 1879, s. 6.]

Master failing to give notice as required by section 27.

53. If any master wilfully fails to give notice, as required by section twenty-seven, of any wreck, abandonment, damage, casualty or loss, he shall be punished with fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

[See Act V of 1883, s. 21.]

Master or engineer failing to deliver up cancelled or suspended certificate.

54. Every master or engineer whose certificate is cancelled or suspended under section forty, and who fails to deliver the certificate to such person as the Local Government which cancelled or suspended it directs, shall be punished with fine which may extend to five hundred rupees.

[Cf. Act IV of 1879, s. 30.]

Penalty for taking dangerous goods on board inland steam-vessels without notice.

55. Whoever, in contravention of section forty-five, takes with him on board any inland steam-vessel any dangerous goods, or delivers or tenders any such goods for the purpose of being carried on any inland steam-vessel, shall be punished with fine which may extend to two hundred rupees.

[Cf. Act I of 1859, s. 79.]

Penalty for misconduct endangering vessel or life or limb.

56. Any person employed or engaged in any capacity on board an inland steam-vessel—

(*a*) who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate wreck, destruction or material damage of the vessel, or tending immediately to endanger the life or limb of any person belonging to or on board the vessel, or

(*b*) who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate wreck, destruction or material damage, or for preserving any person belonging to or on board of the vessel from immediate danger to life or limb,

shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both.

[See Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 13. Ben. Act V of 1862, s. 15.]

Distress of vessel.

57. Where the owner or master of a steam-vessel is convicted of an offence under this Act committed on board of, or in relation to, that steam-vessel, and sentenced to pay a fine, the Magistrate may, in addition to any other power he may have for the purpose of compelling payment of the fine, direct the amount thereof to be levied by distress and sale of the vessel and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

[See Act XVI of 1871, s. 34. Bom. Act II of 1864, s. 14. Ben. Act V of 1862, s. 16.]

Magistrates having jurisdiction.

58. A Magistrate other than a Presidency Magistrate, or a Magistrate whose powers are not less than those of a Magistrate of the first class, shall not try any offence under this Act, or the rules under it.

[See Act XVI of 1871, s. 35. Bom. Act II of 1864, s. 15. Ben. Act V of 1862, s. 17.]

Place of trial.

59. Whoever commits an offence against this Act or the rules under it shall be triable for the offence in any place in which he may be found or which the Local Government may, by notification, direct in this behalf, as well as in any other place in which he might be tried under any other law for the time being in force.

Saving of prosecutions under other Acts.

60. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules under it:

Provided that no person shall be punished twice for the same offence.

CHAPTER VIII.

MISCELLANEOUS.

Fees recoverable as fines.

61. All fees payable under this Act may be recovered as fines under this Act.

[Act XVI of 1871, s. 38. Bom. Act II of 1864, s. 18. Bengal Act of 1862, s. 15.]

Rules.

62. (*1*) All rules made under this Act by the Local Government shall be subject to the previous sanction of the Governor General in Council; and all powers conferred by this Act on the Local Government to make rules may be exercised from time to time as occasion requires.

[Home Department resolution 49, dated November 1882.]

(*2*) Every rule made by a Local Government under this Act shall, before being sanctioned by the Governor General in Council, be published in such manner, and for such time, as the Governor General in Council may from time to time direct, with a notice of the intention of the Local Government to apply for sanction thereto.

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(3) The Local Government shall receive and submit for the consideration of the Governor General in Council any objection or suggestion which may be made by any person with respect to any rule published in pursuance of sub-section two, and the Governor General in Council or the Local Government may, if he or it thinks fit, amend the rule with a view to meeting the objection or suggestion without again publishing the rule:

Provided that a failure of the Local Government to submit for the consideration of the Governor General in Council any objection or suggestion made with respect to any rule published in pursuance of sub-section two shall not be deemed to invalidate any rule sanctioned by him under this Act.

(4) A rule sanctioned under this Act by the Governor General in Council shall not take effect until it has been published in the local official Gazette.

(5) Subject to the provisions of section two, sub-section two, every rule when so sanctioned and published shall have the force of law.

63. (1) Except in the case of the notification under section two, sub-section one, all powers to issue notifications conferred by this Act on the Governor General in Council or the Local Government may be exercised from time to time as occasion requires.

Notifications.

(2) A notification issued by the Governor General in Council or the Local Government under this Act shall not take effect until it has been published in the *Gazette of India* or the local official Gazette, as the case may be.

(3) Subject to the provisions of section two, sub-section two, every notification shall, when published in the *Gazette of India* or the local official Gazette, as the case may be, have the force of law.

THE FIRST SCHEDULE.

ACTS REPEALED.

(See Section 3.)

(a) Act of the Governor General in Council.

Number and year.	Subject or short title.	Extent of repeal.
XVI of 1871	The Burmese Steamer Survey Act.	The whole.

(b) Acts of the Governor of Bombay in Council.

Number and year.	Subject or short title.	Extent of repeal.
II of 1864 ...	To provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the presidency of Bombay.	The whole.
IV of 1873...	To amend Bombay Act II of 1864, providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam-vessels.	The whole.

(c) Acts of the Lieutenant-Governor of Bengal in Council.

Number and year.	Subject or short title.	Extent of repeal.
V of 1862 ...	To provide for the periodical survey of steam-vessels in the port of Calcutta.	The whole.
I of 1868 ...	The Steam-boat Survey Amendment Act, 1868.	So much as has not been repealed.
III of 1871...	To increase the fees for the survey of steam-vessels.	The whole.
VII of 1879	To provide for the proper management of certain inland steam-vessels.	The whole.

THE SECOND SCHEDULE.

(See Section 9.)

FORM OF SURVEYORS' CERTIFICATE.

Name of steam-vessel.	
Tonnage.	
When and where built, and material.	
Power.	
Description of engines and ages.	
Description of boilers and ages.	
Ground-tackle.	
Condition of hull.	
General equipment.	
Name of master and number of officers and deck-crew and of engineers and engine-room crew.	
When and where last coppered, repaired or cleaned.	
Time if less than a year for which the hull, boilers, engines or any of the equipments will be sufficient.	

We, the undersigned, declare that we have examined the above-named inland steam-vessel, and, to the best of our judgment, she and her engines, as shewn in the above statement, are fully sufficient for service for the period stated above.

A. B.
C. D.

THE THIRD SCHEDULE.

(See Section 10.)

RATES OF FEES.

		Tons.	Rs.
For steam-vessels of less than	. .	200	20
„ „	200 tons and up to .	350	25
„ „	350 „ „ „ .	700	30
„ „	700 „ „ „ .	1,000	40
„ „	1,000 „ „ „ .	1,500	50
„ „	1,500 „ and upwards	...	60

STATEMENT OF OBJECTS AND REASONS.

IT has been found expedient to legislate in order to bring the law regarding the survey of sea-going steam-vessels into conformity with the law of England and to have one law on that subject applicable to the whole of British India. The present law regulating the survey of these vessels is contained in various local Acts, which also contain provisions relating to inland steam-vessels; and it was thought that it would be better to repeal the whole of these Acts and separately enact the parts relating to sea-going and inland steam-vessels than to repeal only so much as was necessary and leave the Acts in a mutilated and probably obscure form. Moreover, it was thought desirable that there should be one law regarding inland steamers relating to the whole of India. The present law is insufficient. Madras is unprovided for, and there is no law to govern steamers plying in the province of Assam. The present Bill has accordingly been prepared. It is drawn so that it may be brought into force along with the Indian Steamships Bill, and it repeals the seven local Acts, relating to steamships, which are now in force.

2. The Bill is divided into eight chapters. It deals with the survey of inland steam-vessels, the examination and grant of certificates to masters and engineers of those vessels, the investigation into casualties occurring to them, the suspension and cancellation of masters' and engineers' certificates, and the protection of the vessels from fire, and also prescribes the penalties for offences against the provisions of the Act, the jurisdiction of Magistrates and the place of trial.

3. In its main provisions the Bill follows the existing law so far as it goes. The points in which the law is changed and which require notice are as follows. The term for which the certificate of survey is to last is, by section 12 of the Bill, extended to one year, instead of six months as at present; but section 13 enables the Local Government, under certain circumstances, to cancel or suspend a certificate of survey. The power conferred by section 17 of the Bill of making rules to regulate a survey is somewhat larger than that given by the present law. The duties of each of the two surveyors are different, and the Bill therefore enables the Local Government to assign and regulate the duties of each. To meet local requirements, power is given in section 18 of the Bill to Local Governments to exempt any specified class of inland steam-vessels from all or any of the provisions relating to survey. In section 22 the Bill provides for the grant, without examination, of a certificate as engineer to a person who possesses a certificate granted under the Imperial Merchant Shipping Act or a certificate which is by the Merchant Shipping (Colonial) Act, 1869, equivalent thereto. It further provides in section 23 for the grant of certificates of service to engineers who have served for a certain time in certain steamships, or who have obtained the rank of first class assistant engineer in the service of Her Majesty. The provisions of Chapters IV and V of the Bill, regarding investigations into casualties and the cancelling and suspending of the certificates of masters and engineers, are taken, with slight modifications, from the Merchant Shipping Act, 1883, which was recently passed.

4. The whole of Chapter VI is new. At present, there is no way of securing that due precautions are taken against fire and against the carriage of dangerous goods on passenger steamers. Chapter VI follows to a certain extent the provisions of the Indian Railway Act, 1879. It confers on the Governor General in Council power to declare what shall be deemed to be, for the purposes of the Act, dangerous goods, and prohibits persons from taking those goods on board except under certain conditions. Following section 23 of the Imperial Merchant Shipping Act, 1873, it empowers (section 46) the master or owner of a vessel to throw overboard dangerous goods which have been brought on board without notice or without being marked as required by the Act. It also (section 47) enables the Local Government to make rules for the protection of inland steam-vessels from danger by explosion or fire.

5. In Chapter VII a section (56) has been inserted, providing a penalty for misconduct on the part of persons employed on board inland steam-vessels. This section is taken from the Indian Merchant Shipping Act, 1859, section 79, the penalty being modified so as to permit of an offence being punished by fine only.

6. Lastly, with regard to the rules which may be made under the Act, the Bill, section 62, secures that they shall be duly published for general information and criticism before they are sanctioned by the Governor General in Council.

7. A statement is annexed showing how the provisions of the Acts which are repealed by the Bill are dealt with in this Bill and the Indian Steamships Bill.

The 5th March, 1883.

C. P. ILBERT.

Repeal Table showing how the Acts repealed by the Inland Steam-vessels Bill are dealt with.

ACT XVI OF 1871 (the Burmese Steamer Survey Act).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Short title	This is formal	Ditto.
	Local extent	Ditto	Ditto.
2	Interpretation-clause	This is not reproduced, the definition of "Chief Commissioner" being deemed unnecessary, and the object of the definition of "Surveyors" being sufficiently provided for by section 18.	Ditto, see sec. 22.
3	Certain steam-vessels liable to be surveyed twice a year.	This is not reproduced, the scheme of the Bill being different from that of the Act. Cf. section 5.	Ditto, cf. s. 3.
4	Government to appoint Surveyors	This is reproduced, section 6	Ditto, sec. 9.
5	Authority to Surveyors to go on board for purpose of surveying.	This is reproduced, section 7	Ditto, sec. 10.
6	Surveyor when to grant certificate and declaration.	This is reproduced with modifications, sections 8 and 9.	Ditto, secs. 11 and 12.
7	No clearance to be given to steamer for voyage for which she has not got certificate.	This is not reproduced, being inapplicable in the case of inland steam-vessels.	This is reproduced, sec. 7.
8	Special survey may be ordered by Government for any British steamer.	This is not reproduced, being unnecessary as the Bill is drawn.	Ditto.
9	Power to make rules as to mode and time of conducting survey.	This is reproduced with modifications, section 17.	Ditto, sec. 21.
		This is reproduced, section 10	Ditto, sec. 13.
10	Fees to be paid for survey	This is reproduced, section 11	Ditto, sec. 14 (1).
11	Certificate to be hung up in vessel		
12	Certificate to be in force only six months.	This is reproduced with *twelve* months substituted for *six* months, section 12 (*a*)	Ditto, sec. 15 (*a*).
	Provision for vessels absent when certificate expires.	This is reproduced with modifications, section 48.	This is reproduced, sec. 5.
	Power to require delivery of expired certificate.	This is reproduced, section 14	Ditto, sec. 17 (1).
13	Power to cancel certificate and declaration.	The first paragraph and clauses (1), (2) and (3) are reproduced, section 13. The residue is omitted as unnecessary.	Ditto, sec. 16. Ditto.
14	Power to order a second survey	This is reproduced with modifications, section 16.	Ditto, sec. 19.
15	Power to investigate causes of explosions.	This is reproduced, section 39	Ditto, sec. 31.
16	Examinations to be instituted for Engineers.	This is not reproduced, being deemed unnecessary.	Ditto.
17	Examiners and rules of examination.	This is reproduced, section 20	Ditto with modifications, sec. 24.

ACT XVI OF 1871—continued.

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
18	Certificate of competency to be given	This is reproduced with slight modifications, section 22.	Ditto, sec. 25.
19	Certificate of service to be given	This is reproduced with modifications, section 23.	Ditto, sec. 26.
20	No certificate of survey if vessel have not a certificated engineer.	This is not reproduced, being deemed unnecessary as the Bill is drawn.	Ditto, see sec. 29.
21	Power to exempt private steam-vessels	This is reproduced, section 19(2).	This is not reproduced, being deemed unnecessary as section 29 is drawn.
22	Withdrawal of certificate	This is not reproduced, as the subject is provided for in Chapter IV of the Bill.	Ditto, see Chap. III of the Indian Merchant Shipping Act, 1883.
23	English certificate to be available	This is not reproduced, but see section 22(*b*)	This is not reproduced, but see sec. 29.
24	Certificate to be made in duplicate	Paragraph one is reproduced, section 24. The second paragraph is omitted, as it can be provided for by executive orders.	Ditto, sec. 27.
25	Copy of certificate to be delivered	This is reproduced, section 25.	Ditto, sec. 28.
26	Hindering survey or withholding required information.	This is not reproduced, being deemed unnecessary, see section 6(3) of Bill, and Penal Code, sections 176, 186 and 187.	Ditto, see sec. 9 (3).
27	Leaving without certificate and declaration.	This is reproduced with certain modifications, section 48.	Ditto, sec. 5.
28	Master or officer who is a licensed pilot attempting to take ship out of port without certificate.	This is reproduced with certain modifications, section 49.	Ditto, sec. 6.
29	Receiving unlawful fees for making survey.	This is not reproduced, see section 6(3) of Bill, and Penal Code, sections 161, *et seq.*	Ditto, see sec. 9 (3).
30	Neglect to hang up certificate and declaration.	This is reproduced, section 50.	Ditto, sec. 14 (2).
31	Refusal to comply with requirements of section 12.	This is reproduced, section 51.	Ditto, sec. 17 (2).
32	Plying without certificated engineer	This is reproduced with modifications, section 52.	Ditto, sec. 30.
33	Offences under this Act by whom to be tried	The first paragraph is reproduced with modifications, sections 58, 59. The second paragraph is reproduced, sections 57 and	Ditto, ss. 32, 33. As to fees see sec. 34.

BOMBAY ACT II OF 1864 (to provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the Presidency of Bombay).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Certain steam-vessels liable to be surveyed twice a year.	This, which has been amended by section 4 of Bombay Act IV of 1873, is not reproduced, the scheme of the Bill being different from that of the Act. Cf. section 5.	Ditto, Cf. secs. 3 and 4.
2	Government to appoint one or more surveyors.	This is reproduced, section 6 . . .	Ditto, sec. 9.
3	Authority to surveyors to board steamers for purpose of surveying.	This is reproduced, section 7 . . .	Ditto, sec. 10.
	Penalty for hindering them in making survey or withholding information.	This is not reproduced (see section 26 of Act XVI of 1871 *supra*).	Ditto.
4	Grant by surveyors of certificate and declaration.	This is reproduced with modifications, sections 8 and 9.	Ditto, secs. 11 and 12.
5	No clearance to steamer for voyage for which she has no certificate.	This is not reproduced (see section 7 of Act XVI of 1871 *supra*).	This is reproduced, sec. 7.
	Penalty for leaving port without a certificate.	This is reproduced with certain modifications, section 48.	Ditto, sec. 5.
6	Master or officer being licensed pilot attempting to take ship out of port without certificate liable to lose license.	This is reproduced with certain modifications, section 49.	Ditto, sec. 6.
7	Power to order special survey of British steamers in harbour of Bombay.	This is not reproduced, being unnecessary as Bill is drawn.	Ditto.
8	Power to make rules as to mode and time of conducting survey.	This is reproduced with modifications, section 17.	Ditto, sec. 21.
9	Penalty for surveyor receiving fees, &c., not provided by Act.	This is not reproduced (see section 29 of Act XVI of 1871 *supra*).	Ditto.
10	Fee for survey.	This (as amended by Bombay Act IV of 1873, section 11) is reproduced, section 10.	Ditto, sec. 13.
11	Certificate to be hung up in conspicuous part of vessel.	This is reproduced, section 11 . . .	Ditto, sec. 14 (1).
	Penalty for non-compliance . .	This is reproduced, section 50 . . .	Ditto, sec. 14 (2).
12	Duration of certificate . . .	This is produced with *twelve* months substituted for *six* months, section 12 (*a*).	Ditto, sec. 15 (*a*).
	Proviso as to absence when certificate expires.	This is reproduced with modifications, section 48.	This is reproduced, sec. b.
	Power to require surrender of expired certificate.	This is reproduced, section 14 . .	Ditto, sec. 17 (1).
	Penalty for non-compliance . .	This is reproduced, section 51 . . .	Ditto, sec. 17 (2).
13	Power to revoke and cancel certificate and declaration.	The first paragraph and clauses (1), (2) and (3) are reproduced, section 13.	Ditto, sec. 16.
	Power to require survey . . .	This is omitted, being deemed unnecessary.	Ditto.
14	If correctness of survey doubted, Government may order second survey by other surveyors.	This is reproduced with modifications, section 16.	Ditto, sec. 19.

BOMBAY ACT II OF 1864—continued.

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
15	Sections of Merchant Shipping Act applied to steam-vessels proceeding to sea from ports in Bombay.	This is not reproduced, being inapplicable to inland steam-vessels.	This is reproduced, sec. 35.
16	Offences by whom tried . . .	This is reproduced with modifications, sections 58 and 59.	Ditto, secs. 32 and 33.
	Penalties and fees how recovered .	This is reproduced, sections 57 and 61.	As to fees see section 34.
17	Interpretation-clause . . .	As to definition of "surveyors" see section 2 of Act XVI of 1871, *supra*. The definition of "survey" is not reproduced, being deemed unnecessary.	Ditto.

BOMBAY ACT IV OF 1873 (to amend Bombay Act No. II of 1864, providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam-vessels).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Construction of Act . . .	This is not reproduced, being unnecessary.	Ditto.
2	Commencement of Act . . .	This is formal	Ditto.
	Exemption from Part III . .	This is not reproduced, but see section 22 (*b*).	This is not reproduced, but see sec. 29.
3	Short title	This is formal.	Ditto.
4	Certain steam-vessels liable to be surveyed twice a year.	This is not reproduced (see section 1 of Bombay Act II of 1864, *supra*.)	Ditto.
5	Duty of surveyor on boarding steam-vessels.	This is not reproduced, being deemed unnecessary as the Bill is drawn.	Ditto.
6	Certificate to be delivered by surveyor.	This is not reproduced for same reason.	Ditto.
7	Penalty for receiving passengers on vessel not intended to carry them.	This is not reproduced for same reason.	Ditto.
8	Power to investigate cause of explosion or direct special survey.	This, so far as it relates to investigations into explosions, is reproduced, section 39.	Ditto, sec. 31.
		The rest is not reproduced, as it applies only to sea-going vessels, and is sufficiently provided for by the Indian Merchant Shipping Act, 1880.	The rest is not reproduced, being sufficiently provided for by the Indian Merchant Shipping Act, 1880.
9	Order on receipt of report of investigation or survey.	This is not reproduced for same reason.	Ditto.
10	Expenses of investigation or survey by whom to be paid.	This is not reproduced for same reason.	Ditto.
11	Section substituted for section 10, Bombay Act II of 1864.	This is reproduced (see section 10 of Bombay Act II of 1864, *supra*).	Ditto.
12	Power to appoint ports of survey .	This is reproduced, section 6.	Ditto, sec. 9.

BOMBAY ACT IV OF 1873—*continued.*

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
13	Power to impose additional fees .	This is reproduced, section 10 (*b*).	Ditto, sec. 13 (*b*).
14	Examinations to be instituted for engineers.	This is not reproduced, being deemed unnecessary.	Ditto.
15	Examiners and rules of examination to be provided.	This is reproduced, section 20 . . .	Ditto with modifications, section 24.
16	Certificates of competency to be given.	This is reproduced with slight modifications, section 22.	Ditto, sec. 25.
17	Certificates of service to be given .	This is reproduced with modifications, section 23.	Ditto, sec. 26.
18	No clearance if vessel has not certificated engineer.	This is not reproduced, being inapplicable in the case of inland steam-vessels.	This is not reproduced, being deemed unnecessary as the Bill is drawn.
19	Penalty for plying without certificated engineer.	This is reproduced with modifications, section 52.	Ditto, sec. 30.
20	Power to exempt steam-vessels .	This is reproduced, section 19 (2) . .	This is not reproduced, being deemed unnecessary as section 29 is drawn.
21	Withdrawal of certificate . .	This is not reproduced (see section 22 of Act XVI of 1871, *supra*).	Ditto.
22	Certificate to be made in duplicate .	Paragraph one is reproduced, section 24 . The second paragraph is omitted, as it can be provided for by executive orders.	Ditto, sec. 27.
23	Copy of certificate to be delivered .	This is reproduced, section 25 . . .	Ditto, sec. 28.

BENGAL ACT V OF 1862 (to provide for the periodical survey of steam-vessels in the port of Calcutta).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Steam-vessels liable to be surveyed .	This is not reproduced, the scheme of the Bill being different from that of the Act. Cf. section 5.	Ditto. Cf. sec. 3.
2	Government to appoint surveyors .	This is reproduced, section 6 . . .	Ditto, sec. 9.
3	Authority to surveyors to board steamers for purpose of surveying.	This is reproduced, section 7	Ditto, sec. 10.
	Penalty for hindering surveyor or withholding information.	This is not reproduced (see section 26 of Act XVI of 1871, *supra*).	Ditto.
4	Grant of certificate and declaration .	This is reproduced with modifications, sections 8 a d 9.	Ditto, secs. 11 and 12.

BENGAL ACT V OF 1862—*continued.*

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
5	No clearance to steamer for voyage for which she has not got surveyor's certificate.	The first portion of this section is not reproduced, being inapplicable in the case of inland steam-vessels. The second portion is reproduced with certain modifications, section 48.	This is reproduced, ss. 7 and 5.
6	Master or officer who is licensed pilot attempting to take ship out without certificate liable to lose license.	This is reproduced with certain modifications, section 49.	Ditto, sec. 6.
7	Power to order special survey of British steamer in survey port.	This is not reproduced, being unnecessary as the Bill is drawn.	Ditto.
8	Government may make rules as to mode and time of conducting survey.	This is reproduced with modifications, section 17.	Ditto, sec. 21.
9	Penalty for surveyors receiving unauthorised fee.	This is not reproduced (see section 29 of Act XVI of 1871, *supra*).	Ditto.
10	Fee for survey	This, as amended by Bengal Act III of 1871, is reproduced, section 10.	Ditto, sec. 13.
11	Certificates to be hung up in conspicuous part of vessel.	This is reproduced, section 11.	Ditto, sec. 14(1).
	Penalty for non-compliance . .	This is reproduced, section 50.	Ditto, sec. 14(2).
12	Duration of certificate . . .	This is reproduced with *twelve* months substituted for *six* months, section 12 (*a*).	Ditto, sec. 15 (*a*).
	Proviso as to vessel absent when certificate expires.	This, as amended by Bengal Act I of 1868, is reproduced with modifications, section 48.	This is reproduced, sec. 5.
	Returning of expired or revoked certificate.	This is reproduced, section 14.	Ditto, sec. 17(1).
	Penalty for non-compliance . .	This is reproduced, section 51.	Ditto, sec. 17(2).
13	Power to cancel certificate and declaration.	The first paragraph and clauses (1), (2) and (3) are reproduced, section 13; the rest is omitted, being deemed unnecessary.	Ditto, sec. 16, ditto.
14	When Government may order second survey by other surveyors.	This is reproduced with modifications, section 16.	Ditto, sec. 19.
15	Offences under Act by whom tried .	The first part is reproduced with modifications, sections 58 and 59. The second part, relating to distress of ships and recovery of fees, is reproduced, sections 57 and 61.	Ditto as to first part, ss. 32 and 33. As to fees, see sec. 34.
16	Surveyor includes surveyor acting alone.	This is not reproduced (see section 2 of Act XVI of 1871, *supra*).	Ditto.

BENGAL ACT I OF 1868 (to make further provision for the survey of steam vessels plying within the provinces subject to the Lieutenant-Governor of Bengal).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Steam-vessels liable to survey . .	This is not reproduced (see section 1 of Bengal Act V of 1862, *supra*).	Ditto.
2	Power to appoint ports of survey .	This is reproduced, section 6.	Ditto, sec. 9
3	Addition to sections 3, 5, 6 and 7 of Bengal Act V of 1862.	This is not reproduced, being unnecessary in Bill as drawn.	Ditto.

BENGAL ACT I OF 1868—*continued.*

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
4	Amendment of section 2 of Act V of 1862.	This is reproduced (see section 12 of Bengal Act V of 1862, *supra*.)	Ditto.
5	Power to impose additional fees .	This is reproduced, section 10 (*b*).	Ditto, sec. 13 (*b*).
6	Power to investigate causes of explosion.	This is reproduced, section 39.	Ditto, sec. 31.
7	Examination of engineers . .	This is not reproduced (see section 16 of Act XVI of 1871, *supra*)	Ditto.
8	Examiners and rules of examination to be provided.	This is reproduced, section 20.	Ditto with modifications, sec. 24.
9	Certificate of competency to be given	This is reproduced with slight modifications, section 22.	Ditto, sec. 25.
10	Certificate of service to be given .	This is reproduced with modifications, section 23.	Ditto, sec. 26.
11	No certificate of survey if vessel has no certificated engineer.	This is not reproduced, being deemed unnecessary as the Bill is drawn.	Ditto.
12	Penalty for plying without certificated engineer.	This is reproduced with modifications, section 52.	Ditto, sec. 30.
13	Power to exempt private steam-vessels	This is reproduced, section 19 (2) . .	This is not reproduced, being deemed unnecessary as section 29 is drawn.
14	Withdrawal of certificate . .	This is not reproduced (see section 22 of Act XVI of 1871, *supra*.)	Ditto.
15	English certificates to be available .	This is not reproduced, but see section 22 (*b*)	This is not reproduced, but see section 29.
16	Certificates to be made in duplicate .	Paragraph 1 is reproduced, section 24. The second paragraph 2 is omitted, as it can be provided for by executive orders.	Ditto, sec. 27.
17	Copy of certificate to be delivered .	This is reproduced, section 25.	Ditto, sec. 28.
18	Short title	This is formal.	Ditto.
19	Commencement. Repealed by Act XII of 1873.		
20	Construction	This is not reproduced, being unnecessary.	Ditto.

BENGAL ACT III OF 1871 (to increase the fees for the survey of steam-vessels).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Increase of fees	This is reproduced (see section 10 of Bengal Act V of 1862, *supra*.)	Ditto.
2	Construction	This is not reproduced, being unnecessary.	

BENGAL ACT VII OF 1879 (to provide for the proper management of certain inland steam-vessels).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Definition of inland steam-vessels .	This is reproduced with a modification, section 4 (4)	None of the provisions of this Act are reproduced in the Bill, as they are already provided for fully in the Indian Merchant Shipping Act, No. I of 1859, and the Indian Merchant Shipping Act, 1883.
2	Local Government may make rules .	This is reproduced with modifications, section 20.	
3	Commanders to have certificates .	This is not reproduced, but cf. section 19 (1).	
4	Penalty on owner if vessel is commanded by uncertificated commander	This is reproduced with modifications, section 52.	
5	Commanders deemed pilots under Indian Ports Act.	This is reproduced, section 26.	
6	Notice of accidents to be given to Local Government.	This is reproduced with modifications, sections 27 and 53.	
7	Investigation of accident . .	The subject-matter of this section is provided for at length in Chapter IV of the Bill.	
8	Local Government may suspend or cancel certificate.	The subject-matter of this section is reproduced at greater length in sections 40 *et seq.*	
9	Proceedings to enforce penalty when to be taken.	This is not reproduced, being no longer necessary.	
10	Commencement	This is not reproduced, being unnecessary.	

R. J. CROSTHWAITE,
Addl. Secretary to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th March, 1883, and was referred to a Select Committee :—

No. 7 OF 1883.

THE INDIAN STEAMSHIPS BILL, 1883.

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Indian Steamships Bill.

Chapter II.—Survey of Steamships.

A Bill to amend the law relating to the Survey of Steamships and the Grant of Certificates to Engineers of those Ships.

WHEREAS it is expedient to amend the law relating to the survey of steamships and the grant of certificates to engineers of those ships; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Indian Steamships Act, 1883; Short title.

(*2*) It extends to the whole of British India; Extent.

(*3*) And it shall come into force on such day as the Governor General in Council by notification in the official Gazette directs. Commencement.

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

(*1*) "steamship" means every description of vessel used in navigation and propelled wholly or in part by the agency of steam: and

(*2*) "passenger" includes any person carried in a steamship other than the master and crew and the owner, his family and servants.

CHAPTER II.

SURVEY OF STEAMSHIPS.

[17 & 18 Vic., c. 104, ss. 313; 39 & 40 Vic., c. 80, s. 16, also Act XI of 1871, Bombay Act IV of 1873, Bengal Act V of 1862, as amended by Bengal Act I of 1868, s. 1.]

3. A steamship shall not carry more than twelve passengers between places in British India, and Steamship not to carry passengers unless furnished with certificate under Act.

a British steamship shall not carry more than twelve passengers to or from any place in British India from or to any place out of British India,

unless she is furnished with a certificate of survey under this chapter then in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

[Cf. Bom. Act II of 1864, s. 4, paragraph 2.]

4. Nothing in section three shall apply to— Exception of certain steamships from provisions of section 3.

(*a*) any steamship furnished with a certificate of survey, granted by the Board of Trade or any British Colonial Government, which is then in force and applicable to the voyage on which that steamship has proceeded or is about to proceed, or the service on which she has been or is about to be employed, unless there is reason to believe that the steamship has, subsequently to the grant of the certificate, sustained injury or damage, or been found unseaworthy or otherwise inefficient; or

(*b*) any inland steam-vessel as defined in the Inland Steam-vessels Act, 1883; or

(*c*) any steamship belonging to, or in the service of, Her Majesty or the Government of India, or belonging to any foreign Prince or State.

5. If any steamship carries or attempts to carry passengers in contravention of section three, the owner and master of the steamship, or either of them, shall be punished with fine which may extend to one thousand rupees: Penalty for carrying passengers in contravention of section 3. [Act XVI of 1871, s. 27. Bom. Act II of 1864, s. 5. Ben. Act V of 1862, s. 5.]

Provided that, if any steamship is not in any port of survey when her certificate expires, no penalty shall be incurred for the want of a certificate until she first begins to carry passengers after her next subsequent arrival at some port of survey. [Act XVI of 1871, s. 12. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12.]

6. If the master or any other officer of any steamship which carries or attempts to carry passengers in contravention of section three, is a licensed pilot, he shall be liable to have his license as a pilot cancelled or suspended for any period by the Local Government, as the Local Government may see fit to order. If master or officer of ship carrying passengers in contravention of section 3 is a licensed pilot, he is liable to loss his license. [Act XVI of 1871, s. 28. Bom. Act II of 1864, s. 6. Ben. Act V of 1862, s. 6.]

7. No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned to any steamship for which a certificate of survey is required by section three, until after the production by the owner or master thereof of a certificate under this Act then in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed. Port-clearance not to be granted until certificate of survey produced. [Act XVI of 1871, s. 7. Bom. Act II of 1864, s. 5. Ben. Act V of 1862, s. 5. 17 & 18 Vic., c. 104, s. 318.]

8. If any steamship for which a certificate of survey is required by section three leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the ship may detain her until she is duly furnished with the certificate. Power to detain ship not furnished with certificate.

9. (*1*) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such ports within the territories under its administration as it may, from time to time, appoint to be ports of survey. Appointment of surveyors and ports of survey. [Act XVI of 1871, s. 4. Bom. Act II of 1864 s. 2. Bom. Act IV of 1873, s. 12. Ben. Act V of 1862, s. 2. 17 & 18 Vic., c. 104, s. 305.]

(*2*) Every surveyor so appointed may be suspended or removed by the Local Government which appointed him.

(*3*) Every surveyor so appointed shall, for the purposes of the survey, be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

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Chapter II.—Survey of Steamships.

[Act XVI of 1871, s. 5. Bom. Act II of 1864, s. 3. Ben. Act V of 1862, s. 3. 17 & 18 Vic., c. 104, s. 306.]

10. (*1*) For the purposes of a survey under this Act, the surveyors appointed under section nine may, at any reasonable time, go on board any steamship, and may inspect the steamship and every part thereof, and the machinery, equipments or articles on board thereof: Powers of surveyors.

Provided that they shall not unnecessarily hinder the loading or unloading of the steamship, or unnecessarily detain or delay her from proceeding on any voyage.

(*2*) The owner, master and officers of the steamship shall afford to the surveyors all reasonable facilities for a survey, and all such information respecting the steamship and her machinery and equipments, or any part thereof, respectively, as they may reasonably require.

[Act XVI of 1871, s. 6. Bom. Act II of 1864, s. 4. Ben. Act V of 1862, s. 4. 17 & 18 Vic., c. 104, ss. 309-13.]

11. Every survey under this Act shall be made by not less than two surveyors, and when the survey is completed, the surveyors making it shall forthwith, if each of them is satisfied that the steamship is sufficient, so far as it is his duty to survey her, for the service on which it is intended to employ it, grant to the owner or master of the steamship surveyed, on payment by him of the fees hereinafter mentioned, a certificate of survey under this Act. Grant of certificate by surveyors.

[Act XVI of 1871, s. 6. Bom. Act II of 1864, s. 4. Ben. Act V of 1862, s. 4.]

12. Every certificate of survey granted under this Act shall be signed by each of the surveyors granting it, and shall contain a statement of the particulars specified, and be framed, as nearly as the circumstances of each case will admit, in the form set forth in the first schedule hereto annexed, or shall contain a statement of such other particulars, or be framed in such other form, as the Local Government may, from time to time, by rule, prescribe. Form of certificate of survey.

[Act XVI of 1871, s. 10. Bom. Act II of 1864, s. 10, as amended by Bom. Act IV of 1873, s. 11. Ben. Act V of 1862, s. 10, as amended by Ben. Act III of 1871, s. 1. 17 & 18 Vic., c. 104, s. 314. [Cf. Bom. Act IV of 1873, s. 13, & Ben. Act I of 1868, s. 5.]]

13. For every survey made under this Act the owner or master of the steamship surveyed shall pay to each of the surveyors making the survey— Fees for survey.

(*a*) a fee calculated on the tonnage of the ship according to the rates in the second schedule hereto annexed, or according to such other rates as the Local Government may from time to time by notification prescribe, and

(*b*) when the survey is made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense, if any, of the journey of the surveyors to the port, as the Local Government may, from time to time, by notification in the official Gazette, prescribe.

[Act XVI of 1871, s. 11. Bom. Act II of 1864, s. 11.]

14. (*1*) The owner or master of every steamship for which a certificate of survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause it to be affixed, and kept affixed so long as it remains in force and the ship is in use, on some conspicuous part of the ship where it may be easily read by all persons on board thereof. Certificate to be affixed in conspicuous part of ship. [Bom. Act V of 1862, s. 11. 17 & 18 Vic., c. 104, s. 317.]

(*2*) The owner and master of every steamship (or either of them), on which the certificate of survey granted under this Act is not kept affixed in manner provided by this section shall be punished with fine which may extend to one hundred rupees. [Act XVI of 1871, s. 30. Bom. Act II of 1864, s. 11. Ben. Act V of 1862, s. 11.]

15. A certificate granted under this Act shall not be in force— Term of certificates. [Act XVI of 1871, s. 12. Bom. Act II of 1862, s. 12. Ben. Act V of 1862, s. 12. 17 & 18 Vic., c. 104, s. 315.]

(*a*) after the expiration of twelve months from the date thereof; or

(*b*) after the expiration of the period, if less than a year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or

(*c*) after notice has been given by the Local Government to the owner, agent or master of the steamship to which the certificate relates, that the Local Government has cancelled or suspended it.

16. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe— Cancellation or suspension of certificate by Local Government. [Bom. Act II of 1864, s. 13. Ben. Act V of 1862, s. 13. Act XVI of 1871, s. 13. 17 & 18 Vic., c. 104, s. 316.]

(*a*) that the declaration in the certificate of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steamship has been fraudulently or erroneously made; or

(*b*) that the certificate has otherwise been issued upon false or erroneous information; or

(*c*) that, since the granting of the certificate, the hull, boilers, engines or any of the equipments of the steamship have sustained any injury, or have otherwise become insufficient.

17. (*1*) The Local Government may require any certificate of survey which has expired, or has been cancelled or suspended, to be delivered up to such person as it directs. Power to require delivery of expired or cancelled certificate. [Act XVI of 1871, s. 31. Bom. Act II of 1864, s. 14. Ben. Act V of 1862, s. 13.]

(*2*) If the owner or master, without reasonable cause, neglects or refuses to deliver up a certificate as required under this section, he shall be punished with fine which may extend to one hundred rupees. [Act XVI of 1871, s. 31. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12.]

18. If the Local Government which cancels or suspends under section sixteen a certificate is not the Local Government of the place where the certificate was granted, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government of the place where the certificate was granted. Report to be made of cancellation or suspension of certain certificates.

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Chapter II.—Survey of Steamships. Chapter III.—Examination and Certificates of Engineers.

[Act XVI of 1871, s. 14. Bom. Act II of 1864, s. 14. Ben. Act V of 1862, s. 14. Cf. the appeal given by 39 & 40 Vic., c. 80, s. 14.]

19. (*1*) If the surveyors making a survey under this Act refuse to give a certificate, or give a certificate with which the owner or master of the steamship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under section nine to survey the steamship.

Power to order a second survey.

(*2*) The surveyors so directed shall forthwith survey the steamship, and may, after the survey, either refuse to give a certificate or give such certificate as under the circumstances seems to them proper, and their decision shall be final.

(*3*) Every survey made under this section shall be made subject to all the provisions and rules both as to the payment of fees and otherwise which are applicable to surveys made in ordinary cases under this Act.

[See 39 & 40 Vic., c. 80, s. 19.]

20. When a foreign steamship requires to be furnished with a certificate of survey under this Act, and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port of survey, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Act:

Survey of foreign steamships.

Provided that this section shall not apply in the case of an official survey at any foreign port with respect to which Her Majesty has by order in Council directed that section 19 of the Imperial Merchant Shipping Act, 1876, shall not apply.

[See 39 & 40 Vic., c. 80, s. 19.]

[Cf. Act XVI of 1871, s. 9. Bom. Act II of 1864, s. 8. Ben. Act V of 1862, s. 8. 17 & 18 Vic., c. 104, ss. 306 & 318.]

21. (*1*) The Local Government may, from time to time, make rules to regulate the making of surveys under this Act.

Local Government to make rules as to survey.

(*2*) Rules under this section may, among other matters,

(*a*) declare the times and places at which, and the manner in which, surveys are to be made;

(*b*) assign and regulate the duties of each of the surveyors making a survey; and

(*c*) declare the form in which certificates of survey granted under this Act are to be framed, and the nature of the particulars which are to be stated therein.

[New. But cf. definition of "Surveyors" in Act XVI of 1871, s. 2. Bom. Act II of 1864, s. 17. Ben. Act V of 1862, s. 16.]

22. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification, declare that all or any of the provisions of this chapter shall not apply in the case of any specified class of steamships, or shall apply to them with such modifications as the Local Government may prescribe.

Power for Local Government to exempt certain steamships.

CHAPTER III.

EXAMINATION AND CERTIFICATES OF ENGINEERS.

[Cf. 25 & 26 Vic., c. 63, s. 5 (1)]

23. Engineers' certificates shall be of two grades, namely, "first class engineers' certificates" and "second class engineers' certificates."

Certificates to be of two grades.

[Cf. 25 & 26 Vic., c. 63, ss. 6 & 7. Cf. Act XVI of 1871, s. 17. Bom. Act IV of 1873, s. 15. Ben. Act I of 1868, s. 8.]

24. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as engineers, and, subject to the control of the Governor General in Council, make rules—

Examiners to be appointed and rules of examination made.

(*a*) for the conduct of these examinations, and as to the qualifications to be respectively required of persons desirous of obtaining "first class engineers' certificates" and "second class engineers' certificates"; and

(*b*) for the fees to be paid by all applicants for examination.

[Cf. 25 & 26 Vic., c. 63, s. 8. Cf. Act XVI of 1871, s. 18. Bom. Act IV of 1873, s. 16. Ben. Act I of 1868, s. 9.]

25. (*1*) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first class engineer or as a second class engineer, as the case may be:

Grant of certificates of competency.

Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

(*2*) Every certificate granted under this section shall be in such form as the Local Government may from time to time by rule prescribe.

[Cf. 25 & 26 Vic., c., 13, s. 9. Cf. Act XVI of 1871, s. 19. Bom Act IV of 1873, s. 17. Ben. Act I of 1868, s. 10.]

26. (*1*) The Local Government shall grant certificates of service as engineers, differing in form from certificates of competency, as follows, namely:—

Grant of certificates of service.

(*a*) To every person who, before the passing of this Act, has served for a period of not less than one year as first engineer in any foreign-going steamship having engines of one hundred nominal horse-power or upwards, or who has attained, or shall attain, the rank of engineer in the service of Her Majesty—a "first class engineers' certificate" of service:

(*b*) To every person who, before the passing of this Act, has served for a period of not less than one year as second engineer in any foreign-going steamship having engines of one hundred nominal horse-power or upwards, or as first or only engineer in any other steamship, or who has obtained or shall obtain the rank of first class assistant engineer in the service of Her Majesty—a "second class engineers' certificate" of service:

Provided that a certificate of service shall not be granted to any person until he—

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Chapter III.—Examination and Certificates of Engineers.

(*c*) has proved himself to have served or attained such rank as aforesaid, and has given his name and a full and satisfactory account of the length and nature of his previous services, and

(*d*) has paid such fees as the Local Government may, by a notification in the official Gazette, from time to time direct.

(*2*) Each of such certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is granted, and shall be in such form as the Local Government may from time to time, by rule, prescribe.

[Cf. Act XVI of 1871, s. 24. Bom. Act IV of 1873, s. 23. Ben. Act I of 1868, s. 16.]

27. Every certificate granted under this chapter shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Local Government may from time to time by rule prescribe.

Certificates to be made in duplicate.

[Act XVI of 1871, s. 25. Bom. Act IV of 1873, s. 23. Ben. Act I of 1868, s. 17.]

28. Whenever an engineer proves to the satisfaction of the Local Government which granted his certificate that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided under section twenty-seven, he appears to be entitled shall be granted to him, and shall have all the effect of the original.

Copy of certificate to be granted in certain cases.

[Cf. 25 & 26 Vic., c. 63, s. 5 (2), (3) & (4), and Act I of 1859, s. 13. Cf Act XVI of 1871, s. 20, Bom. Act IV of 1873, s. 18, Ben. Act I of 1868, s. 11, which however lay down a different rule.] 17 & 18 Vic., c. 104. 32 & 33 Vic., c., 11.

29. (*1*) A foreign-going steamship having engines of one hundred nominal horse power or upwards shall not go to sea from any port in British India unless she has as her first and second engineers two certificated engineers, the first possessing a "first class engineers' certificate" and the second a "second class engineers' certificate" or a certificate of the higher grade, granted under this Act or the Imperial Merchant Shipping Act, for the time being in force, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

Number of engineers and nature of certificates necessary in case of different steamships.

(*2*) A home-trade steamship of a burden exceeding three hundred tons shall not go to sea from any port in British India unless she has as her only or first engineer an engineer possessing a second class engineers' certificate or a certificate of the higher grade, of the nature referred to in subsection one.

(*3*) Nothing in this section shall apply to any steamship to which section 19 of the Inland Steam-vessels Act is applicable.

[See Act I of 1859, s. 118.]

(*4*) In this section "foreign-going steamship" includes every steamship employed in trading between any port of British India and any port or place not in British India, nor on the continent of India, nor in the island of Ceylon; and

[See Act I of 1859, s. 118.]

"home-trade steamship" includes every steamship employed in trading between any ports of British India, or between any port of British India and any port or place on the continent of British India, or in the island of Ceylon.

[25 & 26 Vic., c. 63, s. 5 (5). Cf. Act XVI of 1871, s. 22. Bom. Act IV of 1873, s. 19. Ben. Act I of 1868, s. 12.]

30. (*a*) Whoever, having been engaged to serve in any of the capacities referred to in section twenty-nine in any steamship to which that section applies, goes to sea in that capacity without being at the time entitled to, and possessed of, the certificate required by that section, and

Penalty for serving, or engaging a person to serve, as engineer, without a certificate.

(*b*) whoever employs any person in any capacity referred to in section twenty-nine in any steamship to which that section applies, without ascertaining that he is at the time entitled to, and possessed of, the certificate required by that section,

shall be punished with fine which may extend to five hundred rupees.

Investigation into Explosions.

31. (*1*) Whenever any explosion occurs on board any steamship for which a certificate of survey is required under this Act, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

Power to investigate causes of explosions.

(*2*) The person or persons so directed may enter into and upon the steamship with all necessary workmen and labourers, and remove any portion of the steamship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in their opinion, was the cause of the explosion.

(*3*) Every such person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

Miscellaneous.

32. A Magistrate other than a Presidency Magistrate, or a Magistrate whose powers are not less than those of a Magistrate of the first class, shall not try any offence under this Act.

Magistrate having jurisdiction.

[See Act I of 1871, Bom. Act of 1864, Ben. Act 1868, s. 1

33. Whoever commits an offence against this Act shall be triable for the offence in any place in which he may be found, or which the Local Government may from time to time, by notification in the official Gazette, direct in this behalf, as well as in any other place in which he might be tried under any other law for the time being in force.

Place of trial.

[Act XV 1871, s. Bom. Act of 1864 Ben. Act 1868, s. 1

34. All fees payable, and all fines imposed, under the provisions of this Act may be recovered in like manner as a fine may be recovered under the Indian Merchant Shipping Act, Act I of 1859, section 113.

Fees recoverable as fines.

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Schedule I.—Form of Surveyor's Certificate and Declaration and Schedule II.—Rates of Fees.

[See Bom. Act II of 1864, s. 15.] 17 & 18 Vic., c.104.

35. Sections 292, 293 and 294 of the Imperial Merchant Shipping Act, 1854, and the table marked S. in the schedule of that Act shall apply to all steamships going to sea from any port or place in the Presidency of Bombay.

Sections of Imperial Merchant Shipping Act applied to steamships going to sea from Presidency of Bombay.

17 & 18 Vic., c. 104.

In calculating the penalties mentioned in section 293 of the Imperial Merchant Shipping Act, 1854, ten rupees shall be taken as the equivalent of one pound.

THE FIRST SCHEDULE.

(*See section 12.*)

FORM OF SURVEYORS' CERTIFICATE AND DECLARATION.

Name of steam-vessel.	
Tonnage.	
When and where built, and material.	
Power.	
Description of engines and age.	
Description of boilers and age.	
Ground-tackle.	
Condition of hull.	
General equipment.	
Name of master and number of officers and deck crew and of engineers and engine-room crew.	
Where and where last coppered, repaired or cleaned.	
Limits (if any) beyond which the vessel is not fit to ply.	
Time if less than a year for which the hull, boilers, engines or any of the equipments will be sufficient.	

We, the undersigned, declare that we have examined the abovenamed steamship, and, to the best of our judgment, she and her engines, as shown in the above statement, are fully sufficient for the service on which it is intended to employ her, that is to say (*as the case may be*), and that the certificate (*or* certificates *as the case may be*) of the engineer (*or* engineers *as the case may be*) of the said steamship is (*or* are) such or in such condition as is required by this Act.

A. B.

C. D.

THE SECOND SCHEDULE.

(*See section 13.*)

RATES OF FEES.

	Tons.	Rs.
For steamships of less than	200	20
„ „ 200 tons and up to	350	25
„ „ 350 „ „ „	700	30
„ „ 700 „ „ „	1,000	40
„ „ 1,000 „ „ „	1,500	50
„ „ 1,500 „ and upwards	...	6

STATEMENT OF OBJECTS AND REASONS.

A CASE having occurred in Bombay which showed that the Bombay law relating to the survey of steamships was not in harmony with the English law on the subject, it was thought desirable to amend the Bombay law. When, however, the question of legislation came to be considered, it appeared that there were no less than seven local Acts relating to steamships. Bombay, Bengal and Burma each had its special law regulating the survey of these ships, while there was no law on the subject in the Presidency of Madras. The multiplicity of laws relating to the survey of steamships, it was thought, could not but be inconvenient to shipowners whose ships traded between different Provinces. For instance, Act XVI of 1871, which is in force in Burma, requires every steam-vessel plying on any of the rivers or waters of British Burma, except steam-vessels plying between a port in British Burma and a port not in British India, to be surveyed twice a year. In the same way, the Bombay Act II of 1864, as amended by Bombay Act IV of 1873, requires every British steam-vessel, not holding a Board of Trade, British Indian or Colonial certificate, carrying passengers between any port of the Presidency of Bombay and any other port, to be surveyed twice a year, and the Bengal Act V of 1862, as amended by Act I of 1868, also requires the survey twice in every year of all steam-vessels plying on any of the rivers or waters within the Province of Bengal, except steam-vessels which may ply between some port within that Province and some port not in British India. Under these laws, a steam-vessel which was surveyed in Bombay might, apparently, be required to undergo a fresh survey on arrival in Calcutta, and another survey on arrival at a port in Burma. As legislation is necessary, it is, therefore, clearly expedient to have one uniform law relating to the survey of steam-vessels applicable to the whole of British India.

2. Besides providing for the survey of steam-vessels, the local Acts provide also for the examination of, and the grant of certificates to, engineers, and for holding investigations into explosions occurring on board steam-vessels. In these matters uniformity in the law is desirable.

3. After consulting the Local Governments concerned, the Government of India has decided to legislate so as to provide one law relating to the survey of sea-going steamships, the examination and grant of certificates to engineers of those ships, and the investigation into explosions occurring thereon. The present Bill has accordingly been prepared. It was, however, found at the same time necessary to legislate in like manner for steam-vessels plying on rivers and inland waters, inasmuch as the provisions of the local Acts related, to a certain extent, to those vessels as well as to sea-going vessels. With this view, a separate Bill—the Inland Steam-vessels Bill—has been prepared, so as to keep the law relating to merchant shipping—a law liable to be affected by legislation in England—entirely separate from the law regulating inland steam-vessels, which is a matter solely within the scope of Indian legislation.

4. The present Bill is divided into three chapters. The first chapter is purely formal. The second deals with the subject of the survey of steamships. It provides that a steamship shall not carry more than twelve passengers between places in British India, and that a British steamship shall not carry more than twelve passengers to or from any place in British India from or to any foreign port, unless she is furnished with a certificate of survey. It exempts steamships furnished with Board of Trade certificates or Colonial certificates, provides for the appointment of surveyors and ports of survey, prescribes the powers of surveyors and the conditions on which they are to grant certificates. It provides for the fees which are to be paid for certificates and the term for which they are to last, and it confers on the Local Government the power, under certain circumstances, of cancelling or suspending a certificate. It further enables the Local Government to make rules to regulate the time, place and manner in which surveys shall be made, and to assign and regulate the duties of each of the surveyors making it. To meet local requirements, a section (22) is also added, enabling the Local Government to exempt any specified class of steamships from all or any of the provisions of the chapter.

5. The principal changes introduced in the law by the provisions contained the second chapter are as follows:—

Section 3 follows the English law (39 & 40 Vic., cap. 80, section 16), and only requires a survey in the case of steamships carrying more than twelve passengers.

The law as at present in force in Bengal and Burma is thus amended in an important point, and cargo steamers are exempted from survey.

Another change in the law is made by section 15 of the Bill, which provides that a certificate of survey shall not remain in force for more than twelve months. At present, the law requires a survey twice a year, but it is thought that the power which the Local Government has under section 16 of the Bill of cancelling or suspending a certificate renders a survey every six months unnecessary.

Section 20 of the Bill enacts the provisions (regarding the grant of certificates of survey to foreign ships) of section 19, 39 & 40 Vic., cap. 80. It is considered that these provisions will be of use in India in the case of foreign ships which have been officially surveyed at a foreign port.

6. The third chapter of the Bill deals with the examination of, and grant of certificates to, engineers. It also contains a provision as to inquiries into cases of explosion, and miscellaneous sections regulating the jurisdiction and place of trial in cases of offences under the Act, and applies to steamships going to sea from a place in the Bombay Presidency, the provisions as to boats for sea-going ships of the Imperial Merchant Shipping Act, 1854.

7. Following the Imperial Merchant Shipping Act Amendment Act, 1862, the chapter provides that there are to be two grades of engineers—first class engineers and second class engineers. The Local Government is empowered to appoint examiners, and to make rules as to the conduct of the examinations, the qualifications to be required from the applicants and the fees to be paid by them. Certificates will be granted to those who, by the result of the examination, show themselves to be possessed of the necessary qualifications.

8. This chapter also provides (section 26) for the grant of certificates of service as engineers. A first class certificate may be granted to a person who has served, before the passing of the Act, for a period of not less than one year as first engineer in any foreign-going steamship carrying engines of one hundred nominal horse-power or upwards, or who has attained, or shall attain, the rank of engineer in Her Majesty's service.

A second class certificate may be granted to a person who has, before the passing of the Act, served as second engineer in such a steamship or as sole engineer in a smaller one, or who obtains the rank of first class assistant engineer in Her Majesty's service. It is doubtful whether it is necessary or expedient to provide for the grant of certificates of service. The attention of the Local Governments concerned will be drawn to the point.

9. It is further provided (section 29), that foreign-going steamships shall not proceed to sea without engineers possessing certain specified certificates. Similar provisions are made for home-trade steamships, the steamships which are inland steam-vessels within the meaning of the Inland Steam-vessels Act being excepted.

10. The provisions of section 31, as to investigations into explosions, require no comment; and the last four sections of the Bill merely re-enact the existing law as to jurisdiction, the place of trial, the recovery of fees and fines, and the application to steamships leaving a port in the Bombay Presidency of certain provisions of the Imperial Merchant Shipping Act, 1854, concerning boats for sea-going ships.

The 5th March, 1883.

C. P. ILBERT.

R. J. CROSTHWAITE,
Addl. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th February, 1883:—

No. 8 OF 1883.

A Bill to amend the Code of Criminal Procedure, 1882, so far as it relates to the exercise of jurisdiction over European British subjects.

Preamble. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, X of 1882. so far as it relates to the exercise of jurisdiction over European British subjects; It is hereby enacted as follows:—

Amendment of section 22. **1.** For the last clause of section 22, the following shall be substituted:—

"may, by notification in the official Gazette, appoint such persons as he or it thinks fit, who, being

(*a*) members of the Covenanted Civil Service,

(*b*) members of the Native Civil Service constituted under the Statute 33 Vic., cap. 3,

(*c*) Assistant Commissioners in Non-Regulation Provinces, or

(*d*) Cantonment Magistrates,

are invested with the powers of a Magistrate of the first class, to be Justices of the Peace within and for the territories mentioned in the notification."

Amendment of section 25. **2.** In section 25, after the words "British India" the following shall be inserted:—

"Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving".

Amendment of section 443. **3.** In section 443, the words "and an European British subject" shall be omitted.

New section substituted for section 444. **4.** For section 444 the following shall be substituted:—

Assistant Sessions Judges who may try European British subjects. "444. An Assistant Sessions Judge shall not exercise jurisdiction over an European British subject, unless he has held the office of Assistant Sessions Judge for at least three years, and has been specially empowered in this behalf by the Local Government."

Repeal of section 450 and of the last sixteen words of section 459. **5.** Section 450 and the last sixteen words of section 459 are hereby repealed.

Construction of Act with Code of Criminal Procedure. **6.** (*1*) In this Act "section" means section of the Code of Criminal Procedure, X of 1882. 1882.

(*2*) All references to that Code made in enactments heretofore passed or hereafter to be passed shall be read as if made to that Code as amended by this Act.

Saving for existing appointments. **7.** Nothing in this Act shall affect the validity of any appointment made before the passing of this Act.

STATEMENT OF OBJECTS AND REASONS.

SHORTLY after the Code of Criminal Procedure, Act X of 1882, was passed, the question was raised whether the provisions of that Code which limit the jurisdiction over European British subjects outside the Presidency-towns to judicial officers who are themselves European British subjects should not be modified. It was thought anomalous that, while Natives of India were admitted to the Covenanted Civil Service and held competent to discharge the highest judicial duties, they should be deemed incompetent to be Justices of the Peace and to exercise jurisdiction over European British subjects outside the Presidency-towns.

2. After consulting the Local Governments, the Government of India has arrived at the conclusion that the time has come for modifying the existing law and removing the present bar upon the investment of Native Magistrates in the interior with powers over Euro-

pean British subjects. The Government of India has accordingly decided to settle the question of jurisdiction over European British subjects in such a way as to remove from the Code, at once and completely, every judicial disqualification which is based merely on race distinctions.

3. With this object the present Bill has been prepared. In section one it amends section 22 of the Code, which provides that only European British subjects can be appointed Justices of the Peace, and gives the Government power to appoint to that office such persons as it thinks fit belonging to the following classes:—

(*a*) Members of the Covenanted Civil Service;
(*b*) Members of the Native Civil Service constituted by the rules made under the Statute 33 Vic., cap. 3;
(*c*) Assistant Commissioners in Non-Regulation Provinces; or
(*d*) Cantonment Magistrates,

and being persons invested with the powers of a Magistrate of the first class.

4. The Bill then in section two amends section 25 of the Code, and makes all Sessions Judges and District Magistrates *ex officio* Justices of the Peace.

5. Section three repeals so much of section 413 of the Code as limits jurisdiction over European British subjects outside the Presidency-towns to Magistrates who are themselves European British subjects.

6. Section four repeals the similar provision of section 444 of the Code with regard to Sessions Judges.

7. Lastly, section five repeals section 450 of the Code, which provides for the case where the Sessions Judge of the division within which the offence is ordinarily triable is not an European British subject. The same section of the Bill also repeals so much of section 459 of the Code as provides that that section shall not be deemed to confer on Magistrates and Sessions Judges outside the Presidency-towns, not being European British subjects, jurisdiction over European British subjects.

C. P. ILBERT.

The 30th January, 1883.

R. J. CROSTHWAITE,
Addl. Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

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Bengal Tenancy Bill.

(*Chapter I.—Preliminary. Secs. 1—3.*)

Explanation of abbreviations in margin.

D. means Mr. Field's Digest.

C. B., the Bill prepared by the Commission.

B. B., the Bill submitted by the Bengal Government with letter No. 849, dated 27th July, 1881.

A

BILL

TO

Amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the Territories under the Administration of the Lieutenant-Governor of Bengal.

WHEREAS it is expedient to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Bengal Tenancy Act, 1884. Short title.

(*2*) It shall come into force on such date (hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local Gazette, appoint in this behalf. Commencement.

[C.B., s. 1. B. B., s. 1.] (*3*) It shall extend by its own operation to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal, except the Town of Calcutta, the Division of Orissa, and the Scheduled Districts specified in the third part of the First Schedule of the Scheduled Districts Act, 1874; and the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local Gazette, extend the whole or any part of this Act to the Division of Orissa. Local extent.

C. B., s. 2. B. B., s. 2.] **2.** (*1*) The enactments specified in Schedule I hereto annexed are repealed in the territories to which this Act extends by its own operation. Repeal.

(*2*) When this Act is extended to the Division of Orissa, such of those enactments as are in force in that Division, or, where a part only of this Act is so extended, so much of them as is inconsistent with that part, shall be repealed in that Division.

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

(*4*) The repeal of any enactment by this Act shall not revive any right, privilege, matter or thing not in force or existing at the commencement of this Act.

3. The following definitions and rules shall apply in the construction of this Act unless there is something repugnant in the subject or context:— Construction of Act.

(*1*) "Estate" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district: [D. § 1. C. B., s. 3. B. B., s. 3.]

(*2*) "Proprietor" means a person or a number of persons owning an estate: [D. § 1. C. B., s. 3. B. B., s. 3.]

(*3*) "Tenure" includes an under-tenure and the interest of every tenant of the class referred to in section 14.

Illustrations.

(*a*)—A *durpatni* or *sipatni* interest or a mokurrerree holding is a tenure.

(*b*)—A *dar-ijarah* or a farm for a term of years is a tenure.

(*4*) "Tenure-holder" means a person or a number of persons owning a tenure.

(*5*) A person shall not be deemed to be a raiyat, in respect of any land, or to hold that land as a raiyat, unless he holds it for the purpose of agriculture, horticulture or pasture, or he or his predecessor in interest came into possession of it for such purpose: [D. § 1. C. B., s. 3. B. B., s. 3. ("raiyat" and "land.")]

Provided that a person shall be deemed to hold as a raiyat any *bastu* or homestead land included in the same holding with other land held by him as a raiyat.

Explanation.—A person may hold land for a purpose mentioned in this clause though he has sublet it.

(*6*) "Under-raiyat" means a tenant holding land whether immediately or mediately below a raiyat.

(*7*) "Bastu holding" means bastu or other homestead land held by a tenant having the right provided for by Chapter VII. New.

(*8*) "Tenant" does not include any person who is not a tenure-holder, raiyat or under-raiyat, or the tenant of a bastu holding. New.

(*9*) "Landlord" means a person or a number of persons immediately under whom a tenant holds.

Bengal Tenancy Bill.

(*Chapter I.—Preliminary. Sec. 4.*) and (*Chapter II.—Khamar and Raiyatí Land. Secs. 5—8.*)

[D. § 1. C. B., s. 3. B. B., s. 3. See s. 230.]

(*10*) "Rent" means whatever is payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant.

(*11*) "Pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery."

[D. § 101. C. B., s. 56. B. B., s. 48.]

(*12*) "Arrear" means an instalment, or part of an instalment, of rent which is not paid before sunset of the day on which it is payable.

(*13*) "Holding" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions.

(*14*) "Agricultural year" means, where the Bengalí year prevails, the year commencing on the first day of Bysáck, and where the Faslí or Amlí year prevails, the year commencing on the first day of Asin.

[D. § 20 & 37. C. B., ss. 6 & 16. B. B., ss. 6 & 15.]

(*15*) "Permanent Settlement" means the Permanent Settlement of Bengal, Bihár and Orissa made in the year 1793.

(*16*) "Transfer" includes sale, whether voluntary or in execution of a decree, and mortgage and gift.

(*17*) "Succession" includes both intestate and testamentary succession.

[B. B., s. 3.]

(*18*) "Bihár" means all the districts of the Patna Division, and such district or parts of districts of the Bhágalpur Division as the Lieutenant-Governor of Bengal may from time to time, by notification in the official Gazette, declare to be included in Bihár for the purposes of this Act.

[C. B., s. 3. B. B., s. 3.]

(*19*) "Signed" includes "marked" when the person making the mark is unable to write his name; it also includes "stamped" with the name of the person referred to.

(*20*) "Prescribed" means prescribed by the Local Government by notification in the official Gazette.

(*21*) "Collector" means the Collector of a District or any other officer appointed by the Local Government to discharge the functions of a Collector under this Act.

(*22*) "Revenue-officer" in any provision of this Act means such officer as the Local Government may appoint to discharge the functions of a Revenue-officer under that provision.

[D. § 2. C. B., s. 4. Report of Rent Commission, § 3. B. B., s. 4.]

4. Nothing in this Act shall affect—

Saving of custom, special law, &c.

(*a*) any custom or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions;

(*b*) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act;

(*c*) any enactment regulating the procedure for the realization of rents in estates belonging to the Government, or under the management of the Court of Wards or of the revenue-authorities;

(*d*) any enactment relating to the avoidance of tenancies by a sale for arrears of the Government revenue;

(*e*) any enactment relating to the partition of out revenue-paying estates;

(*f*) any other special or local law not repealed either expressly or by necessary implication by this Act or;

(*g*) any incident of a ghátwálí or other service tenure.

Illustration.

The custom that an under-raiyat should, under certain circumstances, acquire a right of occupancy is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom accordingly, wherever it exists, will not be affected by this Act. [C. B., s. 19, Expl. 4 (*f*). B. B., s. 19, Expl. 4 (*e*), proviso.]

CHAPTER II.

OF THE DISTINCTION BETWEEN KHAMAR AND RAIYATÍ LAND.

Khamar land defined.

5. "*Khamar land*" means—

1st, land situated elsewhere than in Bihár which a proprietor has held, whether under the name of khamar, nij-jote, ser or otherwise, as his private land for twelve continuous years before the commencement of this Act, and [C. B., s. 81. B. B., ss. 3 & 75.]

2nd, land situate in Bihár which—

(*a*) is recognized as zeraat by a village custom established before the commencement of this Act: or

(*b*) is proved to have been held by a proprietor as zeraat for twelve continuous years immediately before the commencement of this Act.

All other land to be raiyatí.

6. All land which is not khamar land of some estate shall be deemed to be raiyatí land, and all land shall be presumed to be raiyatí land until the contrary is proved. [B. B., ss. 3, 19 & 75.]

Power to order survey and register of khamar lands.

7. The Local Government may direct that a survey and register shall be made of all khamar land situate in any district or part of a district. [B. B., s. 76.]

Mode of making survey.

8. The survey shall be made by the Collector or by an officer authorized by the Collector in that behalf, under such rules as may from time to time be prescribed by the Local Government for the conduct of such surveys; and the Collector or such officer may exercise any of the powers conferred upon a Collector by the Bengal Survey Act of 1875, except the powers in Part IV of the said Act relating to the apportionment and recovery of expenses. [B. B., s. 77.] V (B. C.) of 1875.

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(*Chapter III.—Tenure-holders generally. Secs. 9—20.*)

[B. B., s. 78.]

Publication of register.

9. The Collector shall make a register, in such form as the Local Government may from time to time prescribe, of such lands in each village as he may ascertain to be khamar lands within the meaning of the definition contained in section five; and copies of that register shall be published in such manner as the Local Government may direct.

[B. B., s. 79.]

Appeals.

10. (*1*) Any person dissatisfied with any entry in the register may appeal to the Commissioner within one month after the publication; and the Commissioner shall make such enquiry as he considers necessary, and may direct the register to be amended in such manner as he thinks fit.

(*2*) An appeal shall lie to the Board of Revenue from any order passed by the Commissioner under this section, if preferred within one month from the date of the order.

[B. B., s. 80.]

Submission of register to Board of Revenue and Local Government.

11. If no appeal is preferred to the Commissioner, or after such appeals as have been so preferred have been disposed of, the Commissioner shall submit to the Board of Revenue a copy of the register, with a report showing how the survey and register have been made; and, if the Board are satisfied that the register is correct, they shall transmit the same to the Local Government for its approval.

[B. B., s. 81.]

Approval of register.

12. If the Local Government approves the register, it may direct that its approval of the same be notified in the official Gazette: Provided that its approval shall not in any case be given until after three months from the date of the publication under section nine.

[B. B., s. 82.]

Consequence of notification of approval.

13. When the approval of a register by the Local Government has been notified under section twelve, all land entered in the register shall, notwithstanding anything in the foregoing sections, be deemed to be khamar land, and all other land situate in the local area for which the register has been prepared shall, notwithstanding anything as aforesaid, be deemed to be raiyatí land.

CHAPTER III.—OF TENURE-HOLDERS GENERALLY.

A.—Of the Right to hold at fixed rents.

[D. §§ 20 & 37. C. B., ss. 6 & 16. B. B., ss. 6 & 15.]

Land held at rent unchanged since Permanent Settlement not liable to enhancement.

14. Where land has been held by a tenant and his predecessors in interest at a rent which has not been changed from the time of the Permanent Settlement, then, subject to the provisions of this Act, the rent shall not be liable to enhancement, and the tenant shall be deemed to be a tenure-holder for the purposes of this Act.

[D. §§ 21 & 38, C. B., ss. 6 & 17. B. B., ss. 6 & 16.]

Presumption from twenty years' holding at unchanged rent.

15. Where land has been held by a tenant and his predecessors in interest at a rent which has not been changed for twenty years, then, subject to the provisions of this Act, it shall be presumed, until the contrary is shown, that it has been held by them at that rent from the time of the Permanent Settlement.

[D. §. 38. C. B., s. 16, Expl. I. B. B., s. 15, Expl. I.]

Application of sections 14 and 15 when rent is paid in kind.

16. When a tenant has paid as rent a fixed share or the value of a fixed share of the produce of the land, the rent shall not be deemed to have been changed within the meaning of sections fourteen and fifteen merely by reason of the amount paid having varied from year to year, or by reason of the rent having been commuted to a fixed money-rent.

[D. §. 37. C. B., s. 16, Expl. II. B. B., s 15, Expl. II.]

Effect of separation or amalgamation of holding.

17. The operation of the foregoing sections of this chapter shall not be affected by the fact of land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding.

[D. s. 19. C. B., s. 7. B. B., s. 7.]

Tenure held since Permanent Settlement liable to enhancement only in certain cases.

18. (*1*) Where a tenure has been held from the time of the Permanent Settlement, its rent shall not be liable to enhancement except on proof—

(*a*) that the landlord under whom it is held is entitled to enhance the rent thereof either by the special custom of the district, or by the conditions under which the tenure is held, or

(*b*) that the tenure-holder, by receiving reductions of his rent, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

(*2*) A reduction of rent granted to a tenure-holder, on account of diluvion or for land taken under the provisions of any enactment for the time being in force for the acquisition of land for public purposes or companies, shall not be deemed a reduction within the meaning of this section.

[D. §. 20. C. B., s. 6. B. B., s. 6.]

Saving as to land held under terminable agreement.

19. Nothing in the foregoing sections of this chapter shall apply to land held under a terminable agreement.

[C. B., ss. 6, Excep, & 17, Exception. B. B., ss. 6, Excep., & 16, Exception.]

Saving as to land held in a district not permanently settled.

20. Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in the foregoing sections of this chapter shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at a fixed rate of rent has been expressly recognized in settlement-proceedings by a Revenue-authority empowered by the Government to make definitively or confirm settlements.

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(*Chapter III.—Tenure-holders generally. Secs. 21—28.*)

B.—Of the enhancement of rent.

[D. § 23. C. B., ss. 9 & 12. B. B., ss. 9 & 10.]

Limits of enhancement of rent of tenures.

21. (*1*) Where the rent of a tenure-holder is liable to enhancement, it may, subject to any contract between the parties, be enhanced up to the limit of the customary rate payable by persons holding similar tenures in the vicinity.

(*2*) Where no such customary rate exists, it may, subject as aforesaid, be enhanced up to such limit as the Court thinks fair and equitable.

(*3*) In determining what is fair and equitable under sub-section two, the Court shall not, except as provided in sub-sections four and five, leave the tenure-holder as profit more than thirty per centum or less than ten per centum of the balance which remains after deducting from the gross rents payable to him the expenses of collecting those rents.

(*4*) If more than half the land included in the area of the tenure was unreclaimed at the time when the tenure was created, and if the reclamation of the unreclaimed land was one of the objects of the creation of the tenure, and that land was reclaimed accordingly, the Court, in determining what is fair and equitable under sub-section two, shall not leave the tenure-holder as profit less than twenty per centum of the balance mentioned in sub section three, and may leave him as profit any share of that balance whether it exceeds thirty per centum thereof or not.

(*5*) If, in any case to which sub-section four does not apply, the tenure-holder has made improvements on the land, the Court, in determining what is fair and equitable under sub-section two, may leave him as profit any share of the balance mentioned in sub-section three it thinks fit, provided it be not less than ten per centum of the balance.

(*6*) If the tenure-holder himself occupies any portion of the land included in the area of his tenure, or has made a grant of any portion of the land either rent-free or at a beneficial rent, a fair and equitable rent shall be calculated for that portion and included in the gross rents aforesaid.

[C.B., s. 10(*a*). B.B., s. 11(*a*).]

Enhanced rent not to be more than double the previous rent.

22. Where the rent of a tenure-holder is liable to enhancement, the enhanced rent fixed under section 21 shall not be more than double the rent previously payable.

[C.B., s. 10(*a*). B.B., s. 11 (*b*).]

Power to order gradual enhancement.

23. The Court may, if it thinks that an immediate increase of rent would produce hardship, direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement allowed has been reached.

[C.B., s. 10(*b*) B. B., s. 11(*c*).]

Rent once enhanced may not be altered for ten years.

24. When the rent of a tenure-holder has been enhanced under section 21 or by contract, it shall not be again enhanced under that section during the ten years next following the date on which it has been so enhanced.

C.—Of the Incidents of permanent tenures.

[C. B., s. 13. B. B., ss. 12 & 17.]

Incidents of permanent tenures generally.

25. Every permanent tenure shall, subject to the provisions of this Act in respect of registration, be capable of being transferred and bequeathed in the same manner and to the same extent as other immoveable property.

Permanent tenure-holder not liable to ejectment.

26. A holder of a permanent tenure shall not be ejected by his landlord except under a decree of a Civil Court passed in accordance with this Act on the ground that he has broken a condition on breach of which he is, under the terms of a written contract between him and his landlord, liable to be ejected.

D.—Of the registration of transfers of, and succession to, permanent tenures.

[D. § 25. C. B., s. 46. B. B., s. 37.]

Landlord bound to register voluntary transfer or succession on application.

27. (*1*) When a transfer of a permanent tenure (other than a transfer by sale in execution of a decree or by a summary sale under Chapter IV) or a succession to such a tenure takes place, the landlord shall, subject, in the case of a patní tenure, to the provisions of section 39, register the same on application made to him by the transferor and transferee, or by the person succeeding, as the case may be, and on payment by the applicant of the fee next hereinafter prescribed.

[D. § 27. C. B., ss. 47, 49. B. B., ss. 39, 41.]

(*2*) The fee payable on an application under this section shall be as follows, namely :—

(*a*) When the application is made not more than six months from the date of the transfer or succession, a fee of two per centum upon the annual rent of the tenure: provided that no such fee shall be less than one rupee or more than one hundred rupees.

(*b*) When the application is made more than six months from the date of the transfer or succession, a fee of twenty per centum upon the annual rent of the tenure: provided that no such fee shall be less than ten rupees or more than one thousand rupees.

(*3*) When a landlord refuses to comply with an application for registration, made as required by sub-section one, he shall deliver to the applicant a statement in writing of the reasons for his refusal.

Application may be served through Revenue-officer.

28. (*1*) An application for the registration of a transfer of or a succession to a tenure may, instead of being made to the landlord under section 27, be made to such Revenue-officer as the Local Government may from time to time appoint in this behalf; and, on its being so made, and on the fee payable under section 27 being paid to the officer, he shall cause a notice to be served

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(*Chapter III.—Tenure-holders generally. Secs. 29—35.*)

on the landlord, requiring him to register the transfer or succession, and informing him that the fee has been received and will be paid to him on demand when the registration has been effected.

(*2*) A landlord on whom a notice is served under this section shall, subject in the case of a patní tenure to the provisions of section 39, be bound to comply forthwith with the requisition therein contained.

[C.B., ss. 47, 48 (*c*). B.B., ss 39, 40 (*c*).]

Registration in case of transfer by sale in execution of decree other than decree for rent.

29. (*1*) When a permanent tenure is sold in execution of a decree other than a decree for arrears of rent due in respect thereof, the Court shall, before confirming the sale under section 314 of the Code of Civil Procedure, require the purchaser to pay into Court the registration fee prescribed by section 27, clause (*a*), and such further fee for service of notice of the sale on the landlord as may be prescribed by the rules under section 35.

XIV of 1882.

(*2*) When the sale has been confirmed, the Court shall forthwith cause to be served on the landlord a notice of the sale, requiring him to register the same, and informing him that the registration-fee has been received and will be paid to him on demand when the registration has been effected; and the landlord shall be bound to comply with the requisition forthwith.

Registration in case of transfer by sale in execution of decree for rent or by summary sale.

30. When a permanent tenure is transferred by sale in execution of a decree for arrears of rent due in respect thereof, or by summary sale under Chapter IV, the landlord shall be bound to register the transfer without any application or requisition being made to him in this behalf, and without the payment of any fee.

[D. § 10. C. B., ss. 46, 48 (*a*), 49. B. B., ss. 37, 40 (*a*) and 41.]

Effect of omission to register voluntary transfer.

31. When a transfer of a permanent tenure (not being a transfer by sale in execution of a decree or by summary sale under Chapter IV) has taken place, the landlord may, until the transfer has been registered under section 27, or a Revenue-officer has ordered a notice to be served under section 28, hold the transferor and transferee jointly and severally liable for arrears of rent accruing subsequent to the transfer.

[C. B., s. 52. B. B., s. 44.]

Application to Court to compel landlord to register.

32. (*1*) When a landlord refuses or neglects for a period of one month to register a transfer or succession which he is bound to register under the foregoing sections, the transferor or transferee, or, as the case may be, the person succeeding, may apply to any Civil Court having jurisdiction in the local area within which the land is situate to compel such registration.

(*2*) The Court to which an application is made under sub-section one may issue a notice to the landlord, and, when the application is made by one party to a transfer, also to the other party or parties to the transfer, requiring him or them, as the case may be, to show cause, at a time and place therein specified, why the transfer or succession should not be registered.

(*3*) If no cause as aforesaid is so shown, the Court may make an order directing the landlord to register the transfer or succession, and the order so made shall have the force of a decree in a suit.

[C. B., ss. 50 and 51. B. B., ss. 42 and 43.]

Application by landlord to compel registration.

33. (*1*) When a transfer (other than a transfer by sale in execution of a decree or by summary sale under Chapter IV) or a succession, registrable under the foregoing sections, has taken place, and no application is made for its registration within the six months following the date on which it has taken place, the landlord may apply to any Civil Court as aforesaid to compel the parties to the transfer, or the person succeeding, as the case may be, to consent to its registration and pay the fee mentioned in section 27, clause (*b*).

(*2*) The Court to which an application is made under sub-section one may issue a notice calling upon the parties to the transfer, or the person succeeding, as the case may be, to show cause, at a time and place specified in the notice, why they or he should not consent to the registration and pay the fee.

(*3*) If no cause as aforesaid is so shown, the Court may make an order authorising the landlord to register the transfer or succession, and directing the transferee, or the person succeeding, as the case may be, to pay the fee; and the order so made shall have the force of a decree in a suit.

[C. B., s. 54. B. B., s. 46.]

Landlord to give copies of entries in the register.

34 When a transfer of, or a succession to, a tenure has been registered under the foregoing sections, every person to or from whom the tenure or any share thereof is transferred, or (as the case may be) every person succeeding to the tenure, shall be entitled to receive free of charge from the landlord on demand a copy of the entry in the register relating to the tenure, certified under his hand as a true copy, and to receive from time to time in like manner as many additional copies as he may demand: provided that for every such additional copy he shall pay to the landlord such fee, not less than *eight annas* or more than *five rupees*, as the Board of Revenue may from time to time fix in this behalf.

[C. B., s. 54. B. B., s. 46.]

Power to make rules regarding registration.

35. (*1*) The Board of Revenue may from time to time, by rules consistent with this Act and published in the official Gazette, prescribe forms for the registers to be maintained under the foregoing sections, and determine the mode in which, and the place at which, applications are to be made under section 27, and generally the procedure to be followed in regard to registration.

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(Chapter IV.—Patní Tenures. Secs. 36—42,) and (Chapter V.—Of Occupancy Raiyats generally.—Secs. 43—45.)

(2) In making any rule under sub-section one the Board may provide that any breach thereof shall be punishable with fine which may extend to fifty rupees.

CHAPTER IV.

OF PATNÍ TENURES.

[D. § 26. C. B., ss. 14 & 15. B. B., ss. 13 & 14.]

36. "Patní tenure" means a tenure of the kind described in Schedule II annexed to this Act, and includes the darpatní and other similar under-tenures referred to in that schedule.

Definition of patní tenure.

[D. § 26. C. B., s. 14. B. B., s. 13.]

37. (1) Every patní tenure shall be deemed to be a permanent tenure.

Incidents of patní tenures.

(2) The holder of a patní tenure may, subject to the provisions of this Act, let the land comprised in his tenure or any part thereof.

[D. § 27. C. B., s. 53 (a). B. B., s. 45 (a).]

38. When a patní tenure is transferred, whether voluntarily or by sale in execution of a decree, or by summary sale under section 42, the landlord may require the transferee to furnish substantial security, to the amount of one half year's rent of the tenure, for the payment of the rent and the fulfilment of the other conditions of the tenure.

Right of landlord of patní tenure to demand security from transferee.

[D. § 28. C. B., s. 53 (a). B. B., s. 45 (a).]

39. When a patní tenure is transferred otherwise than by sale in execution of a decree, or by summary sale under section 42, the landlord may refuse to register the transfer under Chapter III of this Act until the security required under section 38 is furnished.

Landlord may refuse registration of voluntary transfer when security is not given.

[D. § 29. C. B., s. 53 (b). B. B., s. 45 (b).]

40. (1) In the case of a transfer by sale in execution of a decree, or by summary sale under section 42, if security is demanded by the landlord from the purchaser under section 38, and is not furnished within one month from the date on which it is so demanded, the landlord may attach and hold possession of the tenure to the exclusion of the transferee until the security is furnished.

Landlord may attach tenure sold in execution or by summary sale when security is not given.

(2) While an attachment under this section continues, the landlord may collect the rents from the undertenure-holders or raiyats, and, after deducting therefrom the cost of the attachment, the expenses of collection and the rent due to himself, he shall hold the balance in trust for the purchaser.

(3) If the rents so collected are not sufficient to discharge the cost of the attachment, the expenses of collection, and the rent due to the landlord, the purchaser shall be liable for the deficiency, and the landlord may proceed against him for the recovery of the same.

[D. § 28. C. B., s. 53 (b) B. B., s. 45 (c).]

41. (1) If the security tendered under section 38 by any transferee is rejected by the landlord, the transferee may, within three months from the date of the rejection, apply to the Civil Court for an order directing the landlord to receive the security, and the Court, if satisfied of the sufficiency of the security tendered, may make such order, or, if not so satisfied, may make an order rejecting the application.

Application to Civil Court, if security tendered is refused.

(2) No appeal shall lie from any order under this section.

[D. § 135. C. B., s. 133. B. B., s. 147.]

42. If default is made in payment of the rent due in respect of a patní tenure, held immediately from a proprietor, the landlord may, in addition to any other remedy given him by law, apply for the summary sale of the tenure in accordance with the rules for the sale of patní taluqs at the instance of zamíndárs, contained in Schedule III annexed to this Act:

Recovery of arrears by summary sale.

Provided that nothing in those rules shall entitle a purchaser at any such sale to eject an occupancy-raiyat or cancel any contract entitling him to hold at a rent which was fair and equitable at the time the contract was made.

CHAPTER V.—OF OCCUPANCY-RAIYATS GENERALLY.

[B. B., s. 19, Expl. II.]

43. For the purposes of this chapter—

Interpretation.

(a) "village" means an area included in a village-map of the revenue-survey within the same exterior boundary, and, where no such maps have been prepared, such area as the Local Government or any officer appointed by the Local Government in this behalf may determine; and

(b) where two or more estates have been created by one or more partitions taking place since the first day of January, 1853, the area comprised in the parent estate of which they would have formed part if no such partition had taken place, shall be deemed to be a single estate.

[B. B., s. 19 (1), & Expl. IV (e), proviso.]

44. Every raiyat who, immediately before the commencement of this Act, has, by the operation of any enactment, by custom having the force of law, or otherwise, a right of occupancy in any land shall, when this Act comes into force, become, for the purposes of this Act, an occupancy-raiyat of that land.

Present occupancy-raiyats to become occupancy-raiyats under Act.

45. (1) Every person who, for a period of twelve years, whether before or after the commencement of this Act, has continuously held, as a raiyat, raiyatí land situate in any village or estate, shall, notwithstanding any contract to the contrary, and though the land so held by him at different times during that period may have been different, be deemed to have become, on the expiration of that period, a settled raiyat of that village or estate.

Acquisition of status of settled raiyat of village or estate.

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(Chapter V.—Of Occupancy Raiyats generally. Secs. 46—52)

(2) A person shall be deemed for the purposes of this section to have held as a raiyat any raiyatí land held as a raiyat by a person whose heir he is.

(3) Raiyatí land held by two or more co-sharers as a raiyatí holding shall be deemed for the purposes of this section to have been held as a raiyatí holding also by each such co-sharer.

46. If a settled raiyat of a village or estate has ceased for a period of one year, whether before or after the commencement of this Act, to hold raiyatí land as a raiyat in that village or estate, either alone or as a co-sharer with others, he shall be deemed to have ceased, on the expiration of that period, to be a settled raiyat of that village or estate.

Loss of status of settled raiyat.

47. Every settled raiyat of a village or estate holding after the second day of March, 1883, as a raiyat any raiyatí land comprised in that village or estate shall, notwithstanding any contract to the contrary, be deemed to acquire or have acquired in that land a right of occupancy under the law for the time being in force:

Settled raiyat to have occupancy-right in raiyatí land held by him in village or estate.

[D. § 40, Expls. I & V. C. B., s. 19, Expl. IV. B. B., s. 19, Expl. IV (d).]

Provided that a person shall not acquire a right of occupancy under this section in respect of any land held by him alone as owner, tenure-holder or ijáradár.

48. (1) A proprietor or permanent tenure-holder from whom a person takes land as a raiyat, or immediately under whom a person holds land as a raiyat, may grant to that person an occupancy-right in respect of that land.

Acquisition of occupancy-right by grant.

(2) An occupancy-right granted under this section shall be deemed to be an occupancy-right within the meaning of this Act.

[D. § 40, Expl. V. C. B., s. 19, Expl. 3 (d), Expl. (4) (g) B. B., s. 19, Expl. III (b), Expl. IV (f).]

49. (1) Every person who, for a period of twelve years ending after the commencement of this Act, has held khamar land as a raiyat shall, unless he has held it for any portion of that period under a lease for a fixed period, acquire a right of occupancy in that land.

Acquisition of occupancy-right in khamar land.

(2) The holding of the father or other person from whom a raiyat inherits shall be deemed to be the holding of the raiyat for the purposes of this section.

50. When a raiyat has an occupancy-right in respect of any land, the following provisions shall, notwithstanding any contract between him and his landlord to the contrary, apply, namely:—

Incidents of occupancy-right generally.

[B. B., s. 69.]

(a) he may use the land in any manner which does not render it unfit for the purposes of the tenancy:

[C. B., s. 77. B. B., s. 69.]

(b) he may make improvements on the land as by this Act provided:

[D. § 42. B. B., s 21. (d).]

(c) he shall pay rent at fair and equitable rates determined as by this Act provided:

[C. B., s. 20 (e). B. B., ss. 21 (e), 31, 69 (a).]

(d) he shall not be ejected by his landlord from the land, except in execution of a decree for ejectment passed in accordance with this Act on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with the provisions of this Act and on breach of which he is, under the terms of a written contract between him and his landlord, liable to be ejected:

[D. § 40, note 7. B. B., s. 71.]

(e) he may sub-let the land or any part thereof:

[C. B., s. 20 (a), (b) and (d). B. B., s. 21 (a) and (b).]

(f) his interest in the land shall, subject to the rights reserved to the landlord by this Act, be capable of being transferred, and bequeathed by will in the same manner and to the same extent as other immoveable property:

[D. § 41, note 9. C. B., s. 20 (c). B. B., s. 21 (c).]

(g) his interest in the land shall, if he dies intestate in respect of it, descend in the same manner as any other immoveable property: provided that, in any case in which, under the law of inheritance to which he is subject, his other property goes to the Crown, his interest in the land shall go to his landlord.

51. (1) When an occupancy-raiyat intends to sell his occupancy-right to any person other than the landlord, he shall file in the office of the Collector, or of the officer in charge of the sub-division, for service on the landlord, a written notice of his intention, stating the person to whom he intends to sell the right, and shall defer proceeding with the sale for one month from the date on which he files the notice.

Landlord's right of pre-emption on voluntary sale of occupancy-right.

(2) The officer in whose office the notice is filed shall forthwith cause it to be served on the landlord.

(3) The landlord may, within the period of one month from the date of the notice being filed, claim to purchase the occupancy-right from the raiyat at such price as may be agreed on between them, or, if they cannot agree on a price, at such price as may be fixed by the Civil Court on an application made to it in this behalf by the landlord within the said period of one month; and, if the landlord so claims, the raiyat shall sell the right to him accordingly.

(4) If a raiyat sells his right of occupancy in contravention of this section, the landlord may, within six months from the date of the sale, claim to purchase the right from the purchaser or any other person into whose hands it may have passed at a price ten per centum below its estimated value, and, if the landlord so claims, the purchaser or that person, as the case may be, shall sell the right to him accordingly.

52. Where an occupancy-right is sold in execution of a decree, and two or more persons, one of whom is the landlord, respectively ad-

Act XIV of 1882, s. 310.

Landlord's right of pre-emption on sale in execution.

Bengal Tenancy Bill.

(Chapter V.—Occupancy Raiyats generally. Secs. 53—57,) and (Chapter VI.—Rent payable by Occupancy Raiyats. Secs. 58 & 59.)

vance the same sum at any bidding, the bidding shall be deemed to be the bidding of the landlord.

Landlord's right to take the place of mortgagee on foreclosure.

53. (*1*) Where a right of occupancy has been mortgaged by the raiyat and an order absolute for foreclosure is applied for in respect of it under section 87 of the Transfer of Property Act, 1882, the Court shall, if it proposes to make the order, cause a notice of the application to be served on the landlord, and shall defer making the order for a period of one month from the service of the notice. IV of 1882.

(*2*) If the landlord within the said period of one month pays into Court the amount requisite to redeem the mortgage, the Court shall pay that amount to the plaintiff in the suit, declare the landlord entitled to stand in the place of the plaintiff, and pass an order absolute for foreclosure in favour of the landlord.

(*3*) An order absolute passed under sub-section two shall have the same effect as if the landlord had been the mortgagee and the plaintiff in the suit.

Landlord's right to purchase in case of gift of occupancy-right.

54. (*1*) When an occupancy-raiyat makes a gift of his occupancy-right to any person other than his landlord, he shall forthwith file in the office of the Collector, or of the officer in charge of the sub-division, for service on the landlord, a written notice of the gift, stating the person to whom he has made it.

(*2*) The officer in whose office the notice is filed shall forthwith cause it to be served on the landlord.

(*3*) The landlord may, within the period of one month from the date on which the notice is filed, claim to purchase the right from the donee, or any other person into whose hands it may have passed, at such price as may be agreed on between them, or, if they cannot agree on a price, at such price as may be fixed by the Civil Court on an application made to it in this behalf by the landlord within the said period of one month, and, if the landlord so claims, the donee or other person as aforesaid shall sell the right to him accordingly.

(*4*) If a raiyat makes a gift of his occupancy-right, and does not comply with the provisions of this section, the landlord may, within six months from the date on which the gift is made, claim to purchase the right from the donee, or any other person into whose hands it may have passed, at a price ten per centum below its estimated value; and, if the landlord so claims, the donee or that person, as the case may be, shall sell the right to him accordingly.

Landlord's right to purchase where occupancy-right is bequeathed.

55. When an occupancy-raiyat dies, and any person, other than a person to whom, if the raiyat had died intestate, the occupancy-right would have descended, acquires that right under a bequest made by the raiyat, the landlord may, within the period of six months from the date on which the right is so acquired, claim to purchase the right from the legatee, or any other person into whose hands it may have passed, at such price as may be agreed upon between them, or, if they cannot agree upon a price, at such price as the Civil Court may, on the application of the landlord, made within the said period of six months, fix in this behalf, and if the landlord so claims the legatee or other person as aforesaid shall sell the right to him accordingly.

Raiyat of land of which landlord has acquired occupancy-right to be an occupancy-raiyat.

56. Notwithstanding any contract to the contrary, when the landlord of an occupancy-raiyat acquires, under the foregoing sections or otherwise, the occupancy-right in any of the land comprised in the holding, any person thereafter holding the land as a raiyat shall have a right of occupancy in respect of it, and, if immediately before the acquisition of the right by the landlord the rent of the land was a money-rent, shall be entitled to hold at a money-rent fixed in accordance with the provisions of this Act.

Acquisition of status of settled raiyat by succeeding to occupancy-right.

57. Every person succeeding by way of intestate succession to the occupancy-rights, or any share of the occupancy-rights, of a settled raiyat of a village or estate, in respect of any land situate in that village or estate, shall become a settled raiyat of the village or estate:

Provided that, when a person so succeeding holds as a raiyat at the time when he so succeeds other land in the same village or estate, he shall not, merely by reason of becoming a settled raiyat of the village or estate under this section, acquire, under section 47, an occupancy-right in that other land.

CHAPTER VI.

OF THE RENT PAYABLE BY OCCUPANCY-RAIYATS.

(A).—Of money-rents generally.

Existing money-rents payable until altered as herein provided.

58. A money-rent payable by an occupancy-raiyat shall be presumed to be fair and equitable, and shall continue to be paid by him until it is enhanced under this Act or reduced. [D. § 42. B. B., s. 21 (*d*).]

Enhancement of money-rents by contract.

59. (*1*) A money-rent payable by an occupancy-raiyat may be enhanced by a contract in writing approved of, and registered by, a Revenue officer appointed by the Local Government in this behalf.

(*2*) A Revenue-officer shall not, under this section, approve or register any contract by which a raiyat engages to pay a rent more than *six* annas per rupee greater than that previously payable, or more than one-fifth of the estimated average annual

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value of the gross produce of the land in staple crops, calculated at the price at which raiyats sell at harvest-time, or any contract, until he has satisfied himself that it is fair and equitable, and that the raiyat in entering into it acts as a free agent.

Money-rents not enhanceable except as provided.

[B. B., s. 21 (*d*).]

60. Except as provided by section 59, or on account of an addition to the area of the holding by alluvion or otherwise, a money-rent payable by an occupancy-raiyat shall not be enhanced otherwise than by a decree passed under this chapter.

Limit of money rent payable by settled raiyat taking new holding.

61. (*1*) When raiyatí land which has previously been held by a tenant at a money-rent is let to a settled raiyat of the village or estate in which it is situate, that raiyat shall not be bound to pay therefor any rent higher than that which was paid by the previous tenant, unless the higher rent has been fixed by a contract in writing, approved of and registered by a Revenue-officer appointed by the Local Government in this behalf.

(*2*) A Revenue-officer shall not under this section approve of or register any contract by which a raiyat engages to pay a rent more than one-*fifth* of the estimated average annual value of the gross produce of the land in staple crops, calculated at the price at which raiyats sell at harvest-time, or any contract, until he has satisfied himself that it is fair and equitable, and that the raiyat in entering into it acts as a free agent.

B.—Of the preparation of a table of rates and produce, and of suits to enhance money rents where such a table is in force.

[B. B., ss. 131 & 132.]

Power to direct preparation of table.

62. The Local Government may, by an order in the official Gazette, direct a Revenue-officer to prepare for any local area, with the aid of such assessors as the Local Government may appoint in this behalf, a table showing for each class of land comprised in that area the rate of rent fairly and equitably payable by occupancy-raiyats, the average gross produce of the land and the average value of that produce.

[B. B., s. 133.]

Contents of table.

63. The table shall specify—

(*a*) the several classes of land for which, having regard to the nature of the soil, situation, means of irrigation and other like considerations, it is necessary to fix different rates of rent;

(*b*) the rate, or the maximum and minimum rates, of rent fairly and equitably payable by occupancy-raiyats holding land of each such class; and

(*c*) the estimated average amount, or the maximum and minimum estimated average amounts, of the gross produce in staple crops of land of each such class, and the estimated average value or values of that produce.

Principle on which rent-rates are to be fixed.

[B. B., s. 133.]

64. In fixing the rate of rent for any class of land under section 63 regard shall be had—

(*a*) to the rates of rent ordinarily payable by occupancy-raiyats for land of that class at the time the table is prepared;

(*b*) to the value of the average annual gross produce of land of that class and the cost of raising such produce about the time at which those rates were fixed, or, if that time or the value and cost about that time cannot readily be ascertained, to the value of the average annual gross produce and the cost of raising such produce about any other time which it may appear equitable to take for the purpose of comparison;

(*c*) to the value of the average annual gross produce of land of that class and the cost of raising such produce at the time at which the table is prepared; and

(*d*) to the following rule, namely, that when the rate of rent for any class of land is raised on account of an increase in the value of the average gross produce of land of that class, the new rate shall not bear to the old rate a higher proportion than the increased value of the produce bears to the former value: [C. B., s. 23, (*b*). B. B., s. 24, (*b*).]

Provided that the rate fixed for any class of land shall not in any case exceed one-fifth of the estimated average annual value of the gross produce in staple crops of land of that class, calculated at the price at which raiyats sell at harvest-time. [C. B., s. 23, (*c*). B. B., s. 24, (*c*).]

Local publication of the table.

[B. B., s. 137.]

65. When the Revenue-officer has prepared the table, he shall publish it in the local area to which it relates in the vernacular language prevailing in that local area, in such manner as the Board of Revenue may from time to time prescribe.

Revenue-officer to deal with objections.

[B. B., s. 138.]

66. Any person objecting to any entry in the table may present a petition to the Revenue-officer within a period of one month after the publication; and the Revenue-officer, with the aid of the assessors, shall consider any such objection, and may alter or amend the table.

Table to be submitted to superior Revenue-authorities.

[B. B., s. 139.]

67. If no objection is made within the said period of one month, or, where objections are made, after those objections have been disposed of, the Revenue-officer shall submit the table, together with his proceedings, a report setting forth the grounds of his decision on each point, and any petitions of objection which may have been

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received, through the Commissioner of the Division, to the Board of Revenue for approval.

[B. B., s. 140.] **68.** The Board of Revenue may amend the table submitted under section 67 in any manner which appears to it proper, and may allow in whole or in part any objection forwarded therewith or subsequently made, or may return the case for further enquiry.

Proceedings of Board of Revenue thereupon.

[B. B., s. 141.] **69.** When a table of rates has been sanctioned by the Board, it shall be submitted to the Local Government, which may amend the same in any manner it thinks fit, and may direct, if it thinks fit, that the table or amended table shall be published in the official Gazette with a specification of the local area to which it applies.

Publication of table after final sanction.

[B. B, s. 143.] **70.** A table for any local area published under section 69 shall come into force on the date on which it is so published, and shall continue in force for such period, not less than ten or more than thirty years, as the Local Government at the time of publication may direct.

Period for which table remains in force.

[B. B., s. 142.] **71.** The publication of a table under section 69 shall be conclusive evidence in any proceeding under this Act—

Table to be conclusive evidence.

(1) that the proceedings for the preparation of the table have been duly conducted in accordance with this Act:

(2) that, except as in this Act provided, the rates shown in the table for each class of land are the fair and equitable rates payable for land of that class by occupancy-raiyats within the local area to which the table applies:

(3) that the average gross produce of land of any class, and the average value thereof, are in accordance with the gross produce and the value specified in regard to that class in the table.

72. All expenses incurred by the Government in preparing a table of rates and produce for any local area, including the salaries of all officers employed exclusively in its preparation, and such portions as the Local Government may from time to time fix of the salaries of officers employed in its preparation in addition to their other public duties, shall be defrayed by occupancy-raiyats and their landlords in that local area in such proportions as the Local Government may from time to time determine; and the proportion of those expenses so to be defrayed by any person shall be recoverable from him as if it were an arrear of land-revenue due by him.

Expenses incurred in preparing table how defrayed.

[B. B., s. 144.] **73.** When a table is in force under the foregoing sections for any local area, the landlord of any holding within that area, held by an occupancy-raiyat at a money rent, may, subject to the provisions of section 78, institute a suit to enhance the rent then payable on the ground that it is below that which would be payable at the rates shown in the table; and the Court shall enhance the rent in accordance with the rates shown in the table, or, where for any class of land a maximum and a minimum rate are entered in the table, to such rate, not higher than the maximum and not lower than the minimum, as it thinks fit: Provided that—

Suit to enhance where table is in force.

1st.—Where the rent of any land comprised in the holding would, by reason of a change having taken place in or in regard to the land since the raiyat or his predecessor in interest began to hold it, be fixed under this section at a higher rate, and would, but for that change, have been fixed under this section at a lower rate, the following rules shall apply, namely:—

(*a*) if the change has been effected solely by the agency or at the expense of the raiyat or his predecessor in interest, the Court shall fix the rent of that land at the lower rate; [D. § 43. C. B., s. 22, cls. (3) and (4.) B. B., s. 23, cls. (3) & (4.)]

(*b*) if the change has been effected partly by the agency or at the expense of the landlord or his predecessor in interest, and partly by the agency or at the expense of the raiyat or his predecessor in interest, the Court shall fix the rent of the land at such rate intermediate between the higher rate and the lower rate as, having regard to all the circumstances of the case, it thinks fair and equitable; and [D. § 43 (1) and (2). C. B., s. 22 (1), (3) and (4). B. B., s. 23 (1), (3) and (4).]

(*c*) if it is not proved that the change has been effected by the agency or at the expense of the landlord or the raiyat, or the predecessor in interest of either of them, the Court shall fix the rent of the land at a rate equal to the lower rate, together with half the difference between the higher rate and the lower rate. [C. B., s. 23, cl. (*a*). B. B., s. 24 (*a*).]

2ndly.—When the raiyat proves that by contract or by custom, or on some equitable ground, he is entitled to hold at a rate lower than the rate applicable under this section, the Court shall fix the rent at the lower rate. [B. B., ss. 24 (*c*), 142, proviso.]

Illustrations.

(*a*) The rates shown in the table for land of a certain description are—

when the land is irrigated from a well ... Rs. 4 per acre.
when the land is not so irrigated ... Rs. 2 „

The holdings of *A*, *B*, *C* and *D*, occupancy-raiyats, are composed of land of that description irrigated from wells constructed on these holdings respectively.

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The well on A's holding is an ancient one existing from a time anterior to the tenancy: that on B's holding has been constructed by the landlord since the commencement of the tenancy: that on C's holding has been constructed by the raiyat: that on D's holding has been constructed by the landlord and raiyat, each contributing some portion of the labour and materials. The rents of the holdings of A and B must be fixed at Rs. 4 per acre, that of C's holding at Rs. 2 per acre, and that of D's holding at such rate intermediate between Rs. 2 and Rs. 4 as the Court thinks fair and equitable.

(*b*) The rates shown in the table for land of a certain description are as follows:—

when such land is irrigated from a branch of a river ... ... Rs. 4 per acre,
when such land is not so irrigated ... Rs. 2 per acre.

The holdings of E and F, occupancy-raiyats, are composed of land of that description, and were not irrigable until 40 years ago, when, owing to a change in the course of a neighbouring river, a new branch established itself contiguous to them. E has been in occupation of his holding 50 years, F only 30; the rent of E's holding must be fixed at Rs. 3, that of F's holding at Rs. 4.

C.—Of suits to enhance money rents where a table of rates and produce is not in force.

Grounds on which landlord may sue to enhance where table is not in force.

74. (*1*) The landlord of a holding held at a money rent by an occupancy-raiyat and situate in a local area for which a table of rates and produce, prepared under the foregoing sections, is not in force, may, subject to the provisions of section 78, institute a suit to enhance the rent on one or more of the following grounds, namely:—

(1) that the rate of rent paid by the raiyat is below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in the vicinity;

(2) that the productive powers of the land held by the raiyat, as compared with those powers at the time when the rent was fixed, or, when that time or the productive powers at that time cannot readily be ascertained, with the productive powers at any other time which it may appear equitable to take for purposes of comparison, have increased otherwise than by the sole agency or at the sole expense of the raiyat or his predecessor in interest and from causes not merely temporary or casual; and

(3) that the average prices of produce in the locality, or at the usual markets, as compared with similar prices about the time when the rent was fixed, or, when that time or the prices prevailing about that time cannot readily be ascertained, with the similar prices about any other time which it may appear equitable to take for purposes of comparison, have increased otherwise than by the sole agency or at the sole expense of the raiyat or his predecessor in interest, and from causes not merely temporary or casual.

(*2*) Nothing in this section shall affect any contract binding a landlord not to enhance the rent of a tenant. [B. B., s. 24 (*c*).]

Illustrations of Ground (1).

(*a.*) A's paternal grandfather seventy years ago reclaimed the land which A, an occupancy-raiyat, now holds, and which came to him by inheritance from such paternal grandfather. B is an occupancy-raiyat who holds land which was in a culturable state when B was first let into possession thereof. There is evidence that the hereditary descendant of a raiyat who, being the first settler, reclaimed the land has a special privilege. A and B are not raiyats of the same class.

(*b.*) A is in possession of a holding which has descended to him from his great-grandfather, who held it at the time of the Permanent Settlement. B was let into possession of his holding twenty years ago. There is evidence that the descendants of raiyats who were in possession at the time of the Permanent Settlement customarily hold at rates less than raiyats who have come into possession at a later period. A and B are not raiyats of the same class.

Rules for enhancement under section 74.

75. All enhancements of rent on the second or third of the grounds specified in section seventy-four shall be subject to the following rules, namely:— [C. B. s. 23 (*a*), (*b*) and (*c*). B. B., s. 24 (*a*), (*b*) and (*c*).]

(*a*) If the increase of the productive powers of the land, or of the prices of produce, has been effected wholly by the agency or at the expense of the landlord or his predecessor in interest, the landlord shall be entitled to the whole benefit of the increase:

(*b*) If the increase has been effected partly by the agency or at the expense of the landlord or his predecessor in interest, and partly by the agency or at the expense of the raiyat or his predecessor in interest, the benefit shall be divided between the landlord and the raiyat in such shares as the Court, having regard to all the circumstances of the case, thinks fair and equitable:

(*c*) If it is not proved that the increase has taken place by the agency or at the expense of the landlord or the raiyat, or the predecessor in interest of either of them, each shall be entitled to one-half of the benefit: Provided that in any such case the enhanced rent shall not bear to the rent previously payable a higher proportion than the increased productive powers or increased prices bear (as the case may be) to the former productive powers or former prices:

(*d*) The enhanced rent shall not in any case exceed one-*fifth* of the estimated average annual value of the gross produce of the land in staple crops, calculated at the price at which raiyats sell at harvest-time.

D.—Rules applicable to suits to enhance money rents generally.

No enhancement beyond double the rent previously payable.

76. The rent of a holding shall not be enhanced in a suit under any of the foregoing sections of this chapter so that the enhanced rent shall be more than double the rent previously payable. [C. B., s. 23 (*b*). B. B., s. 24 (*b*).]

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[C.B., s. 23(*d*). B. B., s. 24 (*d*).]

77. When a Court passing a decree for enhancement under any of those sections considers that the immediate enforcement of the decree in its full extent would be attended with hardship to the raiyat, it may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement decreed has been reached.

Power to order progressive enhancement.

[B. B., s. 143.]

78. When the rent of an occupancy-holding has been enhanced by a decree under any of those sections or under any enactment repealed by this Act, or by contract, or has been commuted under section 82, a suit for its enhancement shall not be instituted under this chapter within the ten years next following the date on which it has been so enhanced or commuted, except on the ground that since the rent has been so enhanced or commuted an improvement has been made by the landlord which, but for this section, would entitle him to an enhancement.

Rent enhanced or commuted not enhanceable for 10 years.

E.—Of suits for the reduction of money rents.

[D. § 47. C. B., s. 25 (2) and (3). B. B., s. 25 (2) & (3).]

79. (*1*) An occupancy-raiyat holding at a money rent may, notwithstanding any contract to the contrary, institute a suit for the reduction of his rent on either or both of the following grounds, and, except as provided by section 96, not otherwise, namely:—

Occupancy-raiyat when entitled to reduction of rent.

(*a*) on the ground that the productive powers of the land, as compared with those powers at the time when the rent was fixed, or, when that time or the productive powers at that time cannot readily be ascertained, with the productive powers at any other time which it may appear equitable to take for purposes of comparison, have decreased from some cause beyond the raiyat's control, and not merely temporary or casual;

(*b*) on the ground that the average prices of produce in the locality or at the usual markets, as compared with similar prices about the time when the rent was fixed, or, when that time or the prices prevailing about that time cannot readily be ascertained, with the average prices prevailing about any other time which it may appear equitable to take for purposes of comparison, have decreased from some cause beyond the raiyat's control, and not merely temporary or casual.

(*2*) In any suit instituted under this section the Court may direct such reduction of the rent as it thinks fair and equitable.

F.—Special rules regarding money rents payable for pasture lands.

[C. B., s. 22, Expl. II. B. B., s. 23, Expl. II. & s. 24 (*e*).]

80. (*1*) Sections 62 to 79, both inclusive, shall not apply to land fit to be used, or which in accordance with local usage is used, only as pasture; but when such land is held at a *money rent* by an occupancy-raiyat, the landlord may, subject to any contract between the parties, institute a suit to enhance the rent on the ground—

Special rules for pasture lands.

(*a*) that the rate of rent payable by the raiyat is below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in the vicinity, or

(*b*) that, having regard to the increase of rent on arable land in the vicinity since the rent payable by the raiyat was fixed, it is reasonable to enhance that rent.

(*2*) Where an enhancement is applied for on the ground mentioned in clause (*b*), the Court shall fix the rent at such rate as it thinks fair and equitable.

G.—Of rents payable in kind or varying with the crop.

[C. B., s. 2. B. B., s. 22.]

81. (*1*) Where an occupancy-raiyat pays rent in kind, or pays as rent the value of a certain share of the actual gross produce, the following rules shall apply, namely:—

Limit to amount of rent payable in kind or varying with crop.

(*a*) notwithstanding any contract or custom to the contrary, the landlord shall not be entitled to recover, in respect of any portion of the holding on which staple crops are grown, more than half the gross produce or its value, as the case may be;

(*b*) the landlord shall not, except under a contract in writing, be entitled to recover, in respect of any portion of the holding on which other crops are grown, any other description or any greater amount of rent than a sum equal to one-half of the estimated average value of the produce of that portion of the holding if staple crops were grown on it.

(*2*) Nothing in this section shall prevent a landlord recovering the value of any seed, labour or other assistance he may have contributed towards the production of the crop.

[C. B., s. 86. B. B., ss. 90 and 92.]

82. (*1*) An occupancy-raiyat whose holding consists of raiyatí land, and who pays rent in kind, or pays as rent the value of a certain share of the actual gross produce of the holding, may, notwithstanding any contract to the contrary, sue to have his rent commuted into a money-rent.

Commutation of rents.

(*2*) The money-rent shall be fixed at the discretion of the Court—

(*a*) according to the prevailing money-rent payable by the same class of raiyats for land of a similar description and with similar advantages in the vicinity, or

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(*b*) according to the average value of the rent actually received by the landlord during the preceding five years.

(*3*) When a money-rent is fixed under clause (*b*), a reasonable deduction shall be made by the Court from the average value aforesaid in consideration of the whole risk of cultivation being taken by the raiyat.

H.—Supplementary provisions.

[C. B., s. 122, B. B., s. 145.]

83. (*1*) The Collector of every district shall prepare annually lists of the market-prices at harvest-time of staple crops grown in such local areas as the Board of Revenue may from time to time direct, and shall submit them to the Board of Revenue for approval or revision.

Collectors to prepare annual price-lists of staple crops.

(*2*) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette under the signature of one of the Secretaries to the Board.

(*3*) Any such price-list so published shall, in any proceedings under this chapter, be conclusive evidence of the prices prevailing in the local area at harvest-time in the year to which it relates.

[C. B., ss. 120, 122 and 23(*c*). B. B., ss 134, 145 and 24 (*c*).]

84. The Board of Revenue may from time to time, subject to the approval of the Local Government and to the control of the Governor General in Council, make rules—

Power to make rules.

(*a*) for the guidance of officers engaged in the preparation of tables of rates and produce under this chapter;

(*b*) for the guidance of officers engaged in the preparation of price-lists under section 83;

(*c*) determining what crops shall be deemed to be staple crops for the purposes of this chapter in any local area;

(*d*) for the guidance of Revenue-officers registering contracts under section 59 and section 61.

(*e*) for the guidance of Revenue-officers and Courts in estimating the average annual value of the gross produce of land for the purposes of sections 59 and 61 and section 75, clause (*d*).

CHAPTER VII.

OF THE RIGHT OF A SETTLED RAIYAT IN BASTU LAND.

85. (*1*) A person who is under Chapter V a settled raiyat of a village or estate as defined in that chapter shall, notwithstanding any contract to the contrary, have a right permanent, heritable and capable of being transferred and bequeathed, in any *bastu* or other homestead land in that village or estate which is not comprised in an occupancy-holding and which is held by him as the site of, or for the purpose of erecting, a dwelling-house suitable for himself and his family, together with all necessary out-offices.

Settled raiyat to have permanent right in *bastu* land.

(*2*) A person having a right under sub-section one in any land in a village or estate shall not lose that right merely by reason of his ceasing to be a settled raiyat of that village or estate.

[B. B., s. 32.]

86. (*1*) Notwithstanding any contract to the contrary, a person having in respect of any land a right under section 85 shall not be ejected from that land except in execution of a decree for ejectment passed in accordance with this Act on the ground that he has broken a condition consistent with the provisions of this Act and on breach of which he is, under the terms of a written contract between him and his landlord, liable to be ejected, and, if he is so ejected, shall be entitled to compensation for any house or offices of the description referred to in section 85 which may have been erected on the land by him or his predecessor in interest whether before or after the commencement of this Act.

Provisions regarding ejectment.

(*2*) A Court passing a decree for the ejectment of such a person shall determine the amount of compensation (if any) due to him under sub-section one and shall make the decree conditional on the payment of that amount by the decree-holder.

[C. B., s. 42. B. B., s. 33.]

87. When a person has in respect of any land a right under section 85, and the rent of the land has not been enhanced during the previous ten years, the landlord may, unless barred by any contract between the parties, enhance the rent, so that it may be equal to the rent paid by other tenants for land in the neighbourhood having similar advantages and used for similar purposes, or at his option so that it may be equal to five per centum of the market-value of the land.

Rule for enhancement.

CHAPTER VIII.

OF ORDINARY RAIYATS.

88. Every person holding raiyatí land as a raiyat and not having a right of occupancy in respect of it shall be deemed to hold it as an ordinary raiyat.

Ordinary raiyat defined.

89. An ordinary raiyat shall, subject to the provisions of section 119, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

Rents regulated by agreement.

[C. B., s. 79 (5). B. B., ss. 26, 72 (5).]

90. Notwithstanding any contract to the contrary, an ordinary raiyat shall not be ejected from raiyatí land by his landlord as such except—

Grounds on which an ordinary raiyat may be ejected from raiyatí land.

(*a*) as hereinafter provided for arrears of rent,

(*b*) in execution of a decree for ejectment passed in accordance with this Act on the ground

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that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is, under the terms of a written contract between him and his landlord, liable to be ejected, or

(*c*) in execution of a decree for ejectment passed on the ground that he has refused to agree to an enhancement of rent demanded by his landlord in accordance with the provisions next hereinafter contained.

Notice of enhancement to be served through Civil Court.

91. When a landlord wishes to enhance, within the limit fixed by section 119, the rent of an ordinary raiyat holding raiyatí land at a money-rent not fixed for a term by agreement, and the raiyat does not agree to the enhancement, the landlord may cause to be served on the raiyat through the Civil Court a notice of the enhancement not less than six months before the commencement of the agricultural year in which the landlord desires the enhancement to take effect.

Raiyat may agree to enhancement. If he does not, landlord may sue to eject.

92. (*1*) If, within the period of one month from the service of a notice under section 91, the raiyat on whom the notice has been served presents to the Court issuing the notice a statement in writing declaring his willingness to pay the enhanced rent, he shall be deemed to have agreed to pay that rent from the commencement of the agricultural year next following.

(*2*) If the raiyat does not, within the said period of one month, present to the Court a statement as aforesaid, the landlord may, not less than ten weeks before the commencement of the agricultural year next following, institute a suit to eject the raiyat.

Procedure in suit.

93. (*1*) If, in any suit instituted under section 92, the defendant appears and agrees to pay the enhanced rent demanded, his agreement shall thereupon be recorded, and he shall not be ejected, but shall be liable to pay that rent from the commencement of the agricultural year next following the date of the agreement.

(*2*) If the defendant does not appear, or if, on appearing, he does not agree to pay the enhanced rent demanded, the Court may pass a decree for his ejectment on condition that, within fifteen days from the date of the decree, the landlord deposits in Court—

(*a*) such sum (if any) as may be declared by the decree to be payable to the raiyat as compensation for improvements; and

(*b*) a further sum as compensation for disturbance equal to *ten* times the yearly increase of rent demanded.

Decree when absolute:

94. (*1*) If these sums are so deposited, the decree shall be made absolute, and the sums deposited shall be paid to the raiyat.

when to become void.

(*2*) If these sums are not so deposited, the decree shall become void, and the raiyat shall remain in occupation of his holding at the rent previously paid by him.

Fresh proceedings not to be taken for ten years.

95. When a raiyat has agreed, under section 92 or section 93, to pay an enhanced rent for his holding, or a decree to eject him from the holding has become void under section 94, no notice shall be served on him under section 91 in respect of that holding during the ten years next following the date on which he has so agreed, or the decree has become void, as the case may be.

CHAPTER IX.

PROVISIONS REGARDING RENT APPLICABLE TO SEVERAL CLASSES OF TENANTS.

A.—Of alterations of rent consequent on alterations of the area of the holding of a tenure-holder or occupancy raiyat.

Additions to, and deductions from, rent in respect of alteration of area.

[D. §§ 19, 24, 43 (3) & 47. C. B., ss. 8 & 18, 22 (2) & 25 (1). B.B., ss. 8, 18, 23 (2) & 25 (1).]

96. (*1*) Notwithstanding anything in Chapter III or Chapter VI, every tenure-holder shall, in the absence of a contract to the contrary, and every occupancy-tenant shall, notwithstanding any contract to the contrary,—

(*a*) be liable to pay additional rent for all land added to the area of his holding by alluvion or otherwise, unless he can show that the land has reformed on the site of land which was formerly included in that area, and for the loss of which he has had no abatement of rent; and

(*b*) be entitled to a reduction of rent in respect of any diminution of the area of his holding caused by diluvion or otherwise, unless it is proved that the land lost was added to the area of the holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(*2*) The amount added to the rent shall be calculated at the rates payable by occupancy-raiyats for lands of a similar description and with similar advantages in the vicinity, less a deduction, in the case of a tenure-holder, of thirty per cent. for profits, risk and cost of collection.

(*3*) The amount abated from the rent shall bear the same proportion to the rent previously payable

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as the diminution of the total yearly value of the holding bears to the previous total yearly value thereof, or, in default of satisfactory proof of the yearly value of the land lost, shall bear to the rent previously payable the same proportion as the diminution of area bears to the previous area of the holding.

B.—Instalments in which money-rents are payable by tenure-holders, raiyats and under-raiyats.

[C. B., s. 55 (*a*). B. B., s. 47 (*a*).]

Rent of tenure-holder in what instalments and on what dates payable.

97. A money-rent payable by a tenure-holder shall be paid in such instalments and on such dates as may have been agreed upon between the tenure-holder and his landlord; in the absence of agreement, in such instalments and on such dates as may be customary; and, in the absence of any agreement or custom, in such instalments and on such dates as the Board of Revenue may fix in this behalf for any local area.

[C. B., s. 53 (*b*). B. B., s. 47 (*b*).]

Rent of raiyat or under-raiyat in what instalments and on what dates payable.

98. A money-rent payable by a raiyat or under-raiyat shall, notwithstanding any contract or custom to the contrary, be paid in such instalments, and on such dates, not being more than four in each year, as the Board of Revenue may fix in this behalf for any local area:

Provided that, when the instalments in which, and the dates on which, rent is payable are fixed by an agreement made before the commencement of this Act, or by a custom which has prevailed from before the commencement of this Act, the amount payable on each date fixed by the Board under this section for the payment of an instalment shall be equal to the aggregate of the instalments which would, under the agreement or custom, have fallen due since the date so fixed by the Board for the payment of the last previous instalment.

[B. B., s. 47 (*b*).]

Making and publication of orders under sections 97 and 98.

99. (*1*) Every order made by the Board of Revenue under section 97 or section 98 shall be made after a consideration of the prevailing customs and the time of harvest in the local area to which it is to apply.

(*2*) Every such order shall be published in manner prescribed not less than three months before the commencement of the agricultural year in which it is to take effect.

C.—Of the Receipts and Accounts to be given to tenants.

[D. § 61. C. B., s. 57. B. B., s. 49 (*a*) and (*b*).]

Tenant making payment to his landlord entitled to a receipt.

100. (*1*) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount paid by him.

(*2*) The receipt shall specify—

(*a*) the date of payment;

(*b*) the amount paid on account of principal and interest respectively, or, where the payments are made in kind, the quantity and description of produce delivered;

(*c*) where other money recoverable under any enactment for the time being in force is paid with the rent, the amount so paid.

(*d*) the holding in respect of which the rent is paid;

(*e*) the name of the person (if any) registered in the landlord's serishta as the tenant;

(*f*) the annual rent payable for the holding and the amount of rent then in arrear; and

(*g*) the instalment and year on account of which the payment is declared by the tenant to be made, or, in the absence of any such declaration, the instalment and year on account of which it has been credited by the landlord.

(*3*) The landlord shall prepare and retain a counterpart of the receipt containing similar particulars.

(*4*) Every receipt which does not contain substantially the above particulars shall be deemed to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

[C. B., s. 51 (*b*). B. B., s. 49 (*c*).]

Tenant entitled to statement of account at close of the year.

101. (*1*) Every tenant shall be entitled to receive from his landlord, within three months after the expiry of each agricultural year, a statement of account for that year showing—

(*a*) the holding for which the tenant pays rent to the landlord;

(*b*) the name of the person (if any) registered in the landlord's serishta as the tenant;

(*c*) the annual rent payable for the holding;

(*d*) the amount of rent in arrear at the beginning of the year;

(*e*) the payments made during the year on account of principal and interest respectively, or, when the payments are made in kind, the quantity and description of produce delivered;

(*f*) the portion of each payment credited to the rent of the year, and the portion credited to the arrears of previous years; and

(*g*) the amount, if any, remaining unpaid at the close of the year.

(*2*) The landlord shall prepare and retain a counterpart of the statement containing similar particulars.

[D. § 65. C. B., s. 57(*d*). B. B., ss 49 (*d*) and 94.]

Penalties and fine for withholding receipts and statements of accounts and failing to keep counterparts.

102. (*1*) If a landlord refuses or neglects to deliver to a tenant demanding the same a receipt containing the particulars prescribed by section 100 for any rent paid by the ten-

ant, the tenant may, within six months from the date of the demand, institute a suit to recover from him such penalty, not exceeding double the amount or value of that rent, as the Court thinks fit.

(2) If a landlord refuses or neglects to deliver to a tenant demanding the same the statement of account for any year prescribed in section 101, the tenant may, within six months from the date of the demand, institute a suit to recover from him such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by the tenant to the landlord during that year.

(3) If a landlord fails to prepare and retain a counterpart of a receipt or statement as required by section 100 or section 101, he shall be punished with fine which may extend to fifty rupees.

D.—Of the deposit of rent by a tenant in a public office.

[D. § 99. C. B., ss. 58 & 59. B. B., ss. 50 & 51.]

Application to deposit rent in public office.

103. (1) In any of the following cases, namely:—

(a) when a tenant bound to pay money on account of rent has reason to believe that the person to whom his rent is payable will not be willing to receive the same and to grant him a receipt therefor:

(b) when the money is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers therefor, and no person has been empowered to receive the rent in their behalf: or

(c) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent:

the tenant may present, to such officer as the Local Government from time to time appoints in this behalf for the local area in which the holding is situate, an application in writing for permission to deposit in his office the full amount of the money then due.

(2) The application shall contain a statement of the grounds on which it is made, shall be signed by the tenant or, where he is not personally cognizant of the facts of the case, by some person so cognizant, and shall be accompanied by a fee of eight annas.

[D. §§ 99 & 100. C. B., s. 60. B. B., s. 52.]

Receipt granted by public officer for rent deposited to be a valid acquittance.

104. (1) If it appears to the officer to whom an application is made under section 103 that the applicant is entitled under that section to deposit the rent, he shall receive the rent and give a receipt for the same under his official seal.

(2) A receipt given under this section shall operate as an acquittance for the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if the rent had been received—

(a) in case (a) of section 103 by the person specified in the application as the person to whom the rent was payable;

(b) in case (b) of section 103 by the co-sharers jointly; and

(c) in case (c) of section 103 by the person entitled to it.

[D. § 100. C. B., s. 61 (a). B. B., s. 53 (a).]

Notification of receipt of deposit.

105. (1) The officer receiving a deposit under section 104 shall forthwith cause to be affixed in a conspicuous place in his office a notification of the receipt thereof, containing a statement of all material particulars contained in the application under section 103, and, when the deposit is made under section 103, clause (a), shall send a copy of the notification by post in a registered cover to the person to whom the rent is alleged by the depositor to be payable.

(2) If the amount of the deposit is not paid away under section 106 within the period of fifteen days next following the date on which the notification is affixed as aforesaid the officer shall cause a notice of the receipt of the deposit to be served (free of charge) upon every person who he has reason to believe claims or is entitled to the deposit.

[D. § 100. C. B., s. 61 (b). B. B., s. 53 (b).]

Deposit to whom payable.

106. (1) The officer may pay the amount of the deposit to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

(2) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

[C. B., s. 61 (c). B. B., s. 53 (c).]

Refund to depositor.

107. If no payment is made under section 106 before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given under section 104.

E.—Of arrears of rent.

[D. § 101. C. B., s. 56. B. B., s. 48.]

Interest on arrears.

108. Every arrear of rent shall, unless otherwise provided by a written contract between the parties, be liable to interest at the rate of twelve per centum per annum.

[D. § 68. C. B., s. 90. B. B., s. 96.]

Power to award damages on rent withheld without reasonable cause.

109. If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as it thinks fit:—

Provided that, when damages are awarded under this section, interest shall not be decreed under section 108.

[D. § 69. C. B., s. 91. B. B., s. 97.]

Power to award damages to defendant improperly sued for rent.

110. If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum not exceeding twenty-five per centum on the whole amount claimed by the plaintiff as it thinks fit.

[D. §§ 12 (5) & 93. C. B., ss. 79 (5) & 152. B. B., ss. 72 (5) & 169.]

Ejectment from non-transferable holding for arrears.

111. (1) When an arrear of rent remains due in respect of a non-transferable holding at the end of the Bengali year where that year prevails, or at the end of the month of Jeyt where the Fusli or Amli year prevails, the landlord may, whether he has obtained a decree for the recovery of the arrear or not, and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the tenant.

(2) A decree passed in favour of the plaintiff in any such suit shall specify the amount of the arrear together with the interest (if any) due thereon, and the decree shall not be executed if that amount and the costs of the suit are paid into Court within fifteen days from the date of the decree, or, when the Court is closed on the fifteenth day, on the day upon which the Court re-opens.

F.—Of rent taken by division or estimation of the crop.

[C. B., s. 84. B. B., s. 88.]

Commission for dividing or estimating crops.

112. Whenever rent is taken by division of the produce, or by estimate or appraisement of the crop, if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division, estimate or appraisement, or if there is a dispute about the division of the produce, or the quantity or value of the crop, the Collector may, on the application of either party, and on his depositing such sum on account of expenses as the Collector may require, issue a commission to such person as he thinks fit, to divide, estimate or appraise the crop.

Appointment of assessors, &c.

113. (1) When a Collector appoints a commissioner for any of the purposes mentioned in section 112, the Collector may, in his discretion, direct the commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting those assessors (if any), and the procedure to be followed in making the division, estimate or appraisement.

(2) The commissioner so appointed shall make the division, estimate or appraisement in accordance with those instructions, and submit a report of his proceedings to the Collector.

Remedy for error in division.

114. (1) If in any division under section 113 either party receives less than the share to which he is entitled, he may, within three months from the date on which the division is completed, institute a suit against the other party to recover the value of the additional portion of the crop due to him at the price which prevailed on that date.

(2) If no such suit is instituted within the said period of three months, the division shall for all purposes be deemed as between the parties thereto to have been rightly made.

Procedure where crop has been estimated or appraised.

115. (1) When a crop has been estimated or appraised under section 113 the estimate or appraisement shall be reduced to writing and signed by the commissioner making the same, and shall be submitted to the Collector by whom the commission was issued.

(2) The Collector shall consider the commissioner's estimate or appraisement, and, after such hearing and inquiry (if any) as he may think necessary, shall pass an order thereon either confirming or varying the estimate or appraisement; and that order shall be final.

Costs of proceedings under foregoing sections.

116. All expenses incurred in carrying out the provisions of sections 112 to 115 (both inclusive) shall be payable by the landlord or tenant, or partly by one and partly by the other, as the Collector may in each case direct; and the amount payable by any person under such a direction shall be recoverable from him as if it was an arrear of land-revenue due by him.

[B. B., s. 9.]

Interference with produce of land otherwise than under section 112, criminal trespass.

117. If the landlord of any land of which the rent is payable in the manner mentioned in section 112, or any other person, interferes in any way, without the consent of the tenant, with the cutting or harvesting of any produce of the land except by an application to the Collector under section 112, he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code.

XLV of 1860.

[C. B., s. 85. B. B., s. 89.]

Danabandi or appraisement papers in Bihár to be deposited in Collector's office.

118. When the rent payable for land in Bihár is the equivalent money-value of a fixed proportion of the actual gross produce thereof, and such equivalent

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money-value is determined by an estimate or appraisement (*danabandi*) of the standing crop, or by some similar proceeding, the *danabandi* or appraisement papers shall, within fifteen days after the making of the appraisement, be lodged in the office of the Collector of the district.

G.—Further provisions regarding rent.

[C. B., s. 23 (c). B. B., s. 30.]

119. Notwithstanding anything in the foregoing sections of this Act, or in any contract made after the second day of March, 1883, a raiyat or under-raiyat shall not be bound to pay for his holding a money-rent exceeding *five*-sixteenths of the estimated average annual value of the gross produce of the holding in staple crops, calculated, in such manner as the Board of Revenue may from time to time, by rules, direct, at the prices at which raiyats sell at harvest time.

Limit to rents of raiyats and under-raiyats.

120. The rent payable by a tenant in any agricultural year shall be presumed to be the rent payable by him in the following agricultural year until the contrary is shown.

Presumption that rent continues unchanged.

[B. B., s. 42.]

121. When a landlord grants a lease, or makes any other contract, purporting to entitle the tenant of land not included in an area permanently settled to hold that land free of rent or at a fixed rent, and while the lease or contract is in force—

Power to alter rent in case of new assessment of revenue.

(*a*) land-revenue is for the first time made payable in respect of the land, or

(*b*) land-revenue having been previously payable in respect of it, a fresh settlement of land revenue is made,

a Revenue-officer may, notwithstanding anything in the contract between the parties, by order, on the application of the landlord or of the tenant, fix a fair and equitable rent for the land in accordance with the provisions of this Act.

[s. 9, s. 78. B., s. 70.]

122. (*1*) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid to the landlord whose interest was so transferred, unless the transferee has given notice of the transfer to the tenant.

Tenant not liable to transferee of landlord's interest for rent paid to former landlord without notice of the transfer.

(*2*) When there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section.

123. All impositions upon tenants under the denomination of *abwab*, *mahtut*, or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void.

[D. §§ 13 & 57. C. B., s. 72. B. B., s. 63 (2).]

Abwab, &c., illegal.

124. Every tenant from whom, except under any special enactment for the time being in force, any sum of money or any portion of the produce of his land is exacted by his landlord in excess of the rent lawfully payable, may, within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the Court thinks fit, not exceeding five hundred rupees; or, when double the amount or value of what is so exacted exceeds five hundred rupees, not exceeding double that amount or value.

[D. § 64. C. B., ss. 63 (2), 64 (*a*), 93.]

Penalty for exaction by landlord from tenant of sum in excess of the rent payable.

125. (*1*) The rent of a tenure, occupancy-holding or basta holding shall be a first charge on the same.

[C. B., s. 64. B. B., s. 56.]

Rent first charge on tenures, occupancyholdings and ba tu holdings.

(*2*) If the right, title and interest of the tenant is brought to sale in execution of a decree for money obtained by a person other than the landlord, the landlord shall be entitled to be first paid out of the sale proceeds any rent which may be due to him by the tenant.

CHAPTER X.

OTHER PROVISIONS APPLICABLE TO SEVERAL CLASSES OF TENANTS.

A.—Of improvements on raiyats' holdings and compensation therefor.

126. (*1*) For the purposes of this chapter the term "improvement," used with reference to a raiyat's holding, shall mean any work which adds to the letting-value of the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

[C. B., s. 29. B. B., s. 69.]

"Improvement."

(2) It shall include for those purposes—

(*a*) the construction of wells, tanks and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;

(*b*) the preparation of land for irrigation;

(*c*) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural

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purposes, or waste-land which is culturable;

(*d*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(*e*) the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto; and

(*f*) the erection of a dwelling-house suitable for the raiyat and his family, together with all necessary out-offices.

But no work executed by the raiyat of a holding shall be deemed to be an improvement for the purposes of this chapter if it substantially diminishes the value of any other part of the estate or tenure of his landlord.

(*3*) A work which benefits several holdings shall for the purposes of this chapter be deemed to be, with respect to each of them, an improvement.

[C. B., s. 77. B. B., s. 69.]

127. (*1*) The landlord of an occupancy-raiyat shall not be entitled as such to prevent the raiyat making an improvement in respect of his holding, and shall not, except as next hereinafter provided, be entitled to make an improvement in respect of the holding without the permission of the raiyat.

Right to make improvements in case of occupancy-holding.

(*2*) A landlord of an occupancy-holding who would, but for the want of his raiyat's permission, be entitled to make an improvement in respect of the holding, may, if he desires that any improvement, other than an improvement of the description mentioned in section 126, clause (*f*), be made, deliver or cause to be delivered to the raiyat a request in writing calling upon him to make the improvement within a reasonable time; and, if the raiyat is unable or neglects to comply with that request, may make the improvement himself.

[C. B., s. 77. B. B. s. 69.]

128. (*1*) An ordinary raiyat shall not, except as next hereinafter provided, be entitled to make in respect of his holding without his landlord's permission any improvement other than an improvement of the description mentioned in section 126, clause (*f*).

Right to make improvements in case of ordinary raiyat's holding.

(*2*) An ordinary raiyat, who would, but for the want of his landlord's permission, be entitled to make an improvement in respect of his holding, may, if he desires that the improvement be made, deliver, or cause to be delivered, to his landlord a request in writing calling upon him to make the improvement within a reasonable time; and, if the landlord is unable or neglects to comply with that request, may make the improvement himself.

[C. B., ss. 20 (*e*) & 29.]

129. (*1*) Every raiyat who is ejected from his holding shall be entitled to compensation for improvements which have been made in accordance with this Act by him, or by his predecessor in interest, and for which compensation has not already been made.

Compensation for improvements payable to raiyat on ejectment.

(*2*) Whenever a Court makes a decree or order for the ejectment of a raiyat, it shall determine the amount of compensation (if any) due under this section to the raiyat for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the raiyat.

(*3*) No compensation under this section for an improvement shall be claimable where the raiyat has made the improvement in pursuance of a contract or under a lease binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and he has obtained that advantage.

(*4*) Improvements made by a raiyat before the commencement of this Act shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the raiyat to make the improvement and was ready to make it himself.

130. The Local Government may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 129, for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

Power to make rules for appointment of assessors.

131. (*1*) In estimating the compensation to be awarded under section 129 for an improvement, regard shall be had—

Principle on which compensation is to be estimated.

(*a*) to the amount by which the letting-value, or the produce, of the holding, or the value of that produce, is increased by the improvement;

(*b*) to the labour and capital required for the making of such an improvement; and

(*c*) to any reduction or remission of rent or any other advantage given by the landlord to the raiyat in consideration of the improvement.

(*2*) When the amount of the compensation has been assessed, the landlord and raiyat may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

132. A stipulation in a contract providing—

Certain stipulations in contracts to be void.

(*a*) that a landlord shall be entitled to prevent a raiyat from making, or to eject him for making, such improvements on his holding as he is entitled to make under this Act, or

(*b*) that a raiyat ejected from his holding shall not be entitled to compensation for improvements

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in any case in which he would, under this Act, be entitled to such compensation,

shall be void.

B.—Of the landlord's right to measure land.

[D. § 58. C. B., s. 75. B. B., s. 67.]

133. Subject to the provisions of any contract, a landlord may, by himself or by any person authorized by him in this behalf, enter upon and measure all land comprised in any estate or tenure, of the rents of which he is in receipt, except land entered in the general register of revenue-free lands prepared under the Land Registration Act, 1876:

Landlord entitled to measure land unless restrained by contract.

VII (B. C.) of 1876.

Provided that, when any land has been measured by a landlord, whether before or after the passing of this Act, it shall not, without the written permission of the Collector, be again measured by the landlord within the ten years next following the date on which it was so measured.

Illustration.

A., a proprietor, grants a portion of his estate in patní to B, to whom the raiyats pay rent. Both A and B are entitled to make a general survey and measurement of the lands comprised in the patní lease.

[D. § 94. B. B., s. 176.]

134. When a landlord desires to measure, under section 133, any land held by his tenant, the tenant shall, if the landlord requires him to do so, attend and point out the boundaries of the land.

Tenant bound to point out boundaries.

[D. § 94. B. B., s. 176.]

135. (*1*) When a landlord desires to measure any land under section 133, and any person occupying the land obstructs him in so doing, or any tenant, bound under section 134 to attend and point out the boundaries of his land, refuses or neglects so to do, the landlord may apply to the Court which would have jurisdiction to hear a suit for the recovery of the land, to make an order directing such person to permit the measurement, or such tenant to attend and point out the boundaries, as the case may be.

Remedy when landlord is obstructed or tenant does not point out boundaries.

(*2*) The Court may, on receiving an application under this section, cause a notice to be served on the occupant or tenant, as the case may be, requiring him to show cause, at a time and place specified therein, why the order applied for should not be made.

(*3*) If the person on whom a notice is served under sub-section (2) does not show cause as aforesaid, the Court may make the order applied for.

[D. s. 94. B. B., s. 177.]

136. If a tenant ordered under section 135 to attend and point out the boundaries of the land held by him refuses or neglects to do so, a map or other record of the boundaries and measurements of the land prepared under the direction of the landlord, at the time the tenant was ordered to attend, shall be presumed to be correct until the contrary is shown.

Presumption against tenant not attending to point out boundaries.

137. (*1*) Every measurement of land made by order of a Civil Court, or of a Revenue-officer, in any suit or proceeding between a landlord and tenant, shall be made according to the Government measure of 14,400 square feet to one standard bighá.

[D. § 94. C.B., s. 76 (*a*). B.B., s. 68 (*a*).]

Measurement in suits between landlord and tenant to be made according to Government measure.

(*2*) If the rights of the parties are regulated by any different local measure, the Government measure shall be converted into the local measure for the purposes of the suit.

138. (*1*) If any dispute as to the length of a standard used in a local measure arises in any suit under this Act, the Collector shall, on a reference made to him for this purpose by the Court, determine the proper length thereof.

[D. § 98. C. B., s. 76 (*b*). B.B., s. 68 (*b*).]

Determination of the length of the standard in case of dispute.

(*2*) An appeal shall lie from the Collector's decision to the District Judge.

(*3*) If no such appeal be preferred, the decision of the Collector or, if an appeal be preferred, the decision of the District Judge thereon, shall be conclusive.

C.—Of surrender and abandonment.

139. (*1*) A raiyat not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding; but notwithstanding the surrender he shall continue to be liable for the rent of the holding for the agricultural year next following the date of the surrender, unless—

[D. § 12 (3). C. B., s. 79 (3). B. B., s. 72 (3).]

Surrender by raiyat.

(*a*) he gives to his landlord, at least three months before he surrenders, notice in writing of his intention to surrender; or

(*b*) the holding is let to another person for a agricultural year following the surrender.

(*2*) If the landlord refuses to receive a notice, tendered to him under clause (*a*), or to sign a receipt for the same, the raiyat may apply to the Court within the jurisdiction of which the holding or any portion of it is situate, and the Court shall thereupon cause the notice to be served on the landlord.

140. Any tenant of a holding which is not transferable, who leaves his holding uncultivated and the rent of it unpaid for a period of one year, shall, at the expiration of that period, be deemed to have surrendered the holding:

[D. s. 12 (4). C.B., s. 79 (4). B. B., s. 72 (4).]

Non-transferable holding in certain cases to be deemed surrendered.

Bengal Tenancy Bill.

X.—Other Provisions applicable to several classes of Tenants. Secs. 141—145.)

Provided that, in reckoning that period, any time during which, owing to an inundation or any other accident to the land beyond the tenant's control, it may have been impossible to cultivate the land, shall be excluded.

D.—Of Merger.

[C. B., ss. 43 & 44. B. B., ss. 34 & 35.]

141. (*1*) When in the case of any tenancy the interest of the landlord and that of the tenant become, by transfer, succession or otherwise, united in the same person, so as to be owned by him in the same right, the interest of the tenant shall—

Merger of tenant's interest in landlord's interest.

(*a*) during the period of three months mentioned in sub-section (*2*) be presumed to be merged in the interest of the landlord and extinguished, unless the person proves that he has not intended it to be merged, and

(*b*) after the expiration of that period be deemed to be so merged and extinguished, unless within that period the person executes an instrument declaring his intention that a merger shall not take place, and the instrument is registered under the Indian Registration Act, 1877, and is published in the prescribed manner.

III of 1877.

(*2*) The period of three months referred to in sub-section (*1*) shall, when the interests become united after the commencement of this Act, begin to run from the date on which they become united, and, when they have become united before the commencement of this Act, begin to run from the commencement of this Act:

Provided that, when, at the time the interests become united, the person in whom they become united has not attained his age of majority or is of unsound mind, the period shall not begin to run before he has attained that age or become of sound mind, as the case may be.

(*3*) A merger under this section shall not operate to the prejudice of any person having a lien upon the interest merged.

(*4*) When, at the time of a merger taking place in respect of a tenancy under this section, a subtenancy exists immediately under that tenancy, the person who becomes the owner of the consolidated interests shall, subject to the provisions of the law for the time being in force relating to sales of land for arrears of Government revenue and to the provisions of this Act as to sales for arrears of rent, have the same rights against, and be subject to the same obligations towards, the sub-tenants, as the owner of the tenant's interest had, and was subject to, before the merger.

E.—Of the appointment of a Manager on behalf of co-owners of an estate or tenure.

[D. § 16. C. B., s. 65(1). B. B., s. 57 (1).]

142. When co-owners of an estate or tenure disagree as to the management thereof, and in consequence there has ensued, or is likely to ensue,

Power to call upon co-owners to show cause why they should not appoint a common manager.

(*a*) inconvenience to the public, or

(*b*) injury to private rights,

the District Judge may, upon the application in case (*a*) of the Collector, and in case (*b*) of any one having an interest in the estate or tenure, direct a notice to be served upon all the co-owners, calling upon them to show cause why they should not appoint a common manager:

Provided that a co-owner of an estate or tenure shall not be entitled to apply under this section unless he is actually in possession of the interest he claims and, if he is a co-owner of an estate, unless his name and the extent of his interest are registered under Act VII of 1876 passed by the Lieutenant-Governor of Bengal in Council.

[C.B., s. 65 (2). B.B., s. 57(2).]

143. If the co-owners fail to show cause as aforesaid within one month after service of a notice under section 142, the District Judge may make an order directing them to appoint a common manager, and a copy of the order shall be served upon any co-owner who did not appear before it was made.

Power to order them to appoint a manager if cause is not shown.

[C. B., s. 66 (1). B. B., s. 58 (1).]

144. If the co-owners do not, within one month after the making of an order under section 143, or, where the order has been served as directed by that section, within one month after such service, appoint a common manager and report the appointment for the information of the District Judge, the District Judge may—

Power to appoint manager if order is not obeyed.

(*a*) direct that the estate or tenure be managed by the Court of Wards in any case in which the Court of Wards assents to undertake the management thereof; or

(*b*) in any case appoint a manager.

[C.B., s. 66(2). B.B., s. 58 (2).]

145. The Lieutenant-Governor of Bengal may nominate a person for any local area to manage all estates and tenures within that local area for which it may be necessary to appoint a manager under section 144, clause (*b*); and, when any person has been so nominated, no other person shall be appointed manager under that clause by the District Judge, unless in the case of any estate the Judge thinks fit to appoint one of the co-owners themselves as manager.

Power to nominate person to act in all cases under section 144(*b*).

Bengal Tenancy Bill.

(Chapter X.—Other Provisions applicable to several classes of tenants. Secs. 146—150) and (Chapter XI.—Settlement of Rents by Revenue-officer. Secs. 151—155.)

[C. B., s. 66(3). B. B., s. 58(3).]

146. In any case in which the Court of Wards undertakes the management of an estate or tenure under section 144, so much of the provisions of the Court of Wards Act, 1879, as relates to the management of immoveable property shall apply to the management.

The Court of Wards Act, 1879, applicable to management by Court of Wards under section 144 (*a*).

IX (B. C.) of 1879.

[C. B., s. 67. B. B., s. 59.]

147. (*1*) A manager appointed under section 144, clause (*b*), shall receive by way of remuneration such fixed salary or percentage of the money collected by him as manager as the District Judge from time to time directs.

Provisions applicable to manager appointed under section 144(*b*).

(*2*) He shall give such security for the proper discharge of his duties as the District Judge directs.

(*3*) He shall, subject to the control of the District Judge, have, for the purposes of management, the same powers as the co-owners jointly might but for his appointment have exercised.

(*4*) He shall keep regular accounts, and allow the co-owners or any of them to inspect and take copies of those accounts; and

(*5*) He shall be removeable by the order of the District Judge, and not otherwise.

[C. B., s. 68. B. B., s. 60.]

148. When an estate or tenure has been placed under the management of the Court of Wards, or a manager has been appointed for the same under section 144, the District Judge may at any time direct that the management of it be restored to the co-owners if he is satisfied that such management will be conducted by them jointly without inconvenience to the public or injury to private rights.

Power to restore management to co-owners.

F.—Miscellaneous.

[C. B., s. 79 (5), (6) & (7). B. B., s. 72 (5), (6) and (7).]

149. No tenant shall be ejected from his holding except in execution of a decree.

No ejectment except in execution of decree.

[C. B., ss. 21 & 27.]

150. Nothing in this Act shall entitle a tenant whose holding is transferable to transfer or bequeath, without the consent of his landlord, a portion only of the land comprised in the holding so that it may be held from the landlord by the transferee as a separate holding.

Portion of holding not transferable.

CHAPTER XI.

OF THE SETTLEMENT OF RENTS BY A REVENUE-OFFICER.

151. (*1*) The Local Government may, if it thinks fit, in any of the cases next hereinafter mentioned, make an order directing that the rents of all tenants or of any class of tenants in any local area shall be settled by Revenue-officers to be from time to time appointed by the Local Government in this behalf.

Power to order Revenue-officers to settle rents.

(*2*) The cases in which an order may be made under this section are the following, namely:—

(*a*) where a large proportion of the tenants or of the landlords applies for such an order, and deposits for the payment of expenses such amount as the Local Government directs;

(*b*) where the making of such an order is calculated to settle or avert a serious dispute existing, or likely to arise, between the tenants and their landlords generally;

(*c*) where a settlement of revenue is being made in respect of the local area, or the local area is comprised in an estate or tenure owned or managed by the Government or the Court of Wards.

(*3*) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made, and an order so notified shall continue in force until it is rescinded by an order notified in like manner.

152. While an order under section 151 continues in force in respect of any tenants, a Civil Court shall not, except as provided by section 155, clause (*b*), entertain a suit for the enhancement or reduction of the rents of those tenants under this Act.

Bar to jurisdiction of Civil Courts while order is in force.

153. (*1*) When the rents of any tenants to whom an order under section 151 applies are subject to alteration by order of a Court, the officer appointed to settle the rents of those tenants under this chapter shall, without any application being made to him in this behalf, fix those rents in accordance with the principles embodied in this Act, and so that no rent fixed under this section shall exceed the maximum prescribed by this Act in cases of enhancement.

Rents of certain tenants to be fixed.

(*2*) Where the Local Government has, under this chapter, directed a settlement of the rents of the occupancy-raiyats of any local area, and a table of rates and produce has not been prepared under Chapter VI for that local area, it may further direct the officer appointed to settle the rents to prepare such a table before proceeding to fix the rents of those raiyats.

154. When the rents of any tenants to whom an order under section 151 applies are not subject to alteration as aforesaid, the officer appointed to settle the rents of those tenants shall, without any application being made to him in this behalf, ascertain and record the rents payable by them.

Rents of other tenants to be ascertained and recorded.

155. (*1*) If in the course of the proceedings taken for fixing the rent of a tenant under section 153 any question arises which, in the opinion of the officer conducting those proceedings, would be more properly decided by a Civil Court, the officer may in his discretion, but subject to any rules made by the Local Government in this behalf,

Power to refer question to Civil Court or leave case to be dealt with by Civil Court.

(*a*) refer the question for decision to the Civil Court which would, but for section 152, have had jurisdiction to try a suit for the enhancement or reduction of the rent, or

(*b*) by order in writing direct that the tenant's case be excluded from the operation of this chapter and be left to be disposed of by suit in a Civil Court, as if the order under section 151 did not apply to it.

(*2*) When a Revenue-officer makes a reference under clause (*a*) of this section in respect of a tenant, he may either stay his proceedings in respect of that tenant, or, if the nature of the case admits of his doing so, pass an order in alternative form or otherwise fixing the rent contingent upon the decision of the Civil Court.

Bengal Tenancy Bill.

(Chapter XI.—Settlement of Rents by Revenue-officer. Secs. 156—161.)

156. (*1*) A Revenue-officer settling rents under this chapter shall prepare, in the prescribed form, one or more jamabandís, comprising all or such numbers of the tenants whose rents he is appointed to settle as the Board of Revenue may direct.

Preparation of jamabandí.

(*2*) Every jamabandí prepared under this section shall show in respect of each tenant comprised therein—

(*a*) the class to which he belongs, that is to say, whether he is a tenure-holder, occupancy-raiyat, tenant of a bastu holding, ordinary raiyat or under-raiyat;

(*b*) the land held by him;

(*c*) the name of his landlord;

(*d*) whether the rent has been fixed under section 153 or ascertained under section 154;

(*e*) the amount of the rent fixed or ascertained, and, when the rent is a gradually increasing one, the time at which, and the steps by which, it increases.

157. Every jamabandí prepared under section 156 shall be published in the prescribed manner, and any person objecting to any entry therein may, within one month from the date of the publication, present to the Revenue-officer, for transmission to the Commissioner of the Division, a petition stating his objection to the entry.

Publication of jamabandí and objections thereto.

158. (*1*) On the expiration of the said period of one month, the Revenue-officer shall submit to the Commissioner of the Division a copy of the jamabandí, with a report setting forth the grounds on which it has been prepared, and the petitions of objection (if any) which he may have received under section 157.

Submission of jamabandí and petitions of objection to the Commissioner and Board.

(*2*) The Commissioner shall consider the jamabandí and report, and the objections (if any), and, after allowing the objectors (if any) an opportunity of being heard, shall forward the papers to the Board of Revenue with his opinion regarding the same.

159. (*1*) The Board of Revenue may return the papers for further inquiry, or may submit the jamabandí with or without modifications to the Local Government for sanction.

Sanction to and final publication of jamabandí, and date from which it comes into force.

(*2*) The Local Government may return for further inquiry the papers received under sub-section (*1*) or may sanction the jamabandí with or without modification.

(*3*) When a jamabandí has been sanctioned by the Local Government under this section, it shall be published in the prescribed manner.

(*4*) A jamabandí published under this section shall come into force from the commencement of the agricultural year next following the publication.

160. When a jamabandí has come into force under section 159, a tenant's rent shown therein as fixed under section 153 shall be deemed to be the rent payable by him, and shall not, during the period of ten years next following the date on which the jamabandí comes into force, be enhanced in a suit instituted under this Act, except on the ground that since the jamabandí came into force an improvement has been made by the landlord which, but for this section, would entitle him to an enhancement:

Rent fixed under foregoing provisions to be deemed the rent payable.

Provided that—

(*1*) such rent may from time to time be altered in any other manner permitted by law; and

(*2*) nothing in this section shall prevent the rent shown in a jamabandí in respect of a tenancy from being called in question on any of the following grounds, namely:—

(*a*) that the tenancy does not exist or that the tenant is not liable to pay rent;

(*b*) that the tenant belongs to a class different from that to which he is shown in the jamabandí to belong;

(*c*) that the land comprised in the tenancy is different from, or more or less than, that shown in the jamabandí;

(*d*) that a rent different from that shown in the jamabandí has been fixed by a contract legally binding on the parties, and which has been brought to the notice of the officer preparing the jamabandí.

161. When a jamabandí has been published under section 159 a tenant's rent shown therein as, ascertained under section 154, shall be presumed to be the

Rent ascertained under foregoing provisions to be presumed to be the rent payable.

Bengal Tenancy Bill.

(Chapter XII.—Preparation of Record-of-rights by Revenue-officer. Secs. 162—164.) and (Chapter XIII.—Distraint. Secs. 165—166.)

rent payable by that tenant until the contrary is shown.

162. An entry made in a jamabandí under clause (*a*), clause (*b*) or clause (*c*) of section 156 shall, after the jamabandí has been published under section 159, be presumed for all purposes to be correct until the contrary is shown.

Certain other entries in jamabandí to be presumed to be correct.

163. All expenses incurred by the Government in carrying out the provisions of this chapter in any local area, in any case mentioned in section 151, clause (*a*) or clause (*b*), including the salaries of all officers employed exclusively in carrying out those provisions therein, and such portions as the Local Government may from time to time fix of the salaries of officers employed in carrying out those provisions therein in addition to their other public duties, shall be defrayed by the landlords and tenants in that local area whose rents are fixed or ascertained under this chapter, in such proportions as the Local Government, having regard to all the circumstances of each case, may determine; and the proportion of those expenses so to be defrayed by any person shall be recoverable from him as if it were an arrear of revenue due by him.

Expenses incurred in proceedings under this chapter how defrayed.

CHAPTER XII.

OF THE PREPARATION OF A RECORD-OF-RIGHTS BY A REVENUE-OFFICER.

164. (*1*) The Local Government may, in any case with the previous sanction of the Governor General in Council, and may, if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that a record-of-rights shall be prepared for all tenancies or any class of tenancies in a local area by Revenue-officers to be from time to time appointed by the Local Government.

Power to order preparation of record-of-rights.

(*2*) The cases in which an order may be made under this section without the previous sanction of the Governor General in Council are the following, namely:—

(*a*) where a large proportion of the landlords or of the tenants applies for such an order and deposits for the payment of expenses such amount as the Local Government directs;

(*b*) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally; and

(*c*) where the local area is comprised in an estate or tenure which belongs to or is managed by the Government or the Court of Wards.

(*3*) The Local Government shall, in any order made by it under this section, specify the particulars to be included in the record-of-rights to be prepared under that order.

(*4*) The particulars so specified may be all or some of the following, namely:—

(*a*) the name of each tenant;

(*b*) the class to which he belongs, that is to say, whether he is a tenure-holder, occupancy-raiyat, tenant of a bastu holding, ordinary raiyat or under-raiyat;

(*c*) the land held by him;

(*d*) the name of his landlord;

(*e*) the rent payable;

(*f*) the mode in which that rent has been fixed, whether by contract, by order of a Court or otherwise.

(*5*) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

165. Every entry in a record-of-rights prepared under section 164 shall be presumed to be correct until the contrary is proved.

Presumption as to entries in record.

CHAPTER XIII.

OF THE RECOVERY OF RENTS FROM RAIYATS AND UNDER-RAIYATS BY DISTRAINING THE PRODUCE OF THE HOLDING.

166. Where an arrear of rent is due to the landlord of a raiyat or under-raiyat, and has not been due for more than a year, and no security has been accepted therefor by the landlord, the landlord may, in addition to any other remedy to which he is entitled by law, present an application to the Court, having jurisdiction to entertain a suit for the recovery of the arrear, requesting the Court to recover the arrear by distraining, while in the possession of the cultivator,

[B. B., ss. 101 104, 123.]

Cases in which an application for distraint may be made.

(*a*) any crops or other products of the earth standing or ungathered on the holding;

(*b*) any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding, on a threshing-floor, or place for treading out grain or the like (whether in the fields or within a homestead) or in a storehouse.

Provided that an application shall not be made under this section—

(*1*) by a proprietor or manager as defined under the Bengal Land Registration Act, 1876, or a mortgagee of such a proprietor or manager, unless his name and the extent of his interest in the land in respect of which the arrear is due have been registered under the provisions of that Act; or

VII (B. C.) of 1876.

Bengal Tenancy Bill.

(Chapter XIII.—Distraint. Secs. 167—172.)

(*2*) for the recovery of any sum in excess of the rent payable for the holding in the preceding agricultural year, unless that sum is payable under a written contract or in consequence of a proceeding under this Act or an enactment hereby repealed; or

[B. B., ss. 71, 125.]

(*3*) in respect of the produce of any part of the holding which the tenant has sublet with the written consent of the landlord.

167. (*1*) Every application under section 166 shall specify—

[B. B., ss. 104-5.]

Form of application and fee payable.

(*a*) the holding in respect of which the arrear is claimed, and the boundaries thereof, or such other particulars as may suffice for its identification;

(*b*) the name of the tenant;

(*c*) the period in respect of which the arrear is claimed;

(*d*) the amount of the arrear, with the interest, if any, claimed thereon, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the contract, or proceeding as the case may be, under which that amount is payable;

(*e*) the nature and approximate value of the produce to be distrained; and

(*f*) the place where it is to be found, or such other particulars as may suffice for its identification.

(*2*) Every such application shall be liable to the court-fee which would be payable in a suit instituted for the recovery of the arrear therein claimed.

(*3*) Every such application shall be signed and verified in the manner prescribed by the Code of Civil Procedure for the signing and verification of plaints; and, if the application so verified contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

168. (*1*) The applicant shall, at the time of filing an application under section 166, or as soon after as the Court permits, file in Court such documentary evidence (if any) as he may consider necessary for the purposes of the application.

[B. B., ss. 105 & 106.]

Procedure on receipt of application.

(*2*) The Court may examine the applicant, and may admit the application or reject it, or permit the applicant to furnish additional evidence in support of it.

169. If the application is admitted, the Court shall depute an officer to distrain the produce specified therein, or such portion of that produce as it thinks fit; and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it himself or placing some other person in charge of it in his behalf, and publishing a notification of the distraint in accordance with rules to that effect to be made by the High Court:

[B.B., s. 107.]

Procedure if application is admitted.

Provided that produce, which from its nature does not admit of being stored, shall not be distrained under this section at any time less than twenty days before the time when it would be fit for reaping or gathering.

[D. § 111.]

170. (*1*) The distraining officer shall, at the time of making the distraint, serve on the defaulter a written demand for the arrear due, and the costs incurred in making the distraint, together with an account exhibiting the grounds on which the distraint is made.

[B.B., s. 108.]

Service of demand and account.

(*2*) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

(*3*) The demand and account shall, if practicable, be served personally; but if a person on whom they are to be served absconds or conceals himself, or cannot otherwise be found, the officer shall affix copies of the demand and account on the outer door of the house in which he usually resides.

171. (*1*) A distraint under this chapter shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

[B. B., ss. 109 and 110.]

Right to reap, &c., produce.

(*2*) In default of the person entitled to do so, the distraining officer shall cause any standing crops or ungathered products distrained to be reaped or gathered when ripe, and shall store the same in such granaries or other places as are commonly used for the purpose, or in some other convenient place in the neighbourhood.

(*3*) In either case the distrained property shall be placed in the charge of the distraining officer, or of some other person appointed by him in this behalf.

172. (*1*) Unless the demand, with all costs of the application for distraint, be immediately satisfied, an officer distraining property

[B.B., s. 113.]

Sale proclamation to be issued unless demand is satisfied.

Bengal Tenancy Bill.

(*Chapter XIII.—Distraint. Secs. 173—182.*)

under section 169 shall issue a proclamation specifying the particulars of the property distrained and demand for which it is distrained, and notifying that he will, at a place and on a specified day, not being less than three or more than seven days after the time of making the distraint, sell the distrained property by public auction.

(2) The proclamation shall be stuck up on a conspicuous place in the village in which the land is situate for which the arrears of rent are claimed.

[B. B., s. 114.] **173.** The sale shall be held at the place where the distrained property is, or at the nearest place of public resort, if the distraining officer is of opinion that it is likely to sell there to better advantage.

Place of sale.

[D. s. III.] **174.** Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter upon the land by himself, or by any person appointed by him in this behalf, and do all that is necessary for the purpose of tending and reaping or gathering them.

Power to sell produce before it is reaped or gathered.

[B. B., s. 115.] **175.** The property shall be sold by public auction in one or more lots, as the officer holding the sale may think advisable; and if the demand, with the costs of distraint and sale, is satisfied by the sale of a portion of the property, the distraint shall be immediately withdrawn with respect to the remainder.

Manner of sale.

[B. B., s. 116.] **176.** If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorised to act in his behalf, applies to have the sale postponed till the next day or (if a market be held at the place of sale) the next market-day, the sale shall be postponed until such day, and shall be then completed, whatever price may be offered for the property.

Postponement of sale.

[B. B., s. 117.] **177.** The price of every lot shall be paid in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks necessary, and in default of such payment the property shall be put up again and sold.

Payment of purchase-money.

[B. B., s. 118.] **178.** When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Certificate to be given to purchaser.

[B. B., s. 119.] **179.** (*1*) From the proceeds of every sale of distrained property under this chapter, the officer holding the sale shall pay to the applicant for distraint the expenses incurred by him on account of the distraint, calculated on a scale of charges prescribed by rules to be made by the Board of Revenue in this behalf.

Proceeds of sale how to be applied.

(2) The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale, and the surplus (if any) shall be paid to the person whose property has been sold.

180. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers. [B. B., s. 120.]

Certain officers may not purchase.

181. (*1*) If at any time after a distraint has been made under this chapter, and before the sale of the distrained property, the defaulter, or the owner of the distrained property where he is not the defaulter, deposits in the Court issuing the order of distraint, or in the hands of the distraining officer, the amount specified in the demand served under section 170, together with all costs which may have been incurred after the service of the demand, the Court or officer, as the case may be, shall grant a receipt for the same and the distraint shall forthwith be withdrawn. [B. B., ss. 111, 112 & 123.]

Procedure where demand is paid before the sale.

(2) When the distraining officer receives the deposit, he shall forthwith pay the same into the Court.

(3) A receipt granted under this section to an owner of distrained property not being the defaulter shall afford a full protection to him against any subsequent claim for the arrears of rent on account of which the distraint was made.

(4) After the expiration of one month from the date of a deposit being made under this section, the Court shall pay over the same to the applicant for distraint, unless in the meanwhile the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation in respect of the same.

182. (*1*) When an inferior tenant, on his property being lawfully distrained under this chapter for the default of a superior tenant, makes any payment under section 181, he shall be entitled to deduct the amount of that payment from any rent payable by him to his immediate landlord, and, if that landlord is not the defaulter, he shall in like manner be entitled to deduct the amount so deducted from any rent payable by him to his immediate landlord and so on until the defaulter is reached. [B. B., s. 12[illegible]

Amount paid by under-tenant for his lessor may be deducted from rent.

(2) Nothing in this section shall affect the right of an inferior tenant making a payment under section 181 to institute a suit for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

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(*Chapter XIII.—Distraint. Secs. 183—187*) *and* (*Chapter XIV.—Procedure in Suits between Landlord and Tenant. Secs. 188—192.*)

[B. B., s. 126.] **183.** When land is sublet, and any conflict arises under this chapter between the rights of a superior and of an inferior landlord who distrain the same property, the right of the superior landlord shall prevail.

Conflict between rights of superior and inferior landlords.

184. When any conflict arises between an order for distraint issued under this chapter and an order issued by a Civil Court for the attachment or sale of the property which is the subject of the distraint, the order for distraint shall prevail, but, if the property is sold under that order, the surplus proceeds of the sale shall not be paid to the owner of the property under section 179 without the sanction of the Court by which the order of attachment or sale was issued.

Distraint of property which is under attachment.

[B. B., ss. 91, 122.] **185.** Any person who, otherwise than in accordance with this Act or some other enactment for the time being in force, distrains or attempts to distrain the produce of a tenant's holding, or prevents or attempts to prevent any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code.

Penalty for illegal distraint.

XLV of 1860.

186. When any offence punishable under section 185 is committed for the benefit of, or in behalf of, any person owning or claiming any interest in the land in respect of which the offence is committed, or having or claiming any interest in a dispute which has led to the commission of the offence, or when any person has accepted or derived any benefit from the commission of any such offence, he shall be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both, if, having reason to believe that the offence was likely to be committed, he has not used all lawful means in his power to prevent its commission.

Persons benefiting, &c., by offences under section 185 liable to punishment.

[B. B., s. 127.] **187.** (*1*) The Local Government may, by an order published in the official Gazette, suspend the provisions of sections 166 to 184 (both inclusive) in any local area for such time as it thinks proper.

Power to suspend provisions of sections 166 to 184.

(2) So long as an order under this section continues in force, in respect of any local area, no Court shall receive an application for distraint for arrears of rent due on lands situate within that local area.

CHAPTER XIV.

SPECIAL RULES OF PROCEDURE APPLICABLE TO SUITS BETWEEN LANDLORD AND TENANT.

A.—Rules applicable to suits between landlord and tenant generally.

[D. § 174 C. B., s. 148. B. B., s. 165.] **188.** The cause of action in all suits between landlord and tenant as such shall, for the purposes of the Code of Civil Procedure, be deemed to have arisen within the local limits of the jurisdiction of the Civil Court which would have jurisdiction to entertain a suit for the recovery of the land in respect of which the relation of landlord and tenant exists between the parties.

Place of suing.

XIV of 1882.

[D. § 169. C. B., s. 159. B. B., s. 167(*a*).] **189.** Every náib or gumáshta of a landlord empowered in this behalf by a written authority under the hand of the landlord shall, for the purposes of every such suit, be deemed to be the recognized agent of the landlord within the meaning of the Code of Civil Procedure, notwithstanding that the landlord may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending.

Náibs or gumáshtas to be authorised agents.

[D. § 178 C. B., s. 147 B. B., s. 16[illegible] XIV o. 188[illegible]] **190.** The particulars referred to in section 58 of the Code of Civil Procedure shall, in the case of such suits, instead of being entered in the register of civil suits prescribed by that section, be entered in a special register to be kept by each Civil Court, in such form as the Local Government may from time to time prescribe in this behalf.

Special register of suits.

B.—Rules applicable to particular classes of suits between landlord and tenant.

[C. B., s. B. B., s. **191.** Sections 121 to 127 (both inclusive), 129, 194 to 197 (both inclusive), 305, and 320 to 325C (both inclusive) of the Code of Civil Procedure shall not apply in any suits of the following classes between landlord and tenant as such, namely:—

XIV of 1[illegible]

Sections 121 to 127, 129, 194 to 197, 305, and 320 to 325C of Code not to apply in suits for possession, rent or damages.

(*a*) suits for the recovery of rent:

(*b*) suits for penalties claimable under any provision of this Act:

(*c*) suits to recover possession of the land.

[D. §§ 1[illegible] & 188. C. B., s. B. B., s. [illegible] XIV of 1[illegible]] **192.** The plaint in every suit of a description mentioned in section 191 shall contain, in addition to the particulars specified in section 50 of the Code of Civil Procedure, a statement of the extent, situation, designation and boundaries of the land held by the tenant; or, where the plaintiff is unable to give the boundaries, in lieu thereof a description sufficient for identification.

Particulars to be specified in plaint in such suits.

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(Chapter XIV.—Procedure in Suits between Landlord and Tenant. Secs. 193—202.)

[D. § 192. C. B., s. 173. B. B., s. 195.]

193. The summons shall in every such suit be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the settlement of issues only.

Summons in such suits to be for final disposal.

194. The service of a summons on a defendant in any such suit may, if the Court so directs, be effected by forwarding the summons by post in a letter addressed to the defendant and registered under Part III of the Indian Post Office Act, 1866.

Service of summons in such suits by registered letter.

XIV of 1866.

[D. § 108. C. B., s. 184. B. B., s. 206.]

195. A written statement shall not be filed in any such suit without the leave of the Court.

Written statements not to be filed in such suits without leave.

[B. B., s. 214.]

196. The rules for recording the evidence of witnesses prescribed by section 189 of the Code of Civil Procedure shall apply in all such suits whether an appeal is allowed in them or not.

XIV of 1882.

Mode of recording evidence in such suits.

[D. §§ 177 & 180. C. B., ss. 155 & 197. B. B., ss. 171 & 216.]

197. When a decree, not being a decree of the description referred to in section 111, sub-section (*2*), is passed in any such suit, the Court may, when passing the decree, order on the oral application of the decree-holder the execution thereof.

Execution in such suits on oral application.

[D. § 179. C. B., ss. 157 & 230 B. B., ss. 173 & 242.]

198. An appeal shall not lie from any decree or order passed, whether in the first instance or on appeal in any suit instituted by a landlord, for arrears or by a tenant for a penalty claimable under any provision of this Act where—

No appeal in certain suits for arrears and penalties.

(*a*) the decree or order is passed by a District Judge, Additional Judge or Subordinate Judge, and the amount claimed in the suit does not exceed one hundred rupees, or

(*b*) the decree or order is passed by any other judicial officer specially empowered by the Local Government to exercise final jurisdiction under this section, and the amount claimed in the suit does not exceed fifty rupees;

unless in either case the decree or order has decided a question relating to title to land or to some interest in land as between parties having conflicting claims thereto, or a question of a right to enhance or vary the rent of a tenant:

Provided that the District Judge may call for the record of any case in which a judicial officer as aforesaid has passed a decree or order to which this section applies, and, if he is satisfied that a failure of justice has been caused by a substantial error, defect or irregularity in the proceedings or in the decision, may pass such order as he thinks fit.

199. (*1*) When, in a suit for an arrear of rent instituted against a tenant, the defendant admits that the arrear is due by him, but pleads that it is due to a person other than the plaintiff, the Court may, if it thinks fit, refuse to take cognizance of the plea until the defendant has paid the amount of the arrear into Court.

Defendant in suit for arrear admitting arrear is due, but disputing plaintiff's title, to pay into Court.

(*2*) When the amount of an arrear has been paid into Court under this section, the Court shall give the defendant a receipt for the same, and the receipt so given shall operate as an acquittance for the arrear, in the same manner and to the same extent as if it had been paid to the person entitled to it.

(*3*) The Court shall forward the amount paid in to the officer to whom an application to deposit the rent would be made under section 103 and it shall thereupon be deemed to be a deposit received under clause (*c*) of that section.

200. Notwithstanding anything contained in section 232 of the Code of Civil Procedure, an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the land has become, and is vested in him.

[C. B., s. 193. B. B., s. 220.]

When assignee of decree for arrears may apply for execution.

201. (*1*) A decree for enhancement of rent under this Act, if passed in a suit instituted in the first eight months of an agricultural year, shall not take effect before the commencement of the agricultural year next following, and, if passed in a suit instituted in the last four months of the agricultural year, shall not take effect before the commencement of the agricultural year next but one following.

[C. B., ss. 96 & 98 (*b*). B. B., ss. 128 & 130, cl. (*b*).]

Date from which decree for enhancement takes effect.

(*2*) Subject to the provisions of sub-section (*1*), it shall be in the discretion of the Court to fix the date from which any such decree shall take effect.

202. (*1*) A suit for the ejectment of a tenant, on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment, shall not be entertained unless the landlord has requested the tenant, where the damage or breach is capable of remedy, to remedy the same, and, in any case, to pay reasonable compensation for the damage or breach, and the tenant has failed to comply within a reasonable time with that request.

[B. B., ss. 21 (*e*), 31, 44 & 45 Vic., C. 41, s. 14.]

Relief against forfeitures.

(*2*) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the damage or breach, and whether, in

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(Chapter XIV.—Procedure in Suits between Landlord and Tenant. Secs. 203—207) and (Chapter XV.—Sale of Transferable Holdings in Execution, &c. Sec. 208.)

the opinion of the Court, the damage or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the damage or breach is declared to be capable of remedy, to remedy the same.

(*3*) The Court may from time to time extend a period fixed by it under sub-section (*2*) for remedying a damage or breach.

(*4*) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the damage or breach is declared by the Court to be capable of remedy, remedies the damage or breach to the satisfaction of the Court, the decree shall not be executed.

[C. B., s. 80. B. B., s. 73.]

203. The following rules shall be applicable in the case of every raiyat ejected from a holding:—

Rights of ejected raiyats in respect of crops and land prepared for sowing.

(*a*) When the raiyat has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the crops as estimated by the Court executing the decree for ejectment.

(*b*) When the raiyat has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejectment, together with reasonable interest on that value:

Provided that a raiyat shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage.

[C. B., s. 80. B. B., s. 73.]

204. When a landlord elects, under section 203, clause (*a*), to allow a raiyat to retain possession of any land for the purpose specified in that clause, the raiyat shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejectment may deem reasonable.

Payment by raiyat for occupation of land under section 203.

205. In all suits and proceedings for ejectment, the Court shall inquire into and determine all claims under this Act by the landlord against the tenant as such, or by the tenant against the landlord as such.

All claims between landlord and tenant to be determined in ejectment-proceedings

206. (*1*) When it appears to a Court making an inquiry under section 205 that the amount payable by the landlord to the tenant as such exceeds the amount payable by the tenant to the landlord as such, the decree or order for ejectment (if any) shall, unless the landlord and tenant come to an arrangement regarding the payment of the excess sum, specify a time within which it must be paid into Court.

Procedure when, on ejectment, money is due by the landlord to the tenant.

(*2*) If it is so paid within the time specified, the Court shall eject the tenant; and

if it is not so paid, the Court shall refuse to eject the tenant.

C.—Suit to determine status, &c., of tenant.

207. Every landlord may institute a suit against his tenant, and every tenant against his landlord, for the determination of all or any of the following matters, namely:—

[C. B., s. 151. B. B., s. 168.]

Suit to determine status, &c., of tenant.

(*a*) the land held by the tenant;

(*b*) the class to which he belongs, that is to say, whether he is a tenure-holder, occupancy-raiyat, tenant of a bastu holding, ordinary raiyat, or under-raiyat, and, if he is a tenure-holder, whether his rent is liable to enhancement; and

(*c*) the rent payable by him at the time the suit is instituted.

CHAPTER XV.

OF THE SALE OF TRANSFERABLE HOLDINGS IN EXECUTION OF DECREES FOR ARREARS DUE ON THEM.

[D. §§ 12 (11) and 155. C. B., ss. 206, Expl., & 210. B. B., ss. 228, Expl., & 239.]

208. (*1*) "Incumbrance" in this chapter, used with reference to a tenancy, means any lien, sub-tenancy, easement or other right or interest created upon the holding by the tenant in limitation of his own interest therein, except—

Definitions.

(*a*) a tenure existing from the time of the permanent settlement;

(*b*) a tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;

(*c*) a tenure of land whereon dwelling-houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals,

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places of worship or burning or burying grounds have been made;

(*d*) a right of occupancy;

(*e*) a right conferred on an occupancy-raiyat to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and

(*f*) any right or interest which the landlord has expressly and in writing given the tenant permission to create.

[C. B., s. 206, B. B., s. 228, Expl.]

(*2*) "Registered incumbrance" in this chapter, used with reference to a tenancy on which an arrear of rent is due, means any incumbrance which the defaulter or his predecessor in interest has created by an instrument registered under the Registration Act for the time being in force, and of which, after it has been registered, a copy has been served on the landlord under section 223, not less than six months before the arrear became due.

[C. B., s. 201. B. B., s. 223.]

Application for sale of holding.

209. (*1*) When a decree has been passed for an arrear of rent due for a transferable holding, and the decree-holder applies under section 235 of the Code of Civil Procedure for the attachment and sale of the holding in execution of the decree, his application shall contain, in addition to the particulars specified in that section and section 237 of the said Code, a statement of the annual rent of the holding.

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(*2*) When the holding is a permanent tenure, there shall be filed with the application a copy of so much of the register kept under Chapter III as relates to the tenure.

[D. § 152. C. B., s. 203. B. B., s. 225.]

Proclamation announcing sale.

210. (*1*) When an order has been passed for the sale of a holding upon an application made under section 209, the proclamation made under section 287 of the Code of Civil Procedure shall, in addition to stating and specifying the particulars mentioned in that section, announce—

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(*a*) in the case of a tenure, that the tenure will first be put up to auction subject to the registered incumbrances and will be sold subject to those incumbrances if the sum bid is sufficient to liquidate the amount of the decree and costs, and that otherwise it will, if the decree-holder so desires, be sold on a subsequent day of which due notice will be given with power to annul all incumbrances; and

(*b*) in the case of an occupancy-holding, or bastu holding, that the holding will be sold with power to annul all incumbrances.

(*2*) The proclamation shall, besides being made in the manner prescribed by section 289 of the said Code, be published in such manner as the Local Government may, from time to time, direct in this behalf.

[C. B., s. 206. B. B., s. 228(*a*) and Expl.]

Sale of tenure subject to registered incumbrances and effect thereof.

211. (*1*) When a tenure has been advertised for sale under section 210, it shall be put up to auction, subject to registered incumbrances; and, if the bidding reaches a sum sufficient to liquidate the amount of the decree and costs, including the costs of sale, the tenure shall be sold subject to such incumbrances.

(*2*) The purchaser at a sale under this section may, in manner provided by section 214, and not otherwise, annul any incumbrance upon the tenure not being a registered incumbrance.

[C. B., s. 207(*a*). B. B., s. 229(*a*).]

Sale of tenure with power to avoid all incumbrances and effect thereof.

212. (*1*) If the bidding for a tenure put up to auction under section 211 does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, and if the decree-holder thereupon desires that the tenure be sold with power to avoid all incumbrances, the officer holding the sale shall adjourn the sale and make a fresh proclamation under section 289 of the Code of Civil Procedure, announcing that the tenure will be put up to auction and sold with power to avoid all incumbrances upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure shall be put up to auction and sold with power to avoid all incumbrances.

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[D. § 155. C. B., s. 210. B. B., s. 232.]

(*2*) The purchaser at a sale under this section may, in manner provided by section 214, and not otherwise, annul any incumbrance on the tenure.

[B. B., s. 228 (*b*).]

Sale of occupancy-holding with power to avoid all incumbrances and effect thereof.

213. (*1*) When an occupancy-holding or bastu holding has been advertized for sale under section 210, it shall be put up to auction and sold with power to avoid all incumbrances.

(*2*) The purchaser at a sale under this section may, in manner provided by section 214, and not otherwise, annul any incumbrance on the holding.

Procedure for annulling incumbrances under the foregoing sections.

214. (*1*) A purchaser having power to annul an incumbrance under section 211, section 212, or section 213, and desiring to avoid the same, may within one year from the date on which he first has notice of the incumbrance, present to the Collector an application in writing, requesting him to serve on the incumbrancer a notice declaring that the incumbrance is annulled.

(*2*) Every such application must be accompanied by such fee for the service of the notice as the Board of Revenue may fix in this behalf.

(*3*) When an application for a service of a notice is made to the Collector in manner prescribed by this section, he shall cause the notice to be served in compliance therewith, and the incumbrance shall be deemed to be annulled from the date on which it is so served.

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[B.B., s. 225 (*a*).]

Power to direct that occupancy-holdings be dealt with under foregoing sections as tenures.

215. (*1*) The Local Government may, from time to time, by notification in the official Gazette, direct that occupancy-holdings in any local area put up for sale in execution of decrees for rent due on them shall, before being put up with power to avoid all incumbrances, be put up subject to registered incumbrances, and may by like notification rescind any such direction.

(*2*) While any such direction remains in force in respect of any local area, all occupancy-holdings in that local area shall, for the purposes of sale under the foregoing sections of this chapter, be treated in all respects as if they were tenures.

[D. § 246. C. B., s. 211. B. B., s. 233.]

Rules for disposal of the sale-proceeds.

216. (*1*) In disposing of the proceeds of a sale under this chapter, the following rules, instead of those prescribed by section 295 of

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the Code of Civil Procedure, shall be observed, that is to say:—

(*a*) There shall first be paid to the decree-holder the costs incurred by him in bringing the holding to sale.

(*b*) There shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made.

(*c*) If there remains a balance after these sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have fallen due to him in respect of the holding between the institution of the suit and the date of the sale, but not more than six months after the date of the final decree.

(*d*) The balance (if any remaining after the payment of the rent mentioned in clause (*c*) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application.

(*2*) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (*c*), the Court shall determine the dispute, and the determination shall have the force of a decree.

[D. § 153. C. B., s. 204. B. B., s. 226. XIV of 1882.]

Holding to be released from attachment only on payment into Court of amount of decree with costs, or on confession of satisfaction by decree-holder.

217. (*1*) Sections 278 to 283 (both inclusive) of the Code of Civil Procedure shall not apply to a holding attached in execution of a decree for arrears due thereon.

(*2*) When an order for the sale of a holding in execution of such a decree has been made, the holding shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree, including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the holding on the ground that the decree has been satisfied out of Court.

(*3*) Nothing in this section shall affect the right of any person to institute a suit to set aside the sale of a holding under this chapter.

[D. §§ 35, 36, 154. C. B., s. 205. B. B., s. 227.]

Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the holding.

218. (*1*) When any person having, in a holding advertized for sale under this chapter, an interest which would be voidable upon such sale, pays into Court the amount requisite to prevent the sale,

(*a*) the amount so paid by him shall be deemed to be a debt bearing interest at twelve per cent. per annum and secured by a mortgage of the holding to him;

(*b*) his mortgage shall, subject to the provisions of section 225, be deemed to be the first charge on the holding; and

(*c*) he shall be entitled to take possession of the holding as mortgagee, and retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(*2*) Nothing in this section shall affect any other remedy to which any such person would be entitled.

[D. §§ 35, 36, 154. C. B., s. 205. B. B., s. 227.]

Inferior tenant paying into Court may deduct from rent.

219. When a holding is advertized for sale under this chapter in execution of a decree against a superior tenant defaulting, and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court in order to prevent the sale, he may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord; and, if that landlord is not the defaulter, he may in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

XIV of 1882. [C. B., s. 208 (1). B. B., s. 230 (1).]

Decree-holder may bid at sale; judgment-debtor may not.

220. (*1*) Notwithstanding anything contained in section 294 of the Code of Civil Procedure, the holder of a decree in execution of which a holding is sold under this chapter may without the permission of the Court bid for or purchase the holding.

(*2*) The judgment-debtor shall not bid for or purchase a holding so sold.

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Operation of sections 313 and 326 of Code of Civil Procedure excluded.

221. Sections 313 and 326 of the Code of Civil Procedure shall not apply to any sale under this chapter.

III of 1877.

Registration of certain instruments creating incumbrances.

222. Notwithstanding anything contained in Part IV of the Indian Registration Act, 1877, an instrument creating an incumbrance upon any transferable holding which has been executed before the commencement of this Act, and is not required by section 17 of the said Registration Act to be registered, shall be accepted for registration under that Act if it is presented for that purpose to the proper officer within one year from the commencement of this Act.

[C. B., s. 209, Expl. B. B., s. 228, Expl.]

Registration-officers to serve copies of instruments creating incumbrances.

223. Every officer who has, whether before or after the passing of this Act, registered an instrument executed by a tenant of a transferable holding and creating an incumbrance on the holding, shall, at the request

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(Chapter XVI.—Limitation. (Secs. 224—225) and (Chapter XVII.—Supplementary. Secs. 226—230. Schedule I.—Repeal of Enactments.)

of the tenant or of the person in whose favour the incumbrance is created, and on payment by him of such fee as the Local Government may fix in this behalf, cause a copy of the instrument to be served on the landlord in the manner prescribed in Part VII of the Indian Registration Act, 1877, for the service of summons.

III of 1877.

CHAPTER XVI.

OF LIMITATION.

[D. §§ 77, 78 & 79. C. B., s. 92. B. B., s. 98.]

224. The suits, appeals and applications specified in Schedule IV annexed to this Act shall be instituted and made within the time prescribed in that schedule for them respectively; and every such suit or appeal instituted, and application made, after the period of limitation so prescribed, shall be dismissed, although limitation has not been pleaded.

Limitation in suits, appeals and applications in Schedule IV.

XV of 1877. [C. B., s 93: B. B., s. 99.]

225. Sections 7, 8 and 9 of the Indian Limitation Act, 1877, shall not apply to the suits and applications mentioned in section 224.

Portions of the Indian Limitation Act not applicable to such suits, &c.

CHAPTER XVII.

SUPPLEMENTARY.

226. Nothing in this Act shall confer a right to transfer or bequeath a service-tenure which, before the passing of this Act, was not capable of being transferred or bequeathed.

Saving as to service-tenures.

227 The Local Government may, from time to time, by notification in the official Gazette, make rules consistent with this Act to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

Power to make rules regarding procedure and powers of officers.

(*a*) any power exercised by a Civil Court in the trial of suits;

(*b*) power to enter upon any land, and to survey, demarcate and make a map of the same; and

(*c*) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil.

228. (*1*) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

Procedure for making, publication and confirmation of rules.

(*2*) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may in its opinion be sufficient for giving information to persons interested, and in the case of rules made by any other authority, in the prescribed manner.

(*3*) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(*4*) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*5*) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

229. Any appearance, application or act in, before, or to, any Court or other authority required or authorized by this Act to be made or done by a landlord may, unless the Court or authority otherwise directs, be made or done also by a náib or gumáshta of the landlord empowered in this behalf by a written authority under the hand of the landlord; and every notice required by this Act to be served on, or given to, a landlord shall, if served on, or given to, a náib or gumáshta of the landlord empowered as aforesaid to accept service of or receive the same, be as effectual for the purposes of this Act as if it had been served on, or given to, the landlord in person.

Náibs and gumáshtas of landlords.

230. The provisions of this Act applicable to suits for the recovery of arrears of rent shall, as far as may be, apply to suits for the recovery of anything payable or deliverable in respect of any rights of pasturage, forest-rights, rights over fisheries and the like.

[D. §. 82. C. B., s. 3. B. B., s. 3.] "Rent" and "land."

Right's of pasturage, forest-rights, &c.

SCHEDULE I.

(*See Section 2.*)

REPEAL OF ENACTMENTS.

Regulations of the Bengal Code.

Number and year.	Subject of Regulation.	Extent of repeal.
VIII of 1793 .	A Regulation for re enacting with modifications and amendments the rules for the Decennial Settlement of the Public Revenue payable from the lands of the zamíndárs, independent talukdárs, and other actual proprietors of land in Bengal, Bihár, and Orissa, passed for those Provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates.	Sections 51, 52, 53, 54, 55, 64, and 65
XII of 1805 .	A Regulation for the settlement and collection of the Public Revenue in the zila of Cuttack, including the pargunas of Puttáspur, Kummadichour, and Bagrae, at present included in the zila of Midnapur.	Section 7.
V of 1812 .	A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.	Sections 2, 3, 4, 26 and 27.

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(Schedule I.—Repeal of Enactments) and (Schedule II.—Extract from Preamble to Regulation VIII of 1819.)

SCHEDULE I—*contd.*

Number and year.	Subject of Regulation.	Extent of repeal.
XVIII of 1812 .	A Regulation for explaining Section 2, Regulation V, 1812, and rescinding Sections 3 and 4, Regulation XLIV, 1793, and Sections 3 and 4, Regulation L, 1795, and enacting other rules in lieu thereof.	Preamble and Sections 2 and 3.
VIII of 1819 .	A Regulation to declare the validity of certain tenures, and to define the relative rights of zamíndárs and patní taluqdárs; also to establish a process for the sale of such taluqs in satisfaction of the zamíndár's demand of rent, and to explain and modify other parts of the system established for the collection of rents generally throughout Bengal.	The whole Regulation.
I of 1820 .	A Regulation for providing that all sales of certain taluqs, made answerable by sale for arrears of the zamíndár's rent, shall be conducted in the mode prescribed by Regulation VIII, 1819, for the sales therein described.	The whole Regulation.
XI of 1825 .	A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea.	In Clause 1 of Section 4, from and including the words "nor if annexed to a subordinate tenure" to the end of the Clause.

Acts of the Bengal Council.

Number and year.	Subject of Act.	Extent of repeal.
VI of 1862 .	An Act to amend Act X of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	The whole Act.
VIII of 1865 .	An Act to amend the law for the sale of such undertenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.	The whole Act.
IV of 1867 .	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.

SCHEDULE I—*concld.*

Number and year.	Subject of Act.	Extent of repeal.
VIII of 1869 .	An Act to amend the Procedure in suits between Landlords and Tenants.	The whole Act.
VIII of 1879 .	An Act to define and limit the powers of Settlement-officers.	The whole Act.

Acts of the Governor General in Council.

Number and year.	Subject of Act.	Extent of repeal.
XXV of 1850 .	An Act for the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII, 1819, and Act IV, 1846.	So much as is unrepealed.
XXXIII of 1850 .	An Act for amending the forms necessary for the sale of patní tenures in Bengal.	The whole Act.
VI of 1853 .	An Act relating to summary suits for arrears of rent, to sales of pátní taluqs and other saleable Tenures, and to sales of land in satisfaction of summary decrees for rent.	The whole Act.
X of 1859 .	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.

SCHEDULE II.

(*See Section 36.*)

Extract from Preamble to Regulation VIII of 1819.

"In the exercise of the privilege * * * conceded to zamíndárs under direct engagements with Government, there has been created a tenure which had its origin on the estates of the Rájá of Bardwán, but has since been extended to other zamíndáris; the character of which tenure is, that it is a taluq created by the zamíndár, to be held at a rent fixed in perpetuity, by the lessee and his heirs for ever; the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he is excused from this obligation at the zamíndár's discretion; but even if the original tenant be excused, still, in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbent has always in practice been liable to be so called upon at the option of the zamíndár.

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(Schedule III.—Summary Sale of Patní Tenures.)

"By the terms also of the engagements interchanged, it is, amongst other stipulations, provided that, in case of an arrear occurring, the tenure may be brought to sale by the zamíndár, and if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand.

"These tenures have usually been denominated patní taluqs, and it has been a common practice of the holders of them to underlet on precisely similar terms to other persons who, on taking such leases, went by the name of darpatní taluqdárs: these, again, sometimes similarly underlet to be patnídárs; and the conditions of all the title-deeds vary in nothing material from the original engagements executed by the first holder."

SCHEDULE III.

SUMMARY SALE OF PATNÍ TENURES.

(See section 42.)

Extract from Regulation VIII of 1819, amended in accordance with subsequent enactments.

Zamíndárs allowed sales of tenures, in which right to sell for arrears is reserved.

8. *First.*—Zamíndárs, that is, proprietors under direct engagements with the Government, shall be entitled to apply in the manner following for periodical sales of any tenures upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure.

The exercise of this power shall not be confined to cases in which the stipulation for sale may have been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for a sale at the end of the year, in conformity with the practice heretofore allowed by the Regulations in force.

First sale to be applied for on first Baisákh.

Second.—On the first day of Baisákh, that is, at the commencement of the following year from that of which the rent is due, the zamíndár shall present a petition to the Collector, containing a specification of any balances that may be due to him on account of the expired year, from all or any taluqdárs or other holders of an interest of the nature described in the preceding clause of this section.

The same shall then be stuck up in some conspicuous part of the kachahrí, with a notice that if the amount claimed be not paid before the first of Jeth following, the tenures of the defaulters will on that day be sold by public sale in liquidation.

Should, however, the first of Jeth fall on a Sunday or holiday, the next subsequent day, not a holiday, shall be selected instead; a similar notice shall be stuck up at the sadr kachahrí of the zamíndár himself, and a copy or extract of such part of the notice as may apply to the individual case shall be by him sent to be similarly published at the kachahrí or at the principal town or village upon the land of the defaulter.

The zamíndár shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the mufassal shall be served by a single peon, who shall bring back the receipt of the defaulter, or of his manager, for the same; or in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood, in attestation of the notice having been brought and published on the spot.

If it shall appear from the tenor of the receipt or attestation in question that the notice has been published at any time previous to the fifteenth of the month of Baisákh, it shall be a sufficient warrant for the sale to proceed upon the day appointed.

In case the people of the village should object or refuse to sign their names in attestation, the peon shall go to the kachahrí of the nearest munsif, or if there should be no munsif, to the nearest thánáand there make voluntary oath of the same having been duly published; certificate to which effect shall be signed and sealed by the said officers and delivered to the peon.

Mid year sale to be applied for on first of Kártik.

Third.—On the first day of Kártik, in the middle of the year, the zamíndár shall be at liberty to present a similar petition, with a statement of any balances that may be due on account of the rent of the current year, up to the end of the month of Asin, and to cause similar publication to be made of a sale of the tenures of defaulters, to take place on the first of Aghan, unless the whole of the advertised balance shall be paid before the date in question, or so much of it as shall reduce the arrear, including any intermediate demand for the month of Kártik, to less than one-fourth or a four-anna proportion of the total demand of the zamíndár, according to the kistbandí, calculated from the commencement of the year to the last day of Kártik.

Sales how conducted.

9. All sales of saleable tenures applied for under the rules of this Regulation shall be made in public kachahrí; the land shall be sold to the highest bidder, and every one not the actual defaulter shall be free to bid, not excepting the person in satisfaction of whose demand the sale may be made, nor the under-tenants of the defaulter; fifteen per cent. of the purchase-money shall be paid immediately the lot is knocked down, and the officer conducting the sale shall be competent to refuse to accept a bid, or to knock down a lot to any bidder, unless he has assurance to his satisfaction that the amount

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required to be deposited is in hand for the purpose, or will be produced within two hours.

If the fifteen per cent. be not paid in cash, * * * * * * * * * within two hours of the sale, or an equivalent amount in Government securities be not lodged, the lot shall be resold on the same day, and if the remainder of the purchase-money be not paid by noon of the eighth day, notice shall be given of resale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the bázár of the sadr station of the zila, after which the lot shall be resold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen per cent. already made, and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one; such deficiency to be levied by the process for the execution of decrees of the Civil Courts.

The forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be credited to Government.

Forms to be observed in selling.

10. At the time of the sale, the notice previously stuck up in the kachahrí shall be taken down, and the lots be called up successively in the order in which they may be found in that notice.

A person shall attend on the part of the zamíndár, with a particular statement of the payments made up to the day of sale, on account of the balance of each advertised lot, together with the receipt for, or certificate of, the notice directed to be published in the mufassal, nor shall any lot be put up to sale until the statement produced shall have been inspected, and the existence of a balance for the year ascertained therefrom, nor until the receipt for the notice shall have been read; the observance of which forms shall be recorded in a separate rubakárí to be held upon each lot sold.

If the sale be of the description provided for in the third clause of section 8 of this Regulation, the kistbandí of the defaulter shall likewise be produced, in order that it may be seen that the balance remaining unpaid exceeds a four-anna proportion of the demand up to the date of sale; nor shall the sale take place unless this be ascertained.

The zamíndár shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the public officer making the sale be answerable in any respect, except for its fairness and publicity, and for the observance of the rules prescribed for his guidance in this Regulation.

Tenure to be sold free of incumbrance by act of defaulter.

11. *First.*—It is hereby declared, that any taluq or saleable tenure that may be disposed of at a public sale, under the rules of this Regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said taluq may have been held.

No transfer by sale, gift or otherwise, no mortgage or other limited assignment, shall be permitted to bar the indefeasible right of the zamíndár to hold the tenure of his creation answerable, in the state in which he created it, for the rent which is in fact his reserved property in the tenure, except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such zamíndár.

No under-lease to stand after sale.

Second.—In like manner, on sale of a taluq for arrears, all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred; the possessors of such interests must consequently lose the right to hold possession of the land and to collect the rents of the raiyats; this having been enjoyed merely in consequence of the defaulter's assignment of a certain portion of his own interest, the whole of which was liable for the rent.

* * * * *

Reason for allowing under-tenants means of staying sale.

13. *First.*—With reference to the injury that may be brought upon the holder of a taluq of the second degree by the operation of the preceding rules, in case the proprietor of the superior tenure purposely withholds the rent due from himself to the zamíndár, after having realised his own dues from the inferior tenantry, it is deemed necessary to allow such taluqdárs the means of saving their tenures from the ruin that must attend such a sale; and the following rules have accordingly been enacted for this purpose.

How under-tenants may stay sale.

Second.—Whenever the tenure of a taluqdár of the first degree may be advertised for sale in the manner required by the second and third clauses of section 8 of this Regulation, for arrears of rent due to the zamíndár, the taluqdárs of the second degree, or any number of them, shall be entitled to stay the final sale, by paying into the Collectorate the amount of balance that may be declared due by the person attending on the part of the zamíndár on the day appointed for sale; in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answering any demand that may remain due on the day fixed for the sale, and should the amount lodged be sufficient, the sale shall not proceed, but after

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making good to the zamíndár the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it.

Third.—If the amount so lodged shall be rent due by the inferior taluqdár to the holder of the advertised tenure, the same shall be stated at the time of making the deposit, and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim of rent that may at the time be pending, or be thereafter brought forward against him or them by the proprietor of the advertised tenure, on account of the year or months for which the notice of sale may have been published.

Procedure in case of amount lodged being rent due from under-tenant;

Fourth.—If the person or persons making such a deposit, in order to stay the sale of the superior tenure, shall have already paid the whole of the rent due from himself or themselves, so that the amount lodged is an advance from private funds, and not a disbursement on account of the said rent, such deposit shall not be carried to credit in, or set against, future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the taluq so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereupon, in the same manner as if the loan had been made upon mortgage, and he or they shall be entitled, on applying for the same, to obtain immediate possession of the tenure of the defaulter, in order to recover the amount so advanced from any profits belonging thereto.

and in case of amount lodged being advanced from private funds.

If the defaulter shall desire to recover his tenure from the hands of the person or persons who, by making the advance, may have acquired such an interest therein, and entered on possession in consequence, he shall not be entitled to do so, except upon repayment of the entire sum advanced, with interest at the rate of twelve per cent. per annum up to the date of possession having been given as above, or upon exhibiting proof, in a regular suit to be instituted for the purpose, that the full amount so advanced, with interest, has been realised from the usufruct of the tenure.

14. *First.*—Should the balance claimed by a zamíndár on account of the rent of any under-tenure remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve, in the manner provided for in sections 9 and 10 of this Regulation; nor shall it be stayed or postponed on any account, unless the amount of the demand be lodged.

Sale not to be stayed unless arrear claim be lodged.

It shall, however, be competent to any party desirous of contesting the right of the zamíndár to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the zamíndár for the reversal of the same, and upon establishing a sufficient plea, to obtain a decree with full costs and damages.

But suit to lie for its reversal.

The purchaser shall be made a party in such suits, and upon decree passing for reversal of the sale, the Court shall be careful to indemnify him against all loss, at the charge of the zamíndár or person at whose suit the sale may have been made.

Second.—In cases also in which a taluqdár may contest the zamíndár's demand of any arrear, as specified in the notice advertised, such taluqdár shall be competent to apply for a summary investigation at any time within the period of notice; the zamíndár shall then be called upon to furnish his kabuliyat and other proofs at the shortest convenient notice, in order that the award may, if possible, be made before the day appointed for sale.

Defaulter may apply for summary investigation.

Such award, if so made, will of course regulate the ulterior process; but if the case be still pending, the lot shall be called up in its turn, notwithstanding the suit; and if the zamíndár or his agent in attendance insist on the demand, the sale shall be made on his responsibility, nor shall it be stayed, or the summary suit be allowed to proceed, unless the amount claimed be lodged in cash, * * * * * * * * or in Government securities, by the taluqdár contesting the demand; and if such deposit be not made, the alleged defaulter will have no remedy, but by a regular action for damages and for a reversal of the sale.

Sale not to be stayed unless amount claimed be deposited.

15. *First.*—So soon as the entire amount of the purchase-money shall have been paid in by the purchaser at any sale made under this Regulation, such purchaser shall receive from the officers conducting the sale a certificate of such payment.

Delivery of possession to purchaser.

The purchaser shall then proceed with the certificate in question to procure a transfer to his name in the kachahrí of the zamíndár, and upon furnishing security, if required, to the extent of half the jama or annual rent, he shall receive the usual 'amaldastak' or order for possession, together with the notice to the raiyats and others to attend and pay their rents henceforward to him.

The zamíndár shall also be bound to furnish access to any papers connected with the tenure purchased, that may be forthcoming in his kachahrí; and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished or tendered on requisition, the new purchaser shall be entitled to apply direct to the Collector; and he shall receive the orders for possession, and shall be

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put in possession, of the lands by means of the názir, in the same manner as possession is obtained under a decree of Court; * * * * * * * * * * *

Second.—When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the collections of the new purchaser, from the lands composing his purchase, the latter shall be at liberty to apply immediately to the Collector for the aid of the public officers in obtaining possession of his just rights.

Procedure in case of opposition to purchaser.

A proclamation shall then issue under the seal and signature of the Collector declaring that the new incumbent having, by purchase at a sale for arrears of rent due to the zamíndár, acquired the entire rights and privileges attaching to the tenure of the late taluqdár, in the state in which it was originally derived by him from the zamíndár, he alone will be recognized as entitled to make the zamíndárí collections in the mufassal, and no payments made to any other individual will on any account be credited to the raiyats or others in any suit for rent or on any other occasion whatever when the same may be pleaded.

Third.—Should the late incumbent or his late under-tenants continue to oppose the entry of the new purchaser, notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the Police-officers and of all other public officers who may be at hand and capable of affording assistance shall be given to the new purchaser, on his presenting a written application for the same; and in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.

Procedure in case of continued opposition.

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17. *First.*—The following rules have been enacted for the disposal of the proceeds of any sale made under the rules of this Regulation.

Disposal of proceeds of sales.

Second.—One per cent. shall first be deducted from the nett proceeds realised, and shall be carried to the account of Government, for the purpose of meeting the expense of any extra establishments which it may be necessary to maintain for carrying into effect the provisions of this Regulation.

Deduction on account of Government.

Third.—The balance on account of which the sale may have been made shall next be made good in full (with interest and all charges incurred in bringing the taluq to sale) to the zamíndár or other person to whom the same may be due; provided, however, that no former balances, beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year), shall be included in the demand to be thus satisfied.

Payment to zamíndárs.

Such antecedent balances, if the zamíndár shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will have become in fact mere personal debts of the individual taluqdár, and must be recovered in the same way as other debts by a regular suit in the Court.

Fourth.—Any excess that may remain after satisfying the demand of the zamíndár, in the manner above described, shall be forthwith sent by the officer conducting the sale to the treasury of the Collector or Assistant Collector of the district, to be there held in deposit to answer the claims of the taluqdárs of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest on the land composing the taluq sold, or on any part of it.

Disposal of remainder.

Fifth.—It shall be competent to any one conceiving himself to possess such an interest to bring forward his claim to the price he may have paid for the same, or for a just compensation for the loss sustained by him in consequence of the sale, by instituting a regular suit at any time within two months from the date of sale.

Under-tenants free to prosecute for price of their interest or compensation.

If the Court shall, on investigation, consider the plaintiff's claim to be an equitable one, the Court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any other amount that may be deemed just and equitable under all the circumstances.

If there be more claimants than one, payment shall not be made from the deposit, until the whole of the claims be settled; and in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately, and the remainder stand as a personal debt against the defaulter, to be realised from him by the usual process for the execution of decrees.

Sixth.—Provided, however, that no taluqdár of the second degree or other possessor of an assigned interest upon the land of the tenure sold, who may

Suit not to lie if under tenant be himself in arrear at time of sale.

Bengal Tenancy Bill.

(*Schedule IV.—Limitation.*)

be holding under a stipulation for the payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or assignment upon its becoming cancelled by sale of the superior taluq, except after exhibiting proof that the whole amount of the rent demandable from himself has been paid or lodged for the purpose prior to the date of sale.

When defaulter to receive excess unclaimed.

Seventh.—Should no claims upon the purchase-money of a taluq sold as above be brought forward by any under-tenants or assignees, within the period of two months from the date of sale, or should the amount claimed by those who may have sued not equal the entire deposit, the defaulter whose tenure may have been sold shall be at liberty to petition the Court for the amount so held in deposit, or for the excess thereof, as the case may be, and he shall receive a certificate under the seal of the Court, of there being no claims to afford ground of detention for the whole or any part of the deposit; and upon exhibiting such certificate to the Collector, the amount set free thereby shall be paid to his receipt.

In the same manner, upon executing a decree passed in favour of any under-tenants or assignees, they shall receive certificates under the seal of the Court, declaring the amount adjudged to them out of the deposit; and upon exhibiting these certificates, the amount shall be paid severally to their receipts by the Collector.

Substitution of Government securities for cash in deposit.

Eighth.—It shall be competent to any party interested in a deposit, to withdraw the whole or any part thereof, on substituting Government securities, bearing interest, in lieu of the money so held in deposit; such securities to be taken at the rate of discount or premium of the day, as shown by the Government Gazette last received.

SCHEDULE IV.

(*See Section 224.*)

PART I.—*Suits.*

Description of suit.	Period of Limitation.	Time from which period begins to run.
1. To eject any tenure-holder or raiyat on account of any breach of a condition in respect of which there is a contract expressly providing that ejectment shall be the penalty of such breach.	One year .	The date of the breach.

SCHEDULE IV—continued.

PART I.—*Suits*—concluded.

Description of Suit.	Period of Limitation.	Time from which period begins to run.
2. For the recovery of an arrear of rent—		
(*a*) when the arrear fell due before a deposit was made on account of the rent of the same holding under section 103.	Six months .	The date of the deposit.
(*b*) in other cases .	Three years .	The last day of the Bengali year in which the arrear fell due, where that year prevails, and the last day of the month of Jeyt of the Amli or Fasli year in which the arrear fell due, where either of those years prevails.

PART II.—*Appeals.*

Description of Appeal.	Period of Limitation.	Time from which period begins to run.
3. From any decree or order under this Act to the Court of a District Judge.	Thirty days .	The date of the decree or order appealed against.
4. From any order of a Collector under this Act to the Commissioner.	Thirty days .	The date of the order appealed against.

PART III.—*Applications.*

Description of Application.	Period of Limitation.	Time from which period begins to run.
5. For the execution of a decree or order made under this Act, or any Act repealed by this Act, and not being a decree for a sum of money exceeding Rs. 500, exclusive of any interest which may have accrued after decree upon the sum decreed, but inclusive of the costs of executing such decree, except where the judgment-debtor has by fraud or force prevented the execution of the decree.	Three years .	( ) The date of the decree of order; or (2) where there has been an appeal, the date of the final decree or order of the Appellate Court; or (3) where there has been a review of judgment, the date of the decision passed on the review.

STATEMENT OF OBJECTS AND REASONS.

THE history of landlord and tenant legislation in Bengal, and of the circumstances which have led to the preparation of the present Bill, is given in full detail in the papers which have been published. A very brief summary of it must suffice here.

Immediately before the Permanent Settlement was made, the Court of Directors, in conveying instructions to the Government here regarding it, wrote as follows*:—

"In order to leave no room for our intentions being at any time misunderstood, we direct you to be accurate in the terms in which our determination is announced. * * * * You will, in a particular manner, be cautious so to express yourselves as to leave no ambiguity as to our right to interfere, from time to time, as it may be necessary, for the protection of the raiyats and subordinate landlords, it being our intention, in the whole of this measure, effectually to limit our own demands, but not to depart from our inherent right as sovereigns of being the guardians and protectors of every class of persons living under our Government."

2. In conformity with these instructions, an article was inserted in section 8 of Regulation I of 1793, by which the Permanent Settlement was effected, expressly saving the right of the Government to legislate for the protection of persons having interests in the soil below those of the zamíndárs. It need hardly be said that any such saving was, strictly speaking, superfluous, inasmuch as the Government of an agricultural country like India would, apart altogether from it, be entitled, or rather bound, to legislate from time to time, as occasion might require, for the protection of the inferior occupants of the soil. But the article is important as showing that the view taken of the relations between the Government, the zamíndárs and the inferior landholders under the Permanent Settlement was the same in 1793 as it is to-day.

The article runs as follows:—

"To prevent any mi-construction of the foregoing articles" (fixing the Government revenue for ever) "the Governor General in Council thinks it necessary to make the following declarations to the zamíndárs, independent taluqdárs and other actual proprietors of land:—*First*, it being the duty of the ruling power to protect all classes of people, and more particularly those who, from their situation, are most helpless, the Governor General in Council will, whenever he may deem it proper, enact such regulations as he may think necessary for the protection and welfare of the dependent taluqdárs, raiyats and other cultivators of the soil; and no zamíndár, independent taluqdár or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay."

3. Again, it was enacted by section 67 of Regulation VIII of 1793 (a Regulation re-enacting, with modifications, the rules for the Decennial Settlement) that proprietors should be bound by the restrictions in their kabuliyats, and the 9th of these, as stated by Harington (Vol. II, page 255), was "that implicit obedience be shown to all regulations which have been or may be prescribed by Government concerning the rents of the raiyats and the collections from undertenants and agents of every description, as well as from all other persons whatever."

4. The most important enactment passed in pursuance of these provisions is Act X of 1859, the substantive provisions of which, either in their original form or as re-enacted in Act VIII of 1869† (of the Bengal Council), still govern the relations of landlord and tenant in Bengal.

The effect of Act X of 1859 is admitted to have been on the whole beneficial; but on certain important points it cannot be considered a success. In particular, as will presently be explained at greater length, it placed the right of occupancy, which it recognized in the tenant, and the right to enhance rent, which it recognized in the landlord, on a most precarious footing. The result of this has been that, as usually happens with a law which is uncertain in its operation, it has added strength to the strong and further weakened those who were already weak. In Bihár, where the social and economical conditions of the country tend to give the landlords the upper hand, we hear of tenants rack-rented, subjected to *quasi*-feudal oppressions and arbitrarily ousted from their holdings; in Eastern Bengal, on the contrary, where circumstances favour the tenants, we hear of landlords who not only cannot obtain the enhancements of rent to which they are entitled, but at times, when tenants combine against them, cannot even recover what is admitted to be due at existing rates.

5. The difficulties connected with Act X of 1859 began to be felt at an early period. It received the assent of the Governor General on the 29th of April, 1859, and before the end of 1863 its amendment had been suggested by Sir Barnes Peacock, the Chief Justice of Bengal, and by the Revenue-authorities of the North-Western Provinces. Of late years, successive Lieutenant-Governors of Bengal have borne witness to the existence of chronic evils, which nothing short of comprehensive legislation could cure. In 1873, Sir George Campbell had no

* Harington II, pp. 191-92.

† Throughout this Statement Act X of 1859 only will be referred to. It will be understood that what is said regarding it applies equally to Act VIII of 1869.

doubt that the Government would be eventually compelled to deal with the whole question of the relations of landlords and raiyats in Bengal. In 1876, in the course of the debates on the Agrarian Disputes Act, a measure devised to meet the difficulties between landlords and tenants in Eastern Bengal, the Hon'ble Kristodás Pál, a representative of the zamíndárs, urged that the indefiniteness of the principles of Act X of 1859 had brought suits for the adjustment of rents to a dead-lock. Sir R. Temple concurred in the opinion that some principle for determining rates of rent should be fixed by legislation, and in August, 1876, proposed to introduce a Bill to define the principles on which the rights of occupancy-raiyats and tenure-holders should be fixed, to simplify the procedure for realizing arrears of rent in undisputed cases, to extend the definition of "occupancy-raiyat," and to render the interest of a raiyat of that class liable to sale for default in paying rent and transferable by private agreement.

These proposals had not, however, been fully considered when Sir R. Temple, early in 1877, made over charge of the Lieutenant-Governorship to Sir Ashley Eden; and it was then arranged that the larger amendment of the law should be deferred, and a Bill providing only for the realization of undisputed arrears introduced at once.

6. It was, however, found, when the Bill was introduced, that it was impracticable to limit its scope in this way. The discussion as to the transferability of the right of occupancy had materially advanced, and it had been recognized that the legislature would have to alter the law with reference to ejectment, distraint, instalments and deposits of rent, and possibly sub-letting. It began to be apparent that many of the proposed provisions would eventually prove to be intimately connected with other portions of the existing law not ostensibly affected by them; and in February, 1879, a majority of the Select Committee on the Bill recommended that the whole subject of a revision of the Rent Law should be once for all fairly faced. This proposal was supported by Sir Ashley Eden; and in April, 1879, the Government of India sanctioned the formation of a Commission to prepare a digest of the existing statute and case law, and to frame the draft of a consolidating Bill.

7. Meanwhile, a separate discussion had been proceeding with reference to the abuses already mentioned as prevailing in the relations between landlords and tenants in Bihár. As far back as the year 1868, Lord Lawrence, then Governor General, had recorded a minute relating to the depressed state of the peasantry in Bihár, in which he had said that he believed "that it would be necessary for the Government sooner or later to interfere and pass a law which should thoroughly protect the raiyat and make him—what he is now only in name—a free man, a cultivator with the right to cultivate the land he holds, provided he pays a fair rent for it." Again, in the years 1875 and 1876, when the condition of Bihár came under consideration, it was acknowledged that some remedies must be applied. Two years later, the Lieutenant-Governor appointed a committee of experienced Bihár officials to advise upon the matter; and on the 8th March, 1879, they submitted their report, proposing so many changes of the existing law that they did not consider that the requirements of the case would be properly met by a mere amending Bill. They were of opinion that the whole rent law should be recast.

8. Thus, two independent committees arrived simultaneously at the same conclusion, namely, that the time for a complete revision of the existing law had arrived.

The report of the Bihár committee was referred to the Rent Law Commission, which was appointed under the sanction referred to above (paragraph 6), and that Commission, on the 19th June, 1880, submitted its report with a draft Landlord and Tenant Bill, which, having been revised by the Government of Bengal, has furnished the basis of the present Bill.

9. Before proceeding to give the explanations usual in a statement of this description, it should be mentioned, first, that these explanations will, as far as possible, be confined to points on which it is proposed to alter the existing law, and secondly, that the Bill is no more than it purports to be, namely, a Bill to amend and consolidate existing enactments.

10. With reference to this latter remark, it will be observed that the Bill prepared by the Rent Commission was intended to be in some sense a code of the law relating to agricultural tenancies. It, in many instances, incorporated portions of the common law or case law which have not hitherto been embodied in any legislative enactment in this country. In this respect the present Bill does not follow that of the Rent Commission; but it must not be inferred from this that the views of the Government of India on the important subject of codification have undergone any change. It may be desirable, at some future time, to carry out the design of the Rent Commission in its integrity, and make the Bengal Tenancy Act a complete and self-contained statement of the whole law; but it has been considered that the work of codification is one to be undertaken at a season of leisure, and not at a time like the present, when those, who are responsible for the framing of our legislative measures, are absorbed in the consideration of important substantive amendments of particular portions of the existing law, and are consequently unable to devote to the law as a whole that amount of attention, which would be required in order to carry out the work of codification with any prospect of success.

In the following portions of this Statement the order of the Bill will, as far as possible, be adhered to.

CHAPTER I.—*Preliminary.*

11. The Bill, it will be observed (section 1), extends by its own vigour to the whole of the territories under the administration of the Lieutenant-Governor of Bengal, except the town of Calcutta, the Division of Orissa and the Scheduled Districts.

The Lieutenant-Governor is specially empowered by section 1 to extend the whole Bill, or any portion of it, to the Orissa Division, with the sanction of the Governor General in Council, and he can, with like sanction, extend the whole, or any portion of it, to any Scheduled District under the power conferred on him by the Scheduled Districts Act.

12. The classes of tenants, to which the provisions of the Bill apply, are (section 3 (8)) tenure-holders, raiyats, under-raiyats and persons having a certain interest in *bastu* land, which will be found explained further on under the head of Chapter VII.

13. The term "tenure-holder" as used in the Bill is defined (section 3 (3) and (4)) to include what are commonly known as undertenure-holders, that is to say, darpatnídárs, sepatnídárs, darijaradárs and such like; and also tenants of the class hitherto known as raiyats at fixed rates. The inclusion of tenants of this latter class in the definition is convenient from the draftsman's point of view, but is, it is believed, otherwise of little importance, inasmuch as the incidents which are attached to their holdings place them to all practical intents and purposes on the same footing as tenure-holders.

14. The term "raiyat" has, following the Bill prepared by the Rent Law Commission, been limited to tenants holding land for purposes of agriculture, horticulture or pasture, or who have come into possession for such purposes, except where *bastu* or homestead land is included in a raiyat's agricultural holding, in which case it will be treated in the same way as the rest of the holding, and he will be deemed to hold it as a raiyat.

15. Except as just stated, no attempt has been made to define the terms "tenure-holder" and "raiyat," or to settle the distinction between these two classes of tenants.

The importance of this distinction for the purposes of the Bill has not been overlooked, nor has the possibility that cases may occur near the line of separation between the two classes, in which a doubt will arise as to whether the tenant is a tenure-holder or a raiyat; but it is believed that the distinction is generally well understood, and that, save in exceptional cases, no difficulty will arise. However this may be, no complete definition has as yet been suggested which would not be certain to give rise to difficulties greater than those which it is intended to remove.

16. Under-raiyat, as defined in the Bill, includes all tenants holding whether immediately or mediately below a raiyat.

17. Section 4, besides saving certain special laws which would, as a matter of course, be saved in a general enactment of this description, provides that nothing in the Bill "shall affect any custom or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions."

A saving of this description is unavoidable in a measure which, as already observed, does not purport to be an exhaustive code, and its importance will be seen from the illustration appended, which shows that it will protect such rights as rights of occupancy enjoyed under a custom by under-raiyats, a class of tenants protected only to a limited extent by the Bill.

CHAPTER II.—*Of the distinction between khámár and raiyatí land.*

18. The second chapter of the Bill deals with the distinction between "khámár land," or the private land of the proprietor, and raiyatí land, or the land destined for occupation by raiyats. The importance of this distinction arises chiefly from the circumstance that raiyats occupying land of the latter class will, under the Bill, enjoy a much larger measure of protection than those occupying land of the former class. Bearing this in mind, and having regard to the efforts made by landlords in some parts of the country, under the existing law, to get into their own hands as large an amount of the raiyatí land as possible and convert it into khámár land, it has been thought necessary to make it clear by the definition that the existing stock of khamar land cannot hereafter be increased, and further to enact (section 6) that all land which is not khamar land shall be deemed to be raiyatí land, and that all land shall be presumed to be raiyatí land until the contrary is proved.

19. In Bihár, owing to the large extent of the khámár, or, as it is there termed, "nearat", land, and the persistent efforts made by the landlords and their lessees to increase its extent, the question is one of cardinal importance; and there may be other exceptional tracts where the necessity of distinguishing clearly and finally between khámár and raiyatí land may prove to be pressing. To meet such cases, it is further thought necessary to provide (sections 7 to 15)

for making a complete survey and record of the existing khámár or zeraat, and thus preclude all possibility of future disputes on the point.

CHAPTER III.—*Of Tenure-holders generally.*

20. The alterations which it is proposed to make in the existing law regarding tenures, are not of great importance.

Section 14 converts the present raiyats at fixed rates into tenure-holders, but, as already explained (*supra*, paragraph 13), the change is unimportant.

21. Section 20, which saves to a landlord in a temporarily-settled tract a right to raise the rent of any tenure when a new settlement of the revenue is made, is new; but it may be defended as being in accordance with the views that prevail as to the relative position of the landlord, the tenant and the Government in such tracts. The Government has an undoubted right to raise its revenue on the occasion of a fresh settlement. Of this right no act of the landlord can deprive it; and accordingly, if the landlord were to be bound by a grant at fixed rates, made by him so as to extend beyond the term of the settlement, the result would be that, on the occasion of a new settlement, he might be exposed to the risk of having to pay an enhanced revenue without the possibility of recovering it from his tenant.

22. The Rent Commissioners observe that there are in the existing law no express provisions for the enhancement of the rents of tenures, and that the want of a definite enactment on the point has given rise to much expensive litigation. The sections of the Bill relating to this matter are based on those drafted by the Commissioners, and the grounds on which they rest will be best seen from the following extract from the Commissioners' report:—

"We have," they say, "provided for the enhancement of the rent of tenures and under-tenures, by enacting that, in any case in which such rent is liable to enhancement,—there are cases in which it is not so liable,—it may be enhanced up to the limit of the customary rate payable by persons holding similar tenures or undertenures in the vicinity, or, where no such customary rate exists, up to such limit as to the Court shall appear fair and equitable, but so that the profit of the tenure-holder or undertenure-holder shall not (in the absence of certain special circumstances, to be noticed hereafter) exceed thirty per centum of the balance which remains after deducting, from the gross rents payable to him, the expenses of collecting such rents. It may be observed that, according to the rule contained in section 8 of Regulation V of 1812, ten per cent. of the balance just mentioned was allowed to the tenure-holder. This section was repealed by Act X of 1859, but, by some oversight, no provision was substituted by this Act, though the principle, as being fair and equitable in itself, and usual by reason of the provisions of the Regulation, was, on several occasions, acted upon by the Courts after that Act was passed. It appears to a majority of us, after careful consideration, that the limit of *ten* per cent. is too low, and we have accordingly allowed a higher limit, namely, that of a maximum not exceeding *thirty* per cent. in ordinary cases.* We have provided for the special and well-known case of *jangalbari* holdings by enacting that, when more than one hundred bíghás of land have been demised for reclamation purposes, more than half being at the time unreclaimed, and the whole having been subsequently reclaimed, the rent of the tenant may not be enhanced so as to leave him a profit of less than twenty per cent. of the net balance above-mentioned, and the Court may allow him such profit in excess of twenty per cent. as to it appears fair and equitable. In order to prevent these new provisions from working hardship by any sudden and great change, we have annexed the following checks:—(*a*) the enhanced rent shall not in any case be more than double the previous rent: (*b*) the Court may direct that the enhancement shall take effect gradually, or, in other words, that the rent shall increase yearly during any number of years not exceeding five, until the limit of the enhancement allowed has been reached: and (*c*) that rent once enhanced shall not be altered for ten years unless on account of alluvion or diluvion."

23. The only further points calling for notice in connection with these sections are, that it has been provided that the tenure-holder's profits shall never be less than 10 per cent. of the net balance, that the provision regarding jangalburi tenures has been made applicable to all such tenures irrespective of the area comprised in them, and that a clause has been added providing that, when a tenure-holder has made improvements other than those referred to by the Commissioners, the Court may allow him such amount, by way of profit, as it thinks fit, provided it be not less than 10 per cent.

* Mr. Justice Levinge mentions, in his Minute on Act X, a case in which *two-thirds* (he does not say, whether of the gross or net collections) were given to the landlord and the residue to the middleman. If the calculation was here made on the net collections, the collection expenses being at ten per cent., the middleman got 80 per cent., being $100-\frac{2(100-10)}{3}-10$.

24. In section 26, it is enacted that a permanent tenure-holder shall not be ejected by his landlord except under a decree of Court passed on the ground that he has broken a condition, on breach of which he is, under a written contract between him and his landlord, liable to be ejected.

25. The alterations which are made in the existing law by sections 27 to 35, relating to the registration in the landlord's serishta of transfers of, and successions to, permanent tenures, are (so far as they seem to call for notice) as follows:—

(*a*) A fee is made payable in respect of the registration of every succession and every transfer other than a transfer on a sale for arrears of rent.

(*b*) An application for the registration of a voluntary transfer or a succession may, instead of being made to the landlord, be made to a Revenue-officer, who will serve a notice on the landlord requiring him to register.

(*c*) Where a tenure is sold in execution of a decree other than a decree for arrears of rent, the Court will cause a notice to be served on the landlord requiring him to register the transfer.

(*d*) If a landlord refuses or neglects to register for one month after he is bound to do so, the persons interested may apply to the Civil Court to compel him to register.

(*e*) Similarly, if the party or parties concerned do not apply for registration within six months from the date of a voluntary transfer or a succession, the landlord may apply to have him or them compelled to allow the registration and pay the requisite fee.

(*f*) The landlord is required to give to the parties concerned copies of entries in his register; the first copy to be given free of charge, subsequent copies on payment.

(*g*) The Board of Revenue is empowered to make rules regulating registration.

26. The proposal of the Rent Commission to extend the registration system to occupancy-holdings has not been adopted, as it is feared that there would be great difficulty in bringing home to persons of the raiyat class the details of such a system.

CHAPTER IV.—*Of Patní Tenures.*

27. The law relating to patní tenures is left substantially unchanged. The various proposals which have been made for the amendment of the summary sale procedure have not been overlooked; but it is thought that, as they touch only matters of detail relating to an institution of a very special nature, they would be best considered at the Select Committee stage of the Bill when it is hoped it may be found possible to simplify the form of the law very much without materially changing its substance. Meantime, the existing enactments have been thrown into Schedule III of the Act, and are made operative by section 42.

CHAPTER V.—*Of Raiyats with a Right of Occupancy.*

28. Chapter V, which treats of the acquisition of the occupancy-right and of the incidents generally of that right, is one of the most important chapters in the Bill.

It will be seen, from the papers that have been published in connection with this measure, that a controversy has arisen, and has been conducted on both sides with much ability and research, as to whether some such right as that which we usually term a right of occupancy did not originally belong, and ought not now to be recognized as belonging, to all raiyats in Bengal except those whose occupation of the land is of a merely transitory nature. It is unnecessary now to enter upon the merits of that question, inasmuch as, after a full consideration of the position, it has been determined that the legislation to be undertaken by the Government shall proceed on the assumption that the occupancy-right is to be recognized as appertaining only to such tenants as may be shown to be in some special sense settled or permanent. But the problem of defining the class of tenants in whom such a right should be recognized is, when limited by this assumption, one of considerable difficulty.

29. The conditions requisite to confer the status of the "khudkásht raiyat," so frequently referred to in our revenue enactments and records, may in earlier times, and especially when thoroughly organized village-communities prevailed, have been to a certain extent definite and ascertainable; but, in spite of all the learning and research which have been brought to bear, they are not now to be discovered. The probability is that they were always very vague; that, notwithstanding their vagueness, no difficulty arose so long as land was abundant, the pressure of the Government revenue heavy and the status of a privileged cultivator of little value; and that it was only with the progress of agriculture, the increase in the value of landed property and the consequent disputes regarding interests in land, that the need of some more precise definition came to be felt.

30. A definition framed under such circumstances would necessarily be to a great extent artificial, and in moulding its details there would necessarily be a good deal of room left for considerations of equity and expediency. We find accordingly, on referring to the proceedings connected with Act X of 1859, that those who framed that Act assumed a considerable latitude in settling the conditions on which the occupancy-status should be acquired. In the Bill

as read a first time, they proposed to confer on every "resident" raiyat a right of occupancy in the "land held by him," and they justified this on the ground that the word "khudkásht," as used in the Regulations, seemed to be synonymous with "resident"; but subsequently, it having been pointed out to them by the Revenue-authorities of the North-Western Provinces that "residence was not always a condition of occupancy," they adopted the rule embodied by them in the Act, namely, that twelve years' holding of the same land shall give a right of occupancy in that land. This rule, which was obviously to a large extent artificial, was copied by them from a similar rule which was issued by the North-Western Provinces Government, apparently as a mere executive suggestion to its officers, in the year 1836, as that "most consistent with the existing practice and recognized rights" in those provinces. The only feature common to the two rules is that of a raiyat in some sense permanent in, or settled in, the locality, and it would seem that the persons who framed those rules considered that as long as they maintained this feature, they were at liberty to define, in such manner as they might think equitable and expedient, the circumstances which should be taken to constitute the requisite degree of permanency or settlement. This is quite intelligible in the view above suggested, that, though the status of the khudkásht raiyat was still a recognized institution, the conditions requisite to establish it were so vague that they could not be described otherwise than as resting on a certain ill-defined degree of permanency in a particular locality.

31. Act X of 1859 is admitted to have done much towards improving the relations between landlord and tenant, but, in this particular matter of defining the conditions requisite to the establishment of a right of occupancy, it cannot be pronounced a success. It would be unjust to charge this want of success altogether against the Act itself. It has been held by the highest judicial authority that the provisions of the Act with respect to the establishment of the right of occupancy should be construed as cumulative and not as exhaustive or exclusive of all other modes of establishing that right; but, as a matter of fact, the Act has come to be regarded as a Code complete in itself, and as superseding all other modes of establishing the right. Its effect has consequently been to injure seriously the rights of the old established raiyats, by throwing upon them the burden of proving, not merely that they have held for twelve years in the village or estate, but further that they have so held in every one of the particular fields or plots, in respect of which they claim to have rights of occupancy, a burden which, it need hardly be said, it is impossible for them, in the absence of any trustworthy agricultural records, to discharge. And, as regards the acquisition of rights of occupancy by new comers,—a matter which is always regarded as absolutely necessary for the prosperity of the agriculturist class in this country,—it becomes almost impossible under a law which enables the landlord to prevent it by the simple device of shifting the tenant from one holding to another before the period of twelve years has run out.

32. It is unnecessary to state here the various remedies which have been proposed for these evils. They will be found described and discussed in paragraph 61 of the letter of the Government of India to the Secretary of State, No. 6, dated 4th March, 1882. It is enough to state the amendment of the law which the Government, after a very full discussion of the question, has resolved to propose. That amendment follows with certain modifications a suggestion of the Famine Commissioners, and consists in making the acquisition of the status of the khudkásht raiyat, or, as he is termed in the Bill, the "settled raiyat," depend not on the holding of one and the same plot of land for twelve years, but (section 45) on the holding of any raiyatí land (whether the same or not it does not matter) in the same village or estate for a period of twelve years whether before or after the passing of the Act. The raiyat may, by ceasing for one year to hold land as a raiyat in the village or estate (section 46), lose the status so acquired, but while it continues to adhere to him, he will, notwithstanding any contract to the contrary, be deemed to have acquired a right of occupancy in any raiyatí land held by him as a raiyat in the village or estate after the 2nd March, 1883, the date on which it is proposed to introduce the Bill. It should be added that, in order to obviate the effect which the minute partitions of estates, so common of late in certain parts of the country, would have in reducing the area in respect of which a settled raiyat of an estate would enjoy his status as such, it is in effect provided by section 43 that the estate shall, for the purposes of this portion of the Act, be taken to be the estate as it would have existed if no partition had taken place since the 1st of January, 1858.

33. It will be observed from the above that a right of occupancy is acquired by a settled raiyat holding raiyatí land "*notwithstanding any contract to the contrary.*" It is considered essential to carry the enactment to this extent. As observed by the Government of India in paragraph 85 of their letter No. 6 of the 21st March, 1882, "such is the power of the zamíndárs, so numerous and effective are the means possessed by most of them for inducing the raiyats to accept agreements which, if history, custom and expediency be regarded, are wrongful and contrary to good policy, that to uphold contracts in contravention of the main purpose of the Bill would be, in our belief, to condemn it to defeat and failure. It is absolutely necessary that such contracts should be disallowed, and in this conclusion we have the support not only of the Bengal Government but also of the almost unanimous opinions of the Bengal officers."

34. These provisions apply only to raiyatí land. The acquisition of a right of occupancy in the landlord's khamar land is, by section 49, kept on the same footing as under the existing law

35. It is only necessary to add, as regards the acquisition of the right, that it is provided by section 44 of the Bill that every raiyat, who immediately before the commencement of the Act has, by the operation of any enactment, by custom or otherwise, a right of occupancy in any land, shall, when the Act comes into force, become an occupancy-raiyat of that land for the purposes of the Act, and that (section 48) a right of occupancy may be acquired by a grant from the landlord.

36. As regards the probable effect of the new provisions regarding the acquisition of the right of occupancy, it should be stated that no great increase of the area at present subject to that right is looked for from them; indeed, if the statement which has been made by a high authority, that 90 per cent. of the raiyats in Bengal already have that right, is correct, any such increase would scarcely be possible; but what is hoped for is, first, that a stop may be put to the vigorous efforts, which are at present being made by landlords in some parts of the country, to withdraw land from the operation of the right by preventing the natural growth of a fresh occupancy-right in the place of an old right which has determined; and secondly, that, where occupancy-rights do as a matter of fact exist, the proof of their existence may be a matter of less difficulty than it is at present to the ignorant and helpless raiyat.

37. Section 50 states in general terms the more important incidents of the occupancy-right. They attach to the tenancy notwithstanding any contract between the landlord and raiyat, and are briefly as follows:—

(1) the raiyat may use the land in any manner which does not render it unfit for the purposes of the tenancy;

(2) he may make improvements on it as provided by the Bill;

(3) he must pay rent at fair and equitable rates as determined by the Bill;

(4) he cannot be ejected except under a decree passed for breach of certain conditions, or for using the land in such a way as to render it unfit for the purposes of the tenancy;

(5) he may sublet the land;

(6) his interest is to be transferable subject to certain rights reserved to the landlord; and

(7) his interest is to descend as if it were land.

38. Several of these incidents will be referred to at greater length in connection with the portions of the Bill specially relating to them. The sixth falls to be considered here, inasmuch as most of the remaining sections of the chapter are occupied with the rules regulating the rights reserved to the landlord when an occupancy-holding is transferred by sale, mortgage, gift or bequest.

The question whether the right of occupancy should be made by express enactment freely transferable everywhere, as it is at present held to be by custom throughout a very large portion of the area to which the Bill applies, has been most fully and carefully considered. It has to be looked at from two points of view, namely, first, from the point of view of the landlord, and secondly, in the interests of the tenant.

39. From the former point of view the question presents comparatively little difficulty. The landlord is concerned only to see that we do not allow an objectionable tenant to be forced on him against his will, and this we can readily guard against by giving him a right of pre-emption, or something equivalent thereto, in every case of transfer. It has accordingly been provided that, in cases of voluntary sale, gift or bequest, the landlord shall have a right to purchase at a price to be fixed by the Civil Court; that in the case of a sale in execution of a decree, when the landlord and any other person bid the same amount, the landlord shall have the right of pre-emption; and that, when an order is passed for foreclosing a mortgage of an occupancy-right, the landlord shall be allowed an opportunity of paying in the amount of the mortgage-debt and taking the place of the mortgagee. The only doubt that has been felt about these provisions is whether, in the case of a voluntary sale, the landlord should not be required, if he exercised his right of pre-emption, to pay the price at which the raiyat has actually agreed to sell the occupancy, right instead of a price to be fixed by the Court; but, on considering the difficulties, by which the right of pre-emption would be clogged in cases of collusion between the vendor and purchaser, and in cases in which a spiteful neighbour might be willing to pay an exorbitant sum for an occupancy-right with a view to harassing the landlord, it has been thought best to put the case of voluntary sale on the same footing as those of gift and bequest.

40. Looking at the question of transferability next from the point of view of the occupancy-raiyat's interest, the Local Government and the Government of India have come to the conclusion that, in the absence of evidence of any evil consequences which have already followed from such transfers, or which may be anticipated as likely to occur in the near future, it would be unwise to oppose the growth of the very strong tendency towards transferability, which the prevailing customs show to existin rights of this class in almost all parts of the country.

The existence of such a tendency indicates—what, indeed, is clear from other evidence—that those most concerned regard the quality of transferability as an important incident of the right; and it cannot be doubted that the enactment of a law absolutely forbidding transfer would, even if it saved existing customs, be regarded as a hardship. It may be added that, if the custom of transferability is so widely established as is stated by some very competent authorities, the operation of a law of this sort would be so limited as to be of but little importance.

41. That the powers of transferring and sub-letting which the Bill recognizes may in time lead to a state of things, in which the great bulk of the actual cultivators would be not occupancy-raiyats but under-raiyats with but little protection from the law, is indeed within the range of possibility; but, if such a state of things should ever arise, we may rest assured that the Government of the day will know how to deal with it. There is nothing in the present Bill which ought in any way to hamper them in doing so—nothing to affect the principle that, in an agricultural country like India, the great mass of the actual cultivators of the soil whoever they may be, and however they may have come into the possession of the land, must be protected by the law.

42. The only other provision of Chapter V which appears to call for notice here is that contained in section 56, and is to the effect that, where a landlord, by way of pre-emption under the foregoing sections or otherwise, acquires an occupancy-right in his own land, any tenant, who subsequently takes the land from him, shall have a right of occupancy in it, and if the rent of the land was previously payable in money, shall be entitled to hold it at a money-rent to be fixed under the Act. There is nothing in the Bill to prevent a landlord, so acquiring an occupancy-right in land, from keeping the land in his own hands and cultivating it by his servants or by hired labourers. All the section would enact is that, if he chooses to let it to a tenant, that tenant shall at once acquire an occupancy-right. This seems necessary in order to guard against the possibility of a landlord buying up on a great scale the occupancy-rights existing on his estate or tenure with a view to locating ordinary raiyats on the land. To a landlord, who buys an occupancy-right, as contemplated by the pre-emption sections of the Bill, merely with a view to excluding an intending purchaser whom he objects to have as his tenant, there would be no appreciable hardship in the restriction.

CHAPTER VI.—*Of the Rent payable by Occupancy-raiyats.*

43. Chapter VI is devoted to the important subject of the rents payable by occupancy-raiyats. In regard to this particular matter, as in regard to that of the acquisition of the right of occupancy, Act X of 1859, whether owing to its inherent defects or to the peculiar construction put upon it by the Courts it is unnecessary now to enquire, has not proved a success. Leaving out of consideration the matter of additions to the rent of a holding on account of an increase of its area, a matter which is relegated to a completely separate division of the present Bill, Act X of 1859 provided by its 17th section that the rent payable by an occupancy-raiyat should be liable to enhancement only where—

1st—its rate was below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in places adjacent, or

2nd—the value of the produce or the productive powers of the land had been increased otherwise than by the agency or at the expense of the raiyat.

44. Having thus stated the cases in which the rent was to be liable to enhancement, the Act stopped, giving no indication, except such as might be gathered from the statement of those cases, as to the extent to which the Courts were to enhance the rent. In the first of the two cases, no difficulty would arise from this, as the intention of the Act in respect of that case was clear enough; but in the second of the two cases, the question as to the limit of enhancement gave rise to an important discussion, which was at length brought to a close in what is known as "the great rent case." The rule laid down in that case is commonly spoken of as "the rule of proportion," and is to the effect that the enhanced rent should bear to the previous rent the same ratio as the increased value of the produce or increased productive power bears to the value or productive power at the time the previous rent was fixed.

45. This rule, whatever may be said for it on theoretical grounds, has proved to be absolutely unworkable by the Courts in practice, inasmuch as it throws on them the necessity of undertaking elaborate and laborious inquiries into economical questions, with which they are altogether incompetent to deal, and which have reference not merely to the present time but also to past and possibly very remote times, for which no such evidence as could be acted on by a Court of justice is likely to be forthcoming. Moreover, it necessitates enquiries, which are of such a nature that they could with advantage be undertaken only generally, on a great scale, and once for all, being, instead of this, undertaken over and over again in a most imperfect and unsatisfactory manner in individual cases.

46. The result of this is that, though the right of the landlord to enhance is distinctly recognized by the law, and though definite rules are laid down for its enforcement, the law has become to a great extent a dead letter.

The most important object of the chapter we are now considering is, while guarding and limiting the right to enhance in certain respects, which will be presently noticed, to put it on such a footing that it will be readily enforceable in practice; and the chief means adopted for attaining this object is that of separating off the statistical and economical inquiries of a general nature, which have just been referred to, and providing for their being undertaken once for all on a large scale by Revenue-officers.

47. Passing from these preliminary observations to the details of Chapter VI of the Bill, it will be seen that section 60 provides that, except on account of an addition to the area of the holding by alluvion or otherwise, a money-rent payable by an occupancy-tenant shall not be enhanced except by a decree of a Civil Court under the Bill, or by a contract of the nature described in the foregoing section.

48. It is considered, for reasons similar to those stated above in paragraph 33, that it would be destructive of the objects of the Bill if occupancy-raiyats were left perfectly free to deprive themselves by their contracts of the right to hold at fair and equitable rates secured to them by the law. But, on the other hand, absolutely to prevent such contracts would, it is thought, involve too great an interference with the freedom of the parties. A middle course has accordingly been adopted in section 59, which provides that a money-rent payable by an occupancy-raiyat may be enhanced by a contract in writing, approved of and registered by a Revenue-officer appointed by the Local Government in this behalf, and which goes on in its second sub-section to enact that a Revenue-officer shall not approve or register such a contract until he has satisfied himself that it is fair and equitable, and that he shall be absolutely debarred from registering any contract, by which a raiyat engages to pay a rent more than six annas in the rupee higher than the existing rent, or more than one-fifth* of the estimated annual value of the gross produce of the land.

49. This 59th section, which, it will be remembered, relates only to the enhancement of the rents of existing tenancies, is supplemented in section 61 by a somewhat similar provision applicable to cases in which a settled raiyat comes in as a new tenant on land previously held by another tenant at a money-rent. Here, too, it is considered that the objects of the law might be defeated if the parties were left absolutely free to contract; and it is accordingly provided that a settled raiyat, taking land under the circumstances referred to, shall not be bound to pay for it a higher rent than that paid by the previous tenant, unless that higher rent has been fixed by a contract registered and approved as already described.

50. Turning now to the matter of enhancement by a decree of the Civil Court, the sub-divisions of Chapter VI which are marked B and C proceed on the assumption that there are, at least in some parts of the country, certain rates of rent generally recognized as the rates payable by occupancy-tenants for the various classes of land held by them. Where this is so it would, it is presumed, be not very difficult for a Revenue-officer to ascertain those rates, and then, starting from them as a basis, and taking into account such changes in the productive powers of the soil and in the prices of produce as may have occurred since they were fixed, to prepare tables of the enhanced rates, which, subject to allowance in exceptional cases, might fairly and equitably be demanded by the landlord for each class of land under the existing conditions. The Revenue officer, it is thought, might further show in his tables the average gross produce of each class of land and its estimated value. Supposing this to be done, the Civil Courts would be relieved almost entirely of those economical and statistical enquiries, which at present are involved in enhancement-suits. They would accept the rates and produce-statistics shown in the tables as *prima facie* correct for lands of the classes to which the tables referred, and might restrict themselves to considering the comparatively simple and limited questions as to whether the particular lands in question in the suit belonged to the class alleged, and whether there were any exceptional circumstances connected with them which would require the rent to be fixed at a different rate from that set down in the table.

51. It is, of course, well understood that there would be many parts of the country for which, owing to the non-existence of recognized rates of rent or to the great varieties of the soil, no such tables could be prepared, and further that, even where it is possible to prepare such tables, their preparation must be a work of time. With a view to these considerations, the Bill has been so drawn as to provide, first, in sub-division B of Chapter VI, for suits to enhance money-rents where a table of rates has been prepared, and secondly, in sub-division C, for such suits where a table of rates has not been prepared.

52. It will be convenient, in explaining the details of these portions of the Bill, to begin with the latter set of provisions. The cases, in which a suit may be brought to enhance the money-

* See as to this limitation, para. 54 *infra*.

rent of an occupancy-holding situated in a tract, for which a table of rates has not been prepared are stated in section 74. They will be found to be in the main the same as those provided for in the section of Act X of 1859 referred to in paragraph 43, the only difference of sufficient importance to call for notice here being, that, for the purpose of estimating the increase in the productive powers of the land or in prices, on which a right to enhance depends, the Court is not compelled, as under the present law, to look to the time at which the rent was fixed; but, when that time cannot be ascertained (as it frequently cannot), or when the productive power and the prices prevailing at that time are undiscoverable, may take, for the purposes of comparison, any other time which may appear to it fair and equitable.

53. Section 75, supplying the defect in Act X of 1859 referred to above (paragraph 44), fixes the limits up to which the Court is to enhance in cases, in which the enhancement is claimed on the ground of an increase in the productive powers of the land or of prices. It provides that, if the increase has been effected wholly by the agency or at the expense of the landlord, he shall be entitled to the whole benefit of it; that, if it has been effected partly by the agency or at the expense of the landlord and partly by the agency or at the expense of the tenant, the benefit shall be divided between them in such shares as, having regard to all the circumstances of the case, the Court thinks fair and equitable; and that, if it is not proved that the increase has been effected by the agency or at the expense either of the landlord or of the tenant, each of them shall be entitled to one-half the benefit: provided in this last case that the enhanced rent shall not bear to the previous rent a higher proportion than the increased productive powers or increased prices bear to the former productive powers or former prices, as the case may be. Thus the rule of proportion, instead of being, as it is at present, under the decision in the "great rent case," the measure of enhancement in all cases, will merely supply a maximum limit in one of the three cases dealt with by section 75; and, as it is not apprehended that landlords will often seek to press their rights of enhancement to the full extent, it seems unlikely that it will give rise to any considerable difficulty.

54. The only other rule relating to the limit of enhancement contained in section 75 is the concluding provision, that the enhanced rent shall not in any case exceed one-fifth of the estimated average annual value of the gross produce of the land in staple crops calculated at the price at which raiyats sell at harvest-time. This limit has been substituted for that of one-fourth originally proposed, as the present Lieutenant-Governor of Bengal considers that one-fourth of the value of the average crop would be too high a limit. It is to be understood, however, that the point is still under the consideration of the Government.

55. Coming next to the scheme for enhancement by means of a table of rates, it will be seen that section 62 empowers the Local Government to direct a Revenue-officer to prepare for any local area, with the aid of assessors, a table showing, for each class of land comprised in that area, the rate of rent fairly and equitably payable by occupancy-raiyats, the average gross produce of the land, and the average value of that produce. The land is to be classified (section 63 (*a*)) according to the nature of the soil, situation, means of irrigation and other like considerations, and section 64 enacts that, in fixing the rates for each class, regard is to be had—

(*a*) to the rates of rent ordinarily payable by occupancy-raiyats for land of that class at the time the table is prepared;

(*b*) to the value of the average gross produce of land of that class, and the cost of raising that produce, about the time those rates were fixed, or, where these matters cannot be ascertained for that time, about such other time as it may be fair and equitable to take for the purpose of comparison;

(*c*) to the value of the average gross produce and the cost of raising that produce at the time the table is prepared; and

(*d*) to the following rule, namely, that, where the rate of rent for any class of land is raised on account of an increase in the value of the produce, the new rate shall not bear to the old rate a higher proportion than the increased value of the produce bears to the former value.

The section concludes with a proviso, corresponding to that mentioned above in connection with section 75, limiting the enhanced rate of rent fixed for land of any class to one-fifth of the average gross produce of land of that class.

56. Sections 65 to 69 provide for a preliminary publication in the vernacular language of the table prepared by the Revenue-officer; for the consideration of objections urged against it by those interested; for the submission to the higher Revenue authorities, and by them to the Government, of the table, with a report setting forth the grounds of the Revenue-officer's decision on each point, and of all objections preferred; and for the further publication of the table when finally settled and approved of.

A table prepared under these provisions will remain in force for such period, not less

than ten years or more than thirty years, as the Local Government may direct, and while it remains in force it will (section 71) be conclusive evidence—

(*a*) that, except as provided by certain clauses to be presently referred to, the rates shown in it for each class of land are the fair and equitable rates payable for land of that class by occupancy-raiyats within the local area to which the table applies; and

(*b*) that the statistics of gross produce and value given in the table are correct.

58. Section 72 empowers the Local Government to charge the expenses connected with the preparation of a table for any local area to the raiyats and their landlords in that local area in such proportions as it thinks fit.

59. Section 73 contains the rules for the guidance of a Court in suits instituted to enhance the rent of an occupancy-raiyat in a local area, for which a table of rates has been prepared, and a glance at it will show what an important simplification of the work of the Court will be effected by the table. The general rule is that the Court shall enhance up to the rate shown in the table for the class of land in question, or, where maximum and minimum rates are shown for land of that class (as will occasionally be the case) to such rate, not higher than the maximum or lower than the minimum, as it thinks fit. It is only in certain exceptional cases that the Court will be required to go behind the rates. Those exceptional cases are of two classes.

60. The first class comprises cases, which may be described with sufficient accuracy for our present purpose as cases in which, owing to some improvement having been effected or having taken place in reference to the land since the commencement of the tenancy, the land has been raised from a lower to a higher class of the table. The rules laid down for cases of this class by the first clause of the proviso to section 73 closely follow the corresponding rules laid down in section 75 and referred to above, paragraph 53. They are to the effect that, if the improvement has been effected solely by the agency or at the expense of the raiyat, the rent shall be fixed as if the land belonged to the lower class; that if the improvement has been effected partly by the agency or at the expense of the landlord, and partly by the agency or at the expense of the raiyat, the rent shall be fixed at such rate intermediate between that of the higher class and that of the lower class as the Court, having regard to all the circumstances of the case, thinks fair and equitable; and that, if it is not proved that the improvement has been effected by the agency or at the expense either of the landlord or of the raiyat, the rent shall be fixed at a rate half-way between the rate of the higher and that of the lower class.

The effect of these rules will be best seen from the illustrations appended to section 73 of the Bill, which are as follows:—

Illustrations.

(*a*) The rates shown in the table for land of a certain description are—

When the land is irrigated from a well	Rs. 4	per acre.
When the land is not so irrigated	„ 2	„

The holdings of A, B, C and D, occupancy-raiyats, are composed of land of that description irrigated from wells constructed on these holdings respectively.

The well on A's holding is an ancient one, existing from a time anterior to the tenancy: that on B's holding has been constructed by the landlord since the commencement of the tenancy: that on C's holding has been constructed by the raiyat: that on D's holding has been constructed by the landlord and raiyat, each contributing some portion of the labour and materials. The rents of the holdings of A and B must be fixed at Rs. 4 per acre, that of C's holding at Rs. 2 per acre, that of D's holding at such rate intermediate between Rs. 2 and Rs. 4 as the Court thinks fair and equitable.

(*b*) The rates shown in the table for land of a certain description are as follows:—

When such land is irrigated from a branch of a river	Rs. 4	per acre.
When such land is not so irrigated	„ 2	„

The holdings of E and F, occupancy-raiyats, are composed of land of that description, and were not irrigable until 40 years ago, when, owing to a change in the course of a neighbouring river, a new branch established itself contiguous to them. E has been in occupation of his holding 50 years, F only 30; the rent of E's holding must be fixed at Rs. 3, that of F's holding at Rs. 4.

61. The other class of exceptional cases in which the Court will have to go behind the rates is that referred to in the second clause of the proviso to section 73, where the raiyat proves that by contract, or by custom, or on some equitable ground, he is entitled to hold at a rate lower than that fixed by the table for land of the class to which his land belongs; and in cases of this class, the Court is required to fix the rent at the lower rate at which the raiyat proves that he is entitled to hold.

62. To complete this portion of the subject it is only necessary to add that all suits for enhancement, whether under a table of rates or otherwise, are by sections 76 to 78 of the Bill made subject to the three rules already referred to under the head of tenures, namely, that a rent shall not be enhanced so as to be more than double the previous rent; that the Court may

order the enhancement to take effect by degrees for any number of years not exceeding five; and that, when rent has been enhanced, it shall not be again enhanced for 10 years.

63. How far it will be possible to give effect to the provisions of this chapter regarding the preparation of a table of rates it would be difficult to predict. The members of the Rent Law Commission entertained hopes of those provisions being largely used, and they appear to have thought that, in some cases, if the rates were once settled by authority, landlords and tenants would soon be able to adjust their differences. On the other hand, the result of recent inquiries would seem to show that, in some parts of the country, the rates vary so much from holding to holding as to render the preparation of a table impossible or practically useless. It must, however, be pointed out that it will not follow that, because a table of rates has not been, or cannot be, prepared for a local area, the landlords of that area will necessarily be reduced to the ordinary procedure by civil suit. They will, in many cases, be able to invoke the aid of a Revenue-officer for the settlement of their rents under the provisions of Chapter XI, which will be noticed in their proper place.

64. Section 79 contains the provisions relating to the reduction of money-rents payable by occupancy-tenants. The cases, in which a claim for reduction is allowed are, with certain modifications in detail, which it is unnecessary to notice here, the same as under the existing law, that is to say, a reduction can be claimed only where there has been a decrease of productive power or of prices; and such cases are so rare that it has been thought unnecessary to lay down any elaborate rules for their treatment. Section 79 therefore simply provides that, when a case for reduction is made out, the Court may direct such reduction as it thinks fair and equitable.

65. The case of rents payable for pasture lands, which is provided for in section 80, is likewise one of no great practical importance, inasmuch as such lands are but rarely let to a tenant in this country. Accordingly, no provision for the reduction of rent has here been considered necessary, and it has been thought sufficient, as regards enhancement, to provide that a suit to enhance may be instituted on the ground that the rent is below the prevailing rate paid by raiyats of the same class for similar lands in the vicinity, or that, having regard to the increase of rent on arable land in the vicinity, an enhancement would be reasonable. In either of these cases, the Court is empowered to fix the rent at such rate as it thinks fair and equitable.

66. The next sub-division of the chapter relates to rents payable in kind or varying with the crop, and is of greater importance. Section 81 provides that, when the rent is of this nature, the following rules shall apply, namely :—

(*a*) notwithstanding any contract or custom to the contrary, the landlord shall not be entitled to recover, in respect of any portion of the holding on which staple crops (such as rice, wheat, and so forth) are grown, more than half the gross produce or its value; and

(*b*) the landlord shall not, except under a contract in writing, be entitled to recover, in respect of any portion of the holding, on which other crops are grown, any other description or any greater amount of rent than a sum equal to one-half of the estimated average value of the produce of that portion of the holding, supposing staple crops to be grown on it.

67. The only objection which it is apprehended might be taken to these provisions is that in some cases a landlord, whose rent is payable in kind, contributes in the shape of seed, labour or otherwise, towards the production of the crop, recovering the price of his assistance in the form of an additional rent, and that, in such cases, the limits which it is proposed to fix might be too low. To meet this, a sub-section has been added, providing that nothing in the section shall prevent a landlord recovering from the tenant the value of assistance so rendered. The result accordingly will be that, though the landlord can no longer include the value of such assistance in the rent, where, by so doing, he would bring the rent above the prescribed limit, he can recover the same amount under another name.

68. Section 82 provides for the commutation into fixed money-rents of rents payable in kind or consisting of the value of a certain share of the actual gross produce.

It provides that an occupancy-raiyat, paying such a rent may, notwithstanding any contract to the contrary, sue to have his rent commuted, and that the Court shall fix the money-rent at its discretion either—

(*a*) according to the prevailing money-rent payable by raiyats of the same class for similar land in the vicinity, or

(*b*) according to the average value of the rent actually received by the landlord during the preceding five years, subject, however, in this latter case, to a deduction of such

amount as the Court thinks reasonable, in consideration of the whole risk of cultivation being taken by the raiyat.

69. The remaining provisions of Chapter VI are merely of a supplementary or subsidiary nature. Section 83 provides for the preparation of price-lists, which, when published with the sanction of the Board of Revenue, will be deemed to be conclusive evidence in proceedings under Chapter VI, and will thus save the Courts a certain amount of work, for the performance of which they are but ill-suited.

Section 84 empowers the Board to make rules for the guidance of officers and (as regards certain matters) of Courts acting under Chapter VI, in particular for determining what crops are to be deemed staple crops for the purposes of the chapter.

CHAPTER VII.—*Of the Right of a settled Raiyat in Bastu Land.*

70. The Bill prepared by the Rent Commission contained elaborate provisions regarding the use of land for building purposes, which were justified at length in paragraphs 108—113 of their Report. It is unnecessary here to discuss those provisions on their merits. It is enough to say that the present measure is strictly confined to the amendment of the law regarding agricultural tenancies, and can properly deal with the holding of land for building purposes only where the holding of such land is in some sense ancillary to an agricultural tenancy, as *e.g.*, where an occupancy-raiyat has built himself a house in a village with a view to living near his agricultural holding. In such a case there is so close a connection between his house and his agricultural holding that it would in many cases be vain to protect him in the possession of the holding without, at the same time, protecting him in the possession of the house. Besides the inconvenience he might be put to in being ejected from his house and compelled to reside at a distance from his work, it is clear that, if he were left at the landlord's mercy as regards the house, he would be liable at any time to have pressure brought upon him in regard to the holding also, which he might be unable to resist.

71. When the site of the house is included in an occupancy-holding, the raiyat is sufficiently protected under Chapters V and VI, but, when it is a separate holding, some special provision seems necessary; and it is thought that the requirements of the case will be best met by enacting that every settled raiyat of a village or estate shall, notwithstanding any contract to the contrary, have a permanent heritable and transferable right in any *bastu* or other homestead land in that village or estate which is held by him as the site of a dwelling-house for himself and his family; that a person having such a right shall not be ejected except under a decree of the Civil Court for breach of a condition; that, if so ejected, he shall be entitled to compensation; and that his rent may be enhanced at intervals of ten years, so that it may be equal to the rent paid for similar lands in the neighbourhood, or, at the option of the landlord, so that it may be equal to five per centum of the market-value of the land.

CHAPTER VIII.—*Of Ordinary Raiyats.*

72. Chapter VIII deals with ordinary raiyats, that is to say (section 88) raiyats holding raiyatí land but not having a right of occupancy in respect of it. The principle on which this chapter is based is that, while it is desirable to interfere as little as possible between tenants of this class and their landlords, they should not be exposed to arbitrary rack-renting and eviction at the hands of their landlords, and, further, that the acquisition by them of the status of settled raiyat should in every reasonable way be promoted.

73. Section 89 accordingly provides that, subject to a certain maximum fixed for the rents of all raiyats and under-raiyats, which will be presently referred to, an ordinary raiyat shall pay such rent as may from time to time be fixed by agreement between him and his landlord; but, in order to check extravagant enhancements by the landlord, it is provided in the following sections that, if the landlord proposes an enhancement of the rent, to which the raiyat does not agree, the landlord shall not eject him without paying him, besides any amount that may be due to him as compensation for improvements under the provisions of the Bill, a further sum, by way of compensation for disturbance, equal to a certain multiple of the yearly increase of rent demanded. *Ten* times the increase is the amount provided for in the Bill as it stands; but it need hardly be said that a figure of this sort is, at this stage of a Bill, entered only tentatively and subject to future consideration. The object in view, it will be understood, is to fix a multiple of the increase high enough to deter the landlord from making an extravagant demand, but not so high that the raiyat would be induced by the prospect of obtaining it to refuse to accede to a reasonable enhancement.

74. The details of the procedure requisite to give effect to this important provision occupy the greater part of the chapter, but they are not such as to call for notice here. The only other provision of the chapter to which it seems necessary to refer is the rule in section 90

limiting the landlord's right to eject, and which is to the effect that a landlord shall not eject an ordinary raiyat except—

(*a*) for arrears of rent;

(*b*) on the ground that the raiyat has used the land in a manner, which renders it unfit for the purposes of the tenancy, or that he has broken some condition, on breach of which he is, under the terms of a written contract, liable to be ejected; or

(*c*) that he has refused to agree to an enhancement of rent on which the landlord insists.

It is in this last case that the provision as to compensation for disturbance will apply.

CHAPTER IX.—*Provisions regarding Rent applicable to several classes of Tenants.*

75. We now pass from the chapters dealing with particular classes of tenants to those dealing with matters common to several classes. Chapter IX, which is the first of these, contains most of the general provisions of the Bill regarding rent. It begins with a section (96) providing for such additions to, and deductions from, the rents of tenure-holders and occupancy-tenants as are made on account of an alteration in the area of the holding by alluvion or diluvion, by encroachment, eviction by title paramount to that of the landlord, and so forth. This section applies, in the case of a tenure-holder, only in the absence of a contract to the contrary, but, in the case of an occupancy-raiyat, it overrides any such contract.

76. In the case of land being added to the area of a holding, it provides that the amount added to the rent shall be calculated on the rates payable by occupancy-raiyats for land of a similar description, less a deduction, in the case of a tenure-holder, of thirty per cent. for profits, risk and cost of collection. This seems to be the fairest rule to apply in such a case, and it is, moreover, as observed by the Government of Bengal, in harmony with the law regulating additions to the Government revenue in alluvion cases.

77. On the other hand, in the case of a loss of a portion of an area, for the whole of which a single rent has been payable, the only equitable principle to adopt seems to be that the abatement from the rent should bear to the rent previously payable the same proportion as the yearly value of the land lost bears to the yearly value of the holding prior to the loss, and this is what sub-section (3) of section 96 enacts, adding, however, that, when the yearly value of the land lost cannot be satisfactorily proved, the abatement shall bear to the previous rent the same proportion as the area lost bears to the area of the holding prior to the loss.

78. Sections 97 to 99 give power to the Board of Revenue to fix the instalments in which rents are to be paid. The power is of little importance in the case of tenures, inasmuch as it can be exercised in respect of them only in the absence of any agreement or custom regulating the matter. In the case of raiyats' holdings, however, it is of considerable importance. Much of the harassment, to which the raiyats are subjected, is said to arise from the number of instalments in which their rents are payable, and, to remedy this, the Board is empowered, subject to certain reservations regarding agreements entered into and customs prevailing before the commencement of the Act, to fix the instalments, in which the rents of raiyats are to be payable, so that there may not be more than four in each year.

79. Section 100 requires every landlord to give to a tenant paying him rent a receipt, containing much fuller details than those prescribed by the existing law, and to keep a counterpart of every receipt so given. It also provides that, when a receipt does not contain the requisite particulars, it shall be deemed to be an acquittance in full up to date.

Section 101 requires every landlord to furnish to his tenant, for each agricultural year, a detailed statement of the account between them for that year, and to keep a counterpart of every statement so furnished.

Section 102, following the existing law regarding receipts, imposes penal damages for refusal or neglect to give receipts or furnish accounts, and further makes it an offence punishable with a fine, not exceeding fifty rupees, to neglect to keep a counterpart as required by the preceding sections.

It is believed that, if these provisions are fully enforced, much advantage will result to both parties. Not only will the tenants be supplied with proper evidence of the payments made by them and of the state of their accounts, but the landlords, if they keep their counterpart statements in a proper manner, will find them useful as evidence before the Courts.

80. Under the existing law, there is but one case, in which a tenant can deposit his rent in a public office, so that the deposit may operate as a payment to his landlord, namely, when he is prepared to declare solemnly that he has tendered the rent to his landlord, and that the landlord has refused to receive it.

It has been found that this declaration has become a mere form, and it is thought better to allow the tenant to deposit his rent whenever he has reason to believe that the landlord will not receive it and grant a receipt. It is also thought advisable that a tenant should be allowed to deposit his rent in two other cases, namely:—

(1) when it is payable to co-sharers jointly, and he is unable to obtain their joint receipt, and no person has been empowered to receive the rent on their behalf; and

(2) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent.

81. This extension of the right to deposit rent necessitates our conferring on the officer empowered to receive deposits a certain discretion not allowed by the present law. He is accordingly given by section 104 a discretion to refuse the deposit, if he does not think the circumstances of the case warrant its being made, and he is further given by section 106 a discretion to pay away the deposit, if he thinks fit, to such one of several rival claimants as may seem to be entitled to it, but subject, of course, to the right of any person actually entitled to it to recover the amount from the person, to whom it is so paid. As regards this last point, however, it will be seen that the officer will have power to retain the deposit if he thinks fit, pending the decision of the Civil Court as to the person entitled to it; and this latter course is doubtless that which he would adopt in all cases in which there might be any reasonable doubt as to the person entitled.

82. The provisions, contained in sections 112 to 116, for the division or appraisement of a crop by a public officer in cases, where the rent is paid in kind or is the value of a certain share of the gross produce, and a dispute arises between the parties, are based on the proposals made for Bihár by the Bihár Committee and the Rent Law Commission; but they are made generally applicable, and their details are taken, for the most part, from enactments in force in Upper India, where rent is very commonly paid in kind or in appraisement of the crops. They enact that, if either party neglects to attend at the proper time for making the division or appraisement, or if there is a dispute regarding the division or appraisement, the Collector may, on application made to him, issue a commission to such person as he thinks fit, directing him to divide or appraise the crop, and may further direct him to associate with himself any other persons as assessors for this purpose. If, in a division made in this way, either party receives less than his proper share, he may, within three months from the date of the division, sue the other party to recover the value of the additional portion of the crop due to him, and, if he does not so sue, the division will be deemed to have been rightly made. When the case is one of appraisement, the commissioner is required to submit his appraisement in writing to the Collector, who shall, after such hearing and enquiry as he thinks necessary, pass an order either confirming or varying it, and that order will be final.

It will be seen that these provisions proceed upon the principle, already referred to in connection with the subject of enhancement, of entrusting to the Revenue authorities the duty of inquiring into, and adjusting, matters, which they are presumably more competent to deal with than the Civil Courts. It is, it will be observed, only the mechanical act of division and the mere framing of the estimate of the crops that, in the cases now in question, are to be entrusted to the Collector and the persons appointed by him, all questions of right being reserved for the Civil Court.

83. Section 117 provides that, if the landlord of any land, of which the rent is payable by division or appraisement of the crop, or any other person, interferes in any way, without the tenant's consent, with the cutting or harvesting of a crop, except by an application to the Collector, under the provisions just referred to, he shall be deemed to have committed criminal trespass within the meaning of the Penal Code. This is considered necessary in order to put a stop to the oppressive action of landlords in certain parts of the country, who are found to assume a power to prevent the cutting or harvesting of the crops, and to use it as an engine of extortion against their tenants.

84. Section 118, which applies only to Bihár, provides that all danabandi papers shall, within 15 days after the making of an appraisement, be filed in the Collector's office.

85. Section 119 provides that, notwithstanding any contract made after the 2nd March, 1883, the date on which it is proposed to introduce the Bill, a raiyat or under-raiyat shall not, in any case, be bound to pay a money-rent exceeding five-sixteenths of the estimated gross produce of his holding. The limit originally proposed was thirty-five per cent. It has now been lowered at the suggestion of the Lieutenant-Governor; but the figures must be regarded as merely provisional and subject to reconsideration.

86. Section 120 in effect enacts that contracts fixing rents shall, in temporarily-settled tracts, hold good only until a fresh settlement is made. The reasons for this provision are similar to those stated above (paragraph 21) in connection with section 20.

87. Section 124 makes the rent of a transferable holding the first charge on that holding.

CHAPTER X.—*Other provisions applicable to several classes of Tenants.*

88. The question as to the right of a raiyat to make improvements, and to claim compensation therefor on ejectment will, if the proposal to make occupancy-rights freely saleable in execution

of a decree is adopted, be of less importance in Bengal than in some other parts of British India. The great mass of the raiyats having a right of occupancy, and not being liable to be ejected except under peculiar circumstances of rare occurrence, and the question of compensation adjusting itself when an occupancy-right is sold in execution of a decree, claims for compensation for improvements will be comparatively few. But the importance, from an economical point of view, of encouraging improvements is so great in this country, that special provision has been made for the matter to meet the case of ordinary raiyats, and such cases as may, from time to time, occur of occupancy-raiyats being ejected from their holdings.

The principle on which the sections of the Bill relating to this subject proceed is that that party to a tenancy whose interest in the land preponderates should have the preferential right to improve and take the full benefit of his improvements; but that, if the party having this preferential right is unable or unwilling to avail himself of it, it should be open to the other party to make an improvement and reap the benefit of it.

Section 127 accordingly confers upon an occupancy-raiyat the preferential right to improve, and provides (subject to one exception to be presently noticed) that, if he does not avail himself of this right and the landlord desires to have any improvement made, he may call upon the raiyat to make it, and that, if the raiyat does not within a reasonable time comply with the request, the landlord may make the improvement himself. Section 128 enacts what may be termed the inverse of these provisions for the case of the ordinary raiyat, that is to say, it gives the preferential right to the landlord, and allows the raiyat to improve only if the landlord, upon being requested by the raiyat to make an improvement, neglects to do so within a reasonable time.

89. There is however, as has been intimated, an exception made to these rules in the case of one sort of improvement, namely, a dwelling-house for the raiyat and his family. This, it is considered, is an improvement which every raiyat, an ordinary as well as an occupancy-raiyat, should be entitled to make; and it is further considered that it is not an improvement, which a landlord should be empowered to force on a raiyat against his will. As regards this improvement, accordingly, it is provided simply that any raiyat may make it; no right to make it, whether preferential or otherwise, being conferred on the landlord.

90. When a landlord makes an improvement under these sections, he will be entitled to reap the full benefit of it in the shape of an enhancement of the rent under the provisions of the Bill relating to that subject. When a raiyat makes an improvement under these sections, he will, if ejected, be entitled, under section 129 of the Bill, subject to certain exceptions which it is unnecessary to notice here, to receive compensation for it. An occupancy-raiyat will further, while he continues to hold, reap the full benefit of his improvements, inasmuch as his rent cannot, under Chapter VI, be enhanced on account of an improvement made by him. An ordinary raiyat under similar circumstances may possibly not be able, in all cases, to retain the full benefit of his improvements, but the check placed on the landlord by the provisions of Chapter VIII will, as a rule, amply protect him in the enjoyment of that benefit.

91. The only other provisions of the Bill, relating to improvements, which seem to call for notice here, are the last clause of section 129, which enacts that improvements made by a raiyat before the commencement of the Act shall be deemed to have been made in accordance with the Act (and therefore to give a claim to compensation), unless it is shown that the landlord forbade the raiyat to make them and was ready to make them himself, and section 132, which makes void all stipulations in contracts providing (*a*) that a landlord may prevent a raiyat from improving or eject him for improving, or (*b*) that a raiyat when ejected shall not be entitled to compensation for improvements.

92. In section 133, providing for the landlord's right to measure lands comprised within an estate or tenure the rents of which are payable to him, the existing law has been modified so as to give a landlord the right to measure all lands lying within the estate or tenure, whether rent-paying or not. As observed by the Government of Bengal, "a landlord has at present no right to measure lákhiráj, and a rent-free holder may, in virtue of a valid grant of ten bighás, be holding double as much or more. The mere measuring by the landlord cannot harm him, as he could not be ousted from possession save through the Civil Court. But the landlord seems entitled to make a complete survey of his estate." (*Letter from Government of Bengal, No. 849T, dated 27th July, 1881, page 25.*)

93. The proviso to section 133 enacts that, when land has been measured under that section, it shall not again be measured for ten years without the written permission of the Collector. This seems but reasonable, a right to measure once in ten years being sufficient in all ordinary cases.

94. The only other provisions of this sub-division of the chapter, which deviate in any material respect from the existing law, are those of sections 137 and 138, relating to the standards of measurement. They adhere so closely to the corresponding provisions of the Bill prepared by the Rent Law Commission that the following extract from the Commission's Report (para. 140) will best explain them:—

"The length of the local standard pole, with which a measurement of land should be made, is a fertile subject of dispute and litigation. It is not uncommon for a landlord to make a measurement of his lands with a pole of his own selection, the actual length of which must be a subject of doubt upon the evidence, while the raiyats concerned aver not only that the standard pole of the pargana is different, but that during the measurement a third pole has occasionally been substituted for that which the landlord claims to be the standard. In order to remedy these difficulties as far as possible, we have enacted that all measurements made by order of the Civil Court or Collector shall be made according to the Government measure of 14,400 square feet to one standard bígha. It it be shown that the rights of the parties to the suit are regulated by any different local measure depending upon a pargana standard pole, the Government measure shall be converted into local measure for the purposes of the suit. In case of dispute as to the standard pole, the Collector shall, in any suit before himself, or in any suit before a Civil Court, on a reference made for this purpose by such Court, determine the proper length of such pole. We have followed the present law, as settled by the decisions, in enacting that an appeal shall lie from the Collector's decision to the District Judge, but that, if no such appeal be preferred, the decision of the Collector shall be final."

95. It is stated in Mr. Field's digest, section 12 (4), as the result of decided cases, that a raiyat's interest in the land determines when he ceases to cultivate the land and leaves the neighbourhood without arranging for the payment of the rent. Mr. Field observes that the cases leave the matter thus indefinite, and that, if the proposition is adopted by the legislature, it should be made more precise. Section 140 of the Bill, following this suggestion, provides that, when a tenant of a non-transferable holding leaves the holding uncultivated and the rent of it unpaid for a period of one year, he shall be deemed to have surrendered, except in cases in which, owing to an inundation or any other accident to the land beyond his control, it may have been impossible for him to cultivate.

96. Section 141, relating to the doctrine of merger, follows the corresponding provisions (sections 43 and 44) of the Bill prepared by the Rent Commissioners, who state in their Report that some such enactment is needed to settle the law in Bengal. It provides, subject to certain exceptions and qualifications which it is unnecessary to specify here, that, when, in the case of any tenancy, the interest of the landlord and that of the tenant become by transfer, succession or otherwise united in the same person, so as to be owned by him in the same right, the interest of the tenant shall, during the three months following, be presumed to be merged in that of the landlord, unless the person shows that he has not intended it to be so, and shall, after the expiration of the three months, be conclusively deemed to be so merged, unless, within the three months, the person has executed an instrument declaring his intention that a merger should not take place, and the instrument has been registered and published in a certain prescribed manner.

97. Sections 142 to 148, relating to the appointment of a manager on behalf of co-owners of an estate or tenure, are taken, with slight alterations in the drafting, from the Bill framed by the Rent Law Commission. Their history and the nature of the provisions they contain will be best seen by an extract from the Commission's report. After describing at some length (paragraph 134) the complications, litigation and even riots which arise when co-owners of an estate or tenure (or, as they are sometimes termed, coparceners) quarrel among themselves, and the grievous harassment, to which the tenants are exposed, in such cases, the report proceeds as follows:—

"135. The necessity of a remedy for this state of things was felt at an early period of British administration, and in 1812 it was enacted that, inasmuch as inconvenience to the public and injury to private rights had been experienced in certain cases from disputes subsisting among the proprietors of joint undivided estates, whenever sufficient cause shall be shown by the Revenue-authorities, or by any of the individuals holding an interest in such estates, for the interposition of the Courts of Judicature, it shall be competent to the Zila Judges to appoint a person duly qualified and under proper security to manage the estate; that is, to collect the rents and discharge the public revenue, and provide for the cultivation and future improvement of the estate (Regulation V of 1812, section 26). The Judge was also competent, upon the representation of the Revenue-authorities, or of any such person as aforesaid, to remove any manager so appointed (*ib.*, section 27). A subsequent Regulation (V of 1827) enacted that, when the Zilla Court thought it just and proper under the provision of that Regulation to provide for the administration or management of landed property, it should issue a precept to the Collector, directing him to hold the estate in attachment and appoint a person for the due care and management thereof, under good and adequate security for the faithful discharge of the trust in a sum proportionate to the extent thereof. The reference in Regulation V of 1827 to Regulation V of 1812 was repealed by Act XVI of 1874, so that it is not now competent to a District Judge to send a precept to the Collector directing him to provide for the management of an estate belonging to a joint undivided family. The fragment of Regulation V of 1812 which is still in force is incomplete, and in consequence almost inoperative.

"136. Such being the present state of the law, a majority of us have thought that this fragment might well be repealed and a complete set of effective provisions substituted

therefor. We have accordingly enacted that, when coparceners, who jointly own an estate, tenure or under-tenure, disagree as to the joint management thereof, and in consequence there has ensued, or is likely to ensue, (*a*) inconvenience to the public, (*b*) injury to private rights, the District Judge may, upon the application in case (*a*) of the Collector, and in case (*b*) of any one having an interest in such estate, tenure or under-tenure, direct a notice to be served upon the coparceners, calling upon them to show cause why they should not appoint a common manager. If the coparceners do not, within a month, show cause why they should not appoint a common manager, the District Judge may direct them to do so. If they fail to obey that direction, the District Judge may either appoint a manager, or direct that the estate, tenure or under-tenure be managed by the Court of Wards, if it is willing to undertake the charge. We have thought it advisable to give the coparceners an opportunity of appointing a manager of their own selecting, before the District Judge proceeds virtually to depose them. When the Court of Wards undertakes the charge, it will govern itself by the provisions of *the Court of Wards Act*, IX (B.C.) of 1879. It is discretionary with the Court of Wards to undertake the charge or not. A majority of us have thought it advisable to render this system of management possible, as there may be cases in which no other management will be available. Mr. O'Kinealy doubts if it is advisable to extend the exceptional jurisdiction of the Court of Wards and empower it to manage the estates of persons who happen to disagree amongst themselves. When the District Judge appoints a manager, he is empowered to settle his remuneration, and the manner of it, whether, that is to say, by a fixed salary or a percentage of the collections. He is also empowered to require reasonable security for the proper discharge of the duties of the office. The manager is authorized to exercise the same powers as the coparceners jointly might, but for his appointment, have exercised. He is required to keep regular accounts and to allow the coparceners to inspect and take copies of them. He may be removed upon the application of the Collector, or of any person interested in the estate, tenure or under-tenure. The District Judge may at any time direct that the management be restored to the coparceners, if he is satisfied that they will conduct it without inconvenience to the public or injury to private rights."

98. The only other section in this chapter which calls for notice is section 149, which enacts that no tenant shall be ejected from his holding except in execution of a decree.

CHAPTER XI.—*Of the Settlement of Rents by a Revenue-officer.*

99. It has been stated, in the remarks above made on Chapter VI, that it is apprehended that, in many parts of the country, the framing of a table of rates will be impossible. It should be added that, in many instances, the mere framing of a table of rates will not suffice to settle the disputes between landlords and tenants. In either case the only satisfactory remedy may be a settlement of individual rents by a Revenue-officer, conducted somewhat in the same manner as in a Government estate at present; and it is with a view to providing such a remedy that Chapter XI has been framed.

100. There is, however, one cardinal difference between the provisions of this chapter and those of the existing settlement law which should be noted at the outset. Under the existing settlement law, when a Settlement-officer has, after the most careful and protracted inquiry, settled the rents of an estate, and his proceedings have been scrutinized and checked by the superior Revenue-authorities, every individual rent fixed by him is liable to be called in question in the Civil Courts, and that not merely on the ground of error in respect of some matter, such as the status of a tenant or the validity of an alleged lease, falling most appropriately within the cognizance of a Civil Court, but also on the ground of an error in regard to the quality of the soil, the estimated amount of the produce, or some other such matter with which the Revenue-authorities, conducting their inquiries on a great scale, are far more competent to deal than any Civil Court trying a suit relating to a single holding can possibly be; in other words, an important portion of the work, after being done by those authorities, who are most competent to perform it, is liable to be pulled to pieces by another set of authorities, who are far less competent to perform it. The enormous amount of unnecessary expense, trouble and vexation, which this system entails on all concerned can be estimated from the fact, stated by the Board of Revenue in referring to a recent settlement, that out of 2,391 decisions in suits brought to contest the Settlement-officer's rates, 2,202 were absolutely adverse to the plaintiffs. An attempt has been made to avoid this in Chapter XI of the Bill by distinguishing, among the various questions which may arise in a settlement of rents, those which the Revenue-authorities are most competent to determine, and those which a Civil Court is most competent to determine, making the decision of the Revenue-authorities final on the former, and providing that the latter may ultimately be brought for decision before the Civil Court.

101. The procedure of this chapter, besides being available for the purpose of Government settlements, may be made applicable by the Local Government—

(*a*) when a large proportion of the tenants or of the landlords desires that it should be applied, and

(*b*) when a resort to it is likely to settle or avert a serious dispute, existing or likely to arise, between landlords and tenants generally.

It is applicable to tenants of any class, but would probably be made use of chiefly for settling the rents of occupancy-tenants.

102. When the rents to be settled are rents, which are subject to alteration by order of a Court, they will be *fixed* according to the principles embodied in the Bill, and so that they shall not exceed the maximum prescribed by the Bill in cases of enhancement. When, on the contrary, the rents are not of this description, they will be merely ascertained and recorded as rents are under Regulation VII of 1822.

103. The Revenue-officer, having settled the rents, will prepare a jamabandi, showing the status of each tenant, the land held by him, the name of his landlord, whether the rent has been fixed or ascertained, and the amount of the rent fixed or ascertained. This jamabandí will be published, and, after an opportunity for urging objections against it has been allowed, will be submitted to the higher Revenue-authorities with the objections and a report setting forth the grounds, on which the Revenue-officer has proceeded. If ultimately sanctioned by the Local Government, it will be again published, and will then continue in force for 10 years.

104. While it remains in force it will be conclusive (except as will be presently explained) as to the rents payable by those tenants, whose rents are shown in it as fixed. As regards rents shown in it merely as ascertained, and as regards all other matters contained in it, it will be merely presumed to be correct until the contrary is proved.

105. It will be observed that, in thus empowering a Revenue-officer to fix rents so as to bind the parties, we necessarily empower him to decide certain questions (as, *e.g.*, that of the status of a tenant) which more properly appertain to the jurisdiction of the Civil Courts and ought not to be finally decided by any other authority. It is not, however, intended that the Revenue-officer should finally decide such questions. He may, if he thinks fit, when such a question arises, abstain altogether from deciding it, and, under section 155, refer it to a Civil Court, or leave it to be raised before a Civil Court in a suit instituted by any party interested.

In most cases, he would probably decide the question on such evidence as might be readily available; but, whenever he takes this course, his decision will be liable to be challenged in a Civil Court under section 160, which provides that nothing contained in it shall prevent the rent fixed being called in question on the ground—

(*a*) that the tenancy does not exist, or that the tenant is not liable to pay rent, or

(*b*) that the tenant belongs to a class different from that to which he is shown in the jamabandi to belong, or

(*c*) that the land comprised in the tenancy is different from, or more or less than, that shown in the jamabandí, or

(*d*) that a rent different from that shown in the jamabandi has been fixed by contract.

It is believed that the above list exhausts all the matters, in regard to which a Civil Court may be regarded as a better tribunal than the Revenue-authorities, and, if this is so, the determinations of the Revenue-authorities in regard to all other matters may safely be made final and conclusive.

106. It only remains to add that, by section 163, the Local Government is empowered to charge the expenses of all proceedings, other than Government settlements, under this chapter to the landlords and tenants concerned, in such shares as it thinks fit.

CHAPTER XII.—*Of the Preparation of a Record-of-rights by a Revenue-officer.*

107. The provisions of Chapter XII are somewhat similar to those of Chapter XI, and have been introduced into the Bill with a similar object, but are more limited in their scope, inasmuch as the operations to be undertaken under them do not, like those under Chapter XI, embrace the *fixing* of rents, but are confined to the ascertaining and recording of existing rights and existing rates of rent. Moreover, as existing rights and existing rates of rent are matters the determination of which properly belongs to the Civil Courts, an entry in the record-of-rights prepared by a Revenue-officer under this chapter, is in every case merely to be presumed to be true until the contrary is proved.

108. The only other points calling for notice under this chapter are, first, that the Local Government may apply its provisions not only in the cases, in which it is empowered to apply those of Chapter XI, but also in any other case, in which the Governor General in Council may sanction their being applied, and secondly, that the provisions of this chapter being considered a sufficient substitute for those contained in Act VIII (B. C.) of 1869, sections 38-40, these latter are not reproduced in the present Bill.

CHAPTER XIII.—*Of the Recovery of Rents from Raiyats and Under-raiyats by distraining the produce of the Holding.*

109. This chapter may be said to be the result of a compromise. The Rent Commission, concurring with the Bihár Rent Committee, proposed to abolish the existing law of distraint as an offset of English law, of which the efficacy was impaired by the legislation of 1859, and which had been abused in Bihár and not always applied in a regular manner in other parts of the country. To this strong objections were urged, and the procedure provided by this chapter was then devised by the Government of Bengal, as being likely to secure to the landlords most of the advantages afforded by the existing law, without exposing their tenants to the evils now complained of.

110. The modified power of distraint, which it is now proposed to allow, can be used by any landlord of a raiyat or under-raiyat for the recovery of an arrear of rent, which has not been due for more than a year. It extends, as a rule, to all the produce of the holding, including what may have been grown by, and be the property of, a sub-lessee of the tenant, and it may be exercised though the produce has been stored, provided it has not passed out of the possession of the cultivator. The landlord cannot himself interfere with the produce to be distrained, but must apply to a Civil Court to distrain it. The Court, after a brief examination of the case, will depute an officer to distrain and sell the produce, and nothing will stay the sale except the payment into court of the amount of the demand. Any sum paid into court will be retained for one month, with a view to the possibility of the owner of the distrained property claiming compensation as for a wrongful distraint, and on the expiration of that period it will be paid to the landlord.

111. Sections 185 and 186 are directed against illegal distraint and interference with crops. Section 185 provides, in effect, that any person who, otherwise than in accordance with the provisions of the Bill, or some other enactment for the time being in force, distrains any produce of a tenant's holding, or interferes with the harvesting of a crop, shall be deemed to have committed criminal trespass within the meaning of the Penal Code; and section 186 imposes a penalty which may extend to three months' imprisonment, or two hundred rupees fine, upon any person who benefits by, or is interested in, the commission of an offence under section 185 if, having reason to believe that the offence was likely to be committed, he has not used all lawful means in his power to prevent its commission.

112. Section 187 empowers the Local Government to suspend in any local area, for such time as it thinks proper, the sections which entitle a landlord to distrain.

CHAPTER XIV.—*Special rules of procedure applicable to Suits between Landlord and Tenant.*

113. Sections 191 to 198 are intended to embody all those modifications of the ordinary procedure proposed by the Rent Commission and the Government of Bengal, which seem likely to expedite, in any material way, the disposal of suits between landlords and tenants.

Sections 191 to 197 apply to—

(*a*) suits for recovery of rent;
(*b*) suits for penalties claimable under any provision of the Bill; and
(*c*) suits to recover possession of land.

They provide that, in such suits, the summons shall, as a rule, be issued for the final disposal of the case; that the summons may be served by a registered letter; that no written statement shall be filed without the leave of the Court; that the provisions of the Code of Civil Procedure relating to interrogatories, discovery and affidavits shall not apply; that, whether an appeal lies or not, a simple memorandum of the substance of the evidence, such as is prescribed by the Code for unappealable cases, shall suffice; that, as a rule, execution may issue on the oral application of the decreeholder at the time the decree is passed; and that section 305 of the Code, which enables a judgment-debtor to obtain a suspension of an order made for the sale of his immoveable property, and sections 320 to 325C, which provide for the transfer of decrees to the Collector for execution, shall not apply.

114. A further simplification of the procedure is effected in suits for arrears of rent and for penalties (involving no question of title or of a right to enhance or vary rent) by taking away (section 198) the appeal in such cases from—

(*a*) a decree or order passed by a District Judge, Additional Judge or Subordinate Judge, where the amount claimed does not exceed Rs. 100; and

(*b*) a decree or order passed by any other judicial officer specially empowered by the Local Government, where the amount claimed does not exceed Rs. 50.

In so far as regards the class of cases marked (*a*), the Bill merely reproduces the existing law, with this difference, that it extends the rule to decrees and orders of Subordinate Judges, who, it is thought, may now safely be entrusted with final jurisdiction in cases of this class.

The extension of the provision to the class of cases marked (*b*) is based on a proposal of the Rent Law Commissioners supported by the Local Government. The Rent Commissioners would have fixed the limit of value in such cases at Rs. 10, but the Lieutenant-Governor, who must be regarded as the best judge of the qualifications of his officers, has recommended that it should be raised to Rs. 50, the limit fixed by the present Bill.

115. It will be observed that the final jurisdiction in this class of cases will be exercised only by specially selected officers, and that a power of revision is reserved to the District Judge by the proviso to the section.

116. Section 199 is completely new. It is intended for the benefit of a landlord in a suit for an arrear of rent, when, as sometimes happens, the defendant admits that the arrear is due, but pleads that it is due not to the plaintiff but to some rival claimant. In such a case, it seems only reasonable that the tenant should pay the amount of the rent into court; and the Bill accordingly provides that the Court shall refuse to take cognizance of his plea unless he does so.

117. It is hoped that, when the measure comes to be fully discussed, other expedients for simplifying the procedure in rent-suits may be discovered, but, with the exception of those above referred to, none have hitherto been suggested which the Government of India would be prepared to accept. As regards the possibility of devising any effectual procedure analogous to that on negotiable instruments under Chapter XXXIX of the Code of Civil Procedure, or any other form of summary or provisional remedy, the whole history of such remedies both in this country and elsewhere is against it.

A summary form of procedure can scarcely help a plaintiff unless his case is of the simplest description, admitting of being answered only in the simplest way, and he comes into court armed with documentary evidence of so reliable a character that the presumption against any defence being possible is extremely strong. In such cases the Court may very properly, and with great advantage to the plaintiff, be empowered to decline to hear the defendant, and to decide against him summarily and provisionally, unless he pays the amount of the claim into court or gives security for it. But what advantage could be hoped for from a procedure of this description in rent-suits in Bengal, which admit of the most varied and complicated defences, in which the evidence on both sides is usually of the most worthless character, and charges of forgery and perjury almost common forms in the pleadings? If the legislature consented to provide such a procedure for rent-suits, it would probably feel bound to surround it with so many safeguards that the plaintiff would gain nothing by adopting it; and, even if such safeguards were dispensed with in the Act, the Courts would naturally be so cautious about refusing leave to defend or requiring security from a penniless raiyat, that the so-called summary remedy would cease to be summary, and, like the summary suits of former days in some parts of India, become as lengthy and complicated as an ordinary suit, with the further disadvantage of not being final.

118. The truth would seem to be that facilities for recovering rents in Bengal should be sought for, not so much in novel forms of procedure as in a reliable record of tenancies and their incidents, and a simple mode of adjusting rents; in other words, by going to the root of the disputes which, though they may not always come to the surface, are believed to underlie a very large proportion of the contested rent-suits. If this view is correct, the provisions of the Bill regarding the preparation of tables of rates, settlement of rents and framing of records-of-rights, and those regarding receipts and accounts, may reasonably be expected to remove most of the difficulties of which the landlords now complain.

119. Section 200, following the Bill proposed by the Rent Law Commission, enacts that an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree, unless the landlord's interest in the land has become vested in that assignee.

120. Section 202, relating to relief against forfeitures, is based on section 14 of the Conveyancing and Law of Property Act, 1881. It enacts that a suit for ejectment of a tenant, on the ground of his having forfeited his interest by breach of a condition, or the like, shall not be entertained unless the landlord has given the tenant an opportunity of paying compensation and remedying the breach when it admits of remedy, and that, when a decree is passed in such a suit, it shall not be executed until the defendant is allowed a similar opportunity of repairing or atoning for his wrongful act.

121. The Rent Law Commissioners observe that "there are in the existing law no provisions regarding the away-going crop, and, as a natural consequence, when a tenant is ejected while the crop is on the ground, the right to this crop is a constant source of dispute and litigation." Sections 203 and 204 of the Bill have been framed to meet such cases. They provide, in effect, that it shall be in the option of the landlord to purchase the crop from the raiyat at a valuation, or to allow him to retain possession of the land at a reasonable rent till he gathers the crop. Similarly, when the raiyat has prepared the land for sowing before the date on which he is ejected, section 203 provides that he shall be entitled to receive from the landlord the esti-

mated value of the labour and capital expended by him in preparing the land, together with reasonable interest on the same. These sections are, however, guarded by a proviso that a raiyat shall have no claim under them when, after the commencement of the ejectment-proceedings, he has cultivated or prepared the land contrary to local usage.

122. Sections 205 and 206 require the Court in all suits and proceedings for ejectment to inquire into and adjust all claims between the landlord and the tenant. This provision will, it is believed, be found useful as tending to prevent a multiplicity of suits.

123. The origin and object of section 207, which provides for the institution of suits to determine the status of a tenant or the incidents of a tenancy, will be best explained by an extract from the report of the Rent Commissioners. After referring to the provisions of the existing law regarding suits for pattás and kabuliyuts, they thus continue:—

"We have just observed that very little use has been made of these provisions by those for whose benefit they were intended. This observation was more particularly concerned with their use as a means of reducing to writing the conditions regulating the relation of landlord and tenant. There is, however, another purpose for which they might have been used, that is, as a means to obtain an authoritative settlement of some essential question connected with the tenancy and in dispute between the parties thereto; the rate of rent, for example, or the quantity of land held by the tenant. The landlord may contend that the raiyat holds twenty bíghás of land, while the raiyat declares that he has but fifteen. Year after year the contention is renewed. The landlord threatens a measurement, which the raiyat, afraid of a venal *amín* and a varying pole, desires to avoid. A bribe to the *gomáshta*, or compliance with some petty cess, defers the final settlement of the question for a year: and the following year it arises again, perhaps deterring the raiyat from going to his landlord's *kachahrí* to pay his rent, lest he should be subjected to a demand, the justice of which he will not admit. Or, some fields in the raiyat's holding are by him maintained to be second class rice-land and assessable with the prevailing or usual rate for land of this class, whilst the landlord avers that they are first class rice-land and should pay a higher rent. At every rent-day the point is discussed; and in a country where any discussion is prone to beget a wrangle, seldom conducted with a seemly choice of expressions, an amount of irritation is kept up, which is not in harmony with the friendly relations which should exist between a landlord and his tenantry. It is very desirable that facility be afforded for the ready settlement of questions like these, which are constantly arising in this country, more specially in consequence of the absence of boundaries and fences, and the want of an exact survey upon an uniform standard. It might have been thought that the landlord in the first case could easily have the questions settled by tendering a patta and demanding a kabuliyat for twenty bíghás; and the landlord, in the second case, by tendering a patta and demanding a kabuliyat for the field, as first class rice-land: but if the land turned out to be nineteen and a half bíghás instead of twenty, or one of the fields was found to be of some middle class kind of land, the suit, according to the decision of the highest tribunal in India, must fail, and the parties be sent away, the real question in dispute unsettled, and their feelings roused and embittered by litigation.'

"Thus these provisions of the existing law have become ineffectual for the only purpose for which the people cared to use them, and for which they might have been beneficially used. While omitting what has been found useless in practice, we have endeavoured to supply the want thus indicated by experience. Section 151 of the draft Bill accordingly allows either landlord or tenant to sue for the determination of any such questions which may arise between them. A copy of the decree passed in the case will have all the effect of a patta or kabuliyat upon the point which the parties themselves wish to have determined."

CHAPTER XV.—*Sale of transferable Holdings in execution of Decrees for Arrears due on them.*

124. The provisions of this chapter are made applicable to all transferable holdings, including such tenures as are transferable, occupancy-holdings, and bastu holdings under Chapter VII, and involve, in certain other respects, substantive changes in the existing law.

The most important of those changes will be best explained in the words of the Rent Commissioners, with whom it originated:—

"The object," they say, "of making sub-leases and incumbrances voidable upon the sale of a tenure for arrears of rent is, that the superior landlord's security for his rent may not be impaired. If the sub-leases and incumbrances of a tenure have not absorbed so much of the tenure-holder's profits as to render the interest left him insufficient to meet the rent which he pays to the proprietor of whom he holds his tenure; if the tenure, subject to these sub-leases and incumbrances, will sell for a sum sufficient to satisfy any decree that can be passed for arrears of the rent payable by the tenure-holder, it cannot be said that the proprietor-landlord's security for his rent has been impaired so far as to bring the case within the above object. The right of sub-letting and creating incumbrances belongs to every tenure-holder: such is the common law of the country. So long as the landlord is certain of the rent to which he is entitled, he cannot justly complain of the exercise of this right, or claim to interfere with it. When, however, the exercise of the right extends so far as to endanger the landlord's rent, to impair the security for such rent afforded by the sale of the tenure by public auction, the case is altered, and the landlord may reasonably demand that these sub-leases and incumbrances be avoided, which have rendered the remaining interest of the tenure-holder an insufficient security for the rent payable by him.

"In this view of the matter, we have enacted that a tenure, under-tenure or occupancy-holding, about to be sold in execution of a decree for arrears of its own rent, shall first be put up to auction subject to certain incumbrances, and, if the sum bid is sufficient to liquidate the amount of the decree and costs, shall be sold subject to such incumbrances. If the highest amount bid is not sufficient to liquidate the decree, the decree-holder, that is, the landlord, may then claim to have the tenure, &c., sold free of incumbrances. Such sale is not to be had immediately, but upon a subsequent sale-day not less than fifteen or more than thirty days afterwards; and a notification of such tenure being about to be offered for sale free of incumbrances must be posted upon some conspicuous place upon the land of the tenure. The effect of these provisions will be that persons who hold sub-leases and incumbrances will not be endamaged if the bidding on the first sale-day reaches an amount sufficient to satisfy the decree and the tenure is in consequence sold subject to incumbrances. If, on the other hand, the bidding on the first sale-day does not reach an amount sufficient to satisfy the decree, such persons will have time to protect themselves from injury by paying in the amount of the decree (which they can subsequently recover from the defaulter), and so preventing such a sale of the tenure as will avoid incumbrances."

125. Among the objections to the scheme thus propounded by the Commissioners was one to the effect that it was unsuited to the case of occupancy-holdings. This objection is admitted by Mr. Reynolds and by the Government of Bengal to be as a rule well-founded, inasmuch as an ordinary-occupancy-holding is not likely to be saddled with incumbrances which should be respected at a sale. It appears, however, that there are, in some parts of the country, occupancy-holdings of large extent, the land of which is sub-let on such terms that the interest of the lessee is of considerable value. Under these circumstances, the proper course appears to be that proposed by the Government of Bengal, namely, that occupancy-holdings should as a rule be sold at once with power to annul all incumbrances, but that the Local Government should have power to direct that the occupancy-holdings in any local area should be in the first instance put up subject to incumbrances as if they were tenures; and it is on these lines that the present Bill is drawn.

126. The general outline of the chapter will be clear from what has been said, but there are certain details of sufficient importance to call for further explanation. In the first place, it should be stated that the word "incumbrance" is used throughout in a special sense. When it is said that a holding will be sold "free of incumbrances," or as the Bill puts it, "with power to avoid incumbrances," it is not meant that it will be discharged free of everything that might in the wide sense of the word be termed an "incumbrance."

The following interests, which might be termed incumbrances, will not be affected by any sale under this chapter:—

(*a*) a tenure existing from the time of the permanent settlement;

(*b*) a tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;

(*c*) a tenure of land whereon dwelling houses, manufactories or other permanent buildings have been erected, or permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made;

(*d*) a right of occupancy;

(*e*) a right conferred on an occupancy-tenant to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and

(*f*) any right or interest which the landlord has expressly and in writing given the tenant permission to create.

The last three of these are protected in similar sales under the existing law, and the first three have been added, because such interests, being protected under a sale for arrears of revenue, would seem to be *à fortiori* entitled to protection under a sale for rent.

127. Again, when the Commissioners propose that the holding shall be put up in the first instance subject to incumbrances, they do not mean that it should be sold subject to all incumbrances, but only to such incumbrances as have been created by a registered instrument of which a copy has been served on the landlord. This limitation they considered necessary to prevent sham incumbrances being fraudulently set up after the sale.

128. The Bill has been drawn in accordance with these views, and accordingly, if it becomes law, the result will be—

(*a*) that the interests referred to in paragraph 126 will be protected in the case of all sales;

(*b*) that, in the case of sales subject to encumbrances, the protection will extend also to incumbrances created by registered instruments of which a copy has been served on the landlord; and

(*c*) that, except as stated in (*a*) and (*b*), the holding will be sold with power to avoid all liens, sub-tenancies, easements and other rights or interests created upon it by the tenant in limitation of his own interest.

129. An incumbrance will not become void *ipso facto* on a sale under this chapter. It must be annulled by a notice served on the incumbrancer through the Collector within one year after the purchaser first has knowledge of the incumbrance. It may be added that it is proposed, by separate legislation, to apply a similar rule to the case of sales for arrears of revenue.

130. When an order for the sale of a holding is passed under this chapter, nothing will stop the sale, unless the amount due is paid into court or the decree-holder acknowledges that his claim has been satisfied.

131. When any person, having in a holding advertized for sale under this chapter an interest which would be voidable upon the sale, pays into court the amount requisite to prevent the sale, he will, with a view to the recovery of his money, be placed by section 218 in the position of a mortgagee of the holding with a first charge and a right to possession. If he is an inferior tenant of the holding, he will have a further remedy under section 219 which entitles him to deduct the amount from his rent.

132. The only other provision of this chapter which need be mentioned is section 220, which permits the decree-holder to bid at the sale without the permission of the Court, and precludes the judgment-debtor from bidding.

CHAPTER XVI.—*Limitation.*

133. The only provision of this chapter calling for notice is section 225, under which disability will not be recognised as affecting the running of limitation in suits for the recovery of rent. This is in accordance with the recommendation of the Rent Law Commissioners.

"We think," they say, "that a minor ought not to be competent on coming of age to sue a raiyat for rent, which had accumulated during the whole period of his minority; that this kind of debt, which a poor man usually discharges year by year out of the produce of the year, ought not to be allowed to accumulate; and that, if the manager of a minor's estate neglects his duty of realizing rents as they fall due, the minor's remedy ought to be in an action for damages against such manager."

C. P. ILBERT.

The 2nd March, 1883.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th March, 1883, and was referred to a Select Committee :—

No. 6 OF 1883.

THE INLAND STEAM-VESSELS BILL, 1883.

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Inland Steam-vessels Bill.

Chapter II.—Survey of Inland Steam-vessels.

A Bill to amend the law relating to the Survey, and the Examination and Grant of Certificates to Engineers, of Inland Steam-vessels, and to provide for certain other matters relating to those vessels.

WHEREAS it is expedient to amend the law relating to the survey of inland steam-vessels and the examination and grant of certificates to engineers of those vessels; (Preamble.)

And whereas it is also expedient to provide for the grant of certificates to the masters of inland steam-vessels, and for investigations into casualties affecting, and into charges against masters and engineers of, those vessels, and for the protection of passengers and goods carried thereon from danger by fire; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Inland Steam-vessels Act, 1883; and (Short title.)

(*2*) It extends to the whole of British India. (Extent.)

2. (*1*) This Act shall come into force on such day as the Governor General in Council by notification in the official Gazette directs. (Commencement.)

(*2*) But any notification, rule or appointment may be made under this Act at any time after the passing thereof, but shall not take effect until the Act comes into force.

(*3*) And nothing in this Act shall apply to any ship belonging to, or in the service of, Her Majesty, or the Government of India, or belonging to any foreign Prince or State.

3. (*1*) On and from the day on which this Act comes into force, the Acts mentioned in the first column of the first schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof. (Repeal of enactments.)

(*2*) But all proceedings commenced, investigations held, and certificates granted, cancelled or suspended under any of the said Acts, shall be deemed to have been respectively commenced, held, granted, cancelled or suspended under this Act or under the Indian Steamships Act, 1883, as the case may be.

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

(*1*) "vessel" includes anything made for the conveyance by water of human beings or of property:

(*2*) "steam-vessel" means every description of vessel propelled wholly or in part by the agency of steam:

(*3*) "inland water" means any canal, river, navigable lake or water in British India:

(*4*) "inland steam-vessel" means a steam-vessel which ordinarily plies on inland water:

(*5*) "voyage" includes also the plying of a vessel at or about any place: [Ben. Act VII of 1879, s. 1.]

(*6*) "owner" includes also an agent: and

(*7*) "master" means any person (except a pilot or harbour-master) having for the time being the charge or control of a vessel.

CHAPTER II.

SURVEY OF INLAND STEAM-VESSELS.

5. An inland steam-vessel shall not make a voyage unless she is furnished under this Act with a certificate of survey then in force. (Inland steam-vessel not to make a voyage unless furnished with certificate under Act.) [Cf. Act XV of 1871, s. 3, Bombay Act II of 1864, s. 1, as amended by Bom. Act IV of 1873, s. 4. Bengal Act V of 1862, s. 1, as amended by Bengal Act I of 1868, s. 1.]

6. (*1*) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such places within the territories under its administration as it may, from time to time, appoint to be places of survey. (Appointment of surveyors and places of survey.) [Cf. Act XV of 1871, s. 4, Bom. Act II of 1864, s. 2, Bom. Act IV of 1873, s. 5, Ben. Act V of 1862, s. 2, Ben. Act I of 1868, s. 2.]

(*2*) Every surveyor so appointed may be suspended or removed by the Local Government which appointed him.

(*3*) Every surveyor so appointed shall, for the purposes of the survey, be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

7. (*1*) For the purposes of a survey under this Act, the surveyors appointed under section six may, at any reasonable time, go on board any inland steam-vessel, and may inspect the steam-vessel and every part thereof, and the machinery, equipments or articles on board thereof: (Powers of surveyors.) [Cf. Act XV of 1871, s. 5, Bom. Act II of 1864, s. 3, Ben. Act V of 1862, s. 3.]

Provided that they shall not unnecessarily hinder the loading or unloading of the steam-vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(*2*) The owner, master and officers of the steam-vessel shall afford to the surveyors all reasonable facilities for a survey, and all such information respecting the steam-vessel, and her machinery and

Inland Steam-vessels Bill.

Chapter II.—Survey of Inland Steam-vessels.

equipments, or any part thereof, respectively, as they may reasonably require.

[Act XVI of 1871, s. 6. Bom. Act II of 1864, s. 4. Ben. Act V of 1862, s. 4.]

Grant of certificate by surveyors.

8. Every survey under this Act shall be made by not less than two surveyors, and, when the survey is completed, the surveyors making it shall forthwith, if each of them is satisfied that the steam-vessel is sufficient, so far as it is his duty to survey her, for service as an inland steam-vessel, grant to the owner or master of the steam-vessel surveyed, on payment by him of the fees hereinafter mentioned, a certificate of survey under this Act.

[Act XVI of 1871, s. 6. Bom. Act II of 1864, s. 4. Ben. Act V of 1862, s. 4.]

Form of certificate of survey.

9. Every certificate of survey granted under this Act shall be signed by each of the surveyors granting it, and shall contain a statement of the particulars specified, and be framed, as nearly as the circumstances of each case will admit, in the form set forth in the second schedule hereto annexed, or shall contain a statement of such other particulars, or be framed in such other form, as the Local Government may by rule prescribe.

[Act XVI of 1871, s. 10. Bom. Act II of 1864, s. 10, as amended by Act III of 1871, s. 1. Bom. Act IV of 1873, s. 11. and Ben. Act I of 1868, s. 11.]

Fees for survey.

10. For every survey made under this Act, the owner or master of the steam-vessel surveyed shall pay to each of the surveyors making the survey—

(*a*) a fee calculated on the tonnage of the vessel according to the rates in the third schedule hereto annexed, or according to such other rates as the Local Government may, by notification, prescribe; and,

(*b*) when the survey is made in any place of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the place, as the Local Government may, by notification, prescribe.

[Act XVI of 1871, s. 11. Bom. Act II of 1864, s. 11. Ben. Act V of 1862, s. 11.]

Certificate to be affixed in conspicuous part of vessel.

11. The owner or master of every steam-vessel for which a certificate of survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause it to be affixed, and kept affixed so long as it remains in force and the vessel is in use, on some conspicuous part of the vessel where it may be easily read by all persons on board thereof.

[Act XVI of 1871, s. 12. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12.]

Term of certificate.

12. A certificate of survey granted under this Act shall not be in force—

(*a*) after the expiration of twelve months from the date thereof; or

(*b*) after the expiration of the period, if less than a year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or

(*c*) after notice has been given by the Local Government, to the owner or master of the steam-vessel to which the certificate relates, that the Local Government has cancelled or suspended the certificate.

[Act XVI of 1871, s. 13. Bom. Act II of 1864, s. 13. Ben. Act V of 1862, s. 13.]

Cancellation or suspension of certificate by Local Government.

13. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe—

(*a*) that the declaration in the certificate of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-vessel has been fraudulently or erroneously made; or [17 & 18 Vic. c. 104, s. 315.]

(*b*) that the certificate has otherwise been granted upon false or erroneous information; or

(*c*) that, since the granting of the certificate, the hull, boilers, engines or any of the equipments of the steam-vessel have sustained any injury, or have otherwise become insufficient.

[Act XVI of 1871, s. 12. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12.]

Power to require delivery of expired or cancelled certificate.

14. The Local Government may require any certificate of survey which has expired or has been cancelled or suspended to be delivered up to such person as it directs.

Report to be made of cancellation or suspension of certain certificates.

15. If the Local Government which cancels or suspends under section thirteen a certificate is not the Local Government of the place where the certificate was granted, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government of the place where the certificate was granted.

[Act XVI of 1871, s. 14. Bombay Act II of 1864, s. 14. Bengal Act V of 1862, s. 14.]

Power to order a second survey.

16. (*1*) If the surveyors making a survey under this Act refuse to give a certificate, or give a certificate with which the owner or master of the steam-vessel surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under section six to survey the steam-vessel.

(*2*) The surveyors so directed shall forthwith survey the steam-vessel, and may, after the survey, either refuse to give a certificate or give such certificate as under the circumstances seems to them proper, and their decision shall be final.

(*3*) Every survey made under this section shall be made subject to all the provisions and rules both as to the payment of fees and otherwise which are applicable to surveys made in ordinary cases under this Act.

[Cf. Act XVI of 1871, s. 9. Bom. Act II of 1864, s. 8. Ben. Act V of 1862, s. 8.]

Power for Local Government to make rules as to surveys.

17. (*1*) The Local Government may make rules to regulate the making of surveys under this Act.

(*2*) Rules under this section may, among other matters,

(*a*) declare the time and places at which, and the manner in which, surveys are to be made;

(*b*) assign and regulate the duties of each of the surveyors making a survey; and

(*c*) declare the form in which certificates of survey granted under this Act are to be framed, and the nature of the particulars which are to be stated therein.

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Chapter III.—Masters and Engineers of Inland Steam-vessels.

[New, but Cf. definition of surveyors in Act XVI of 1871, s. 2. Bom. Act II of 1864, s. 17. Ben. Act V of 1862, s. 16.]

Power for Local Government to exempt certain vessels.

18. The Local Government may, with the previous sanction of the Governor General in Council, by notification, declare that all or any of the provisions of this Act relating to the survey of inland steam-vessels shall not apply in the case of any specified class of inland steam-vessels, or shall apply to them with such modifications as the Local Government may prescribe.

CHAPTER III.

MASTERS AND ENGINEERS OF INLAND STEAM-VESSELS.

[Cf. Ben. Act VII of 1879, s. 3. See also Act XVI of 1871, s. 20, Bom. Act IV of 1873, s. 18, Ben. Act I of 1868, s. 11, which, however, lay down a different rule.]

Inland steam-vessels not to make voyage without certificated master and engineer.

19. (*1*) An inland steam-vessel shall not make a voyage unless she has as her master a person possessing a master's certificate, and as her first or only engineer a person possessing an engineer's certificate, duly granted under this chapter and then in force.

[Cf. Act XVI of 1871, s. 21. Bom. Act IV of 1873, s. 20. Ben. Act I of 1868, s. 13.]

Exception.

(*2*) Nothing in this section shall apply to any steam-vessel which does not ply with passengers or goods, or as a steam-tug, for hire, and which the Local Government may, by notification, exempt from its operation.

[Cf. Act XVI of 1871, s. 17. Bom. Act IV of 1873, s. 16. Ben. Act I of 1868, and Ben. Act VII of 1879, s. 2.]

Examiners to be appointed and rules of examination made.

20. The Local Government may, by notification, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as masters or as engineers of inland steam-vessels, and make rules—

(*a*) for the conduct of these examinations, and as to the qualifications to be respectively required of persons desirous of obtaining either of these certificates, and

(*b*) for the fees to be paid by all applicants for examination.

Grant of masters' certificates of competency.

21. (*1*) The Local Government shall grant, to every person who is reported by the examiners to possess the necessary qualifications, a master's certificate of competency to the effect that he is competent to act as master of an inland steam-vessel.

(*2*) Every certificate granted under this section shall be in such form as the Local Government may by rule prescribe.

[Cf. Act XVI of 1871, s. 18. Bom. Act IV of 1873, s. 16. Ben. Act I of 1868, s. 9.]

Grant of engineers' certificates of competency.

22. (*1*) The Local Government shall grant to every person—

(*a*) who is reported by the examiners to possess the necessary qualifications, or

(*b*) who possesses an engineer's certificate under the Imperial Merchant Shipping Acts for the time being in force, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869, [Cf. Act XVI of 1871, s. 23. Bom. Act IV of 1873, s. 2. Ben. Act I of 1868, s. 15.] 32 & 33 Vic., c. 11.

an engineer's certificate of competency to the effect that he is competent to act as engineer of an inland steam-vessel.

(*2*) Every certificate granted under this section shall be in such form as the Local Government may, by rule, prescribe.

(*3*) Before granting a certificate under section twenty-one or this section, the Local Government, if it has reason to believe that the report of the examiners regarding any applicant has been unduly made, may require a re-examination of the applicant or a further inquiry into his testimonials and character.

[Cf. Act XVI of 1871, s. 22. Bom. Act IV of 1873, s. 21. Ben. Act I of 1868, s. 10.]

Grant of engineers' certificates of service.

23. (*1*) The Local Government shall grant to every person—

(*a*) who, before the passing of this Act, has served for a period of not less than one year as first or second engineer in any foreign-going steam-vessel having engines of one hundred nominal horse-power or upwards, or as first or only engineer in any other steam-vessel, or

(*b*) who has obtained or shall obtain the rank of first class assistant engineer in the service of Her Majesty,

an engineer's certificate of service under this Act: Provided that a certificate of service shall not be granted to any person until he—

(*c*) has proved himself to have served or obtained such rank as aforesaid, and has given his name and a full and satisfactory account of the length and nature of his previous services, and

(*d*) has paid such fees as the Local Government may, by notification, direct.

(*2*) Every certificate of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is granted, and shall be in such form as the Local Government may, by rule, prescribe.

[Cf. Act XVI of 1871, s. 24. Bom. Act IV of 1873, s. 23. Ben. Act I of 1868, s. 16.]

Certificates to be made in duplicate.

24. Every certificate granted under this chapter shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Local Government may by rule prescribe.

[Cf. Act XVI of 1871, s. 25. Bom. Act IV of 1873, s. 22. Ben. Act I of 1868, s. 17.]

Copy of certificate to be granted in certain cases.

25. Whenever a master or an engineer proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as prescribed under section twenty-four, he appears to be entitled shall be granted to him, and shall have all the effect of the original.

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Chapter IV.—Investigation into Casualties.

26. (*1*) Every master of an inland steam-vessel who possesses a master's certificate duly granted under this Act and then in force shall, in ports to which section 38 of the Indian Ports Act, 1875, has been extended, be deemed, for the purposes of that section, to be the pilot of the steam-vessel of which he is in charge.

Certificated masters to be deemed pilots under Indian Ports Act.

(*2*) Nothing in this section shall be deemed to affect the provisions of Bombay Act I of 1863, which require persons in charge of vessels passing through any of the channels or tidal channels at the mouths of the river Indus to pay fees for pilotage.

CHAPTER IV.

INVESTIGATIONS INTO CASUALTIES.

27. (*1*) Whenever—

Report of casualties to be made to Local Government.

(*a*) any inland steam-vessel has been wrecked, abandoned or materially damaged, or

(*b*) by reason of any casualty happening to or on board of any inland steam-vessel, loss of life has ensued, or

(*c*) any inland steam-vessel has caused loss or material damage to any other vessel,

the master shall give immediate notice of the wreck, abandonment, damage, casualty or loss to the nearest Magistrate.

(*2*) The Magistrate receiving the notice shall, without delay, communicate it to the Local Government.

28. (*1*) If in any such case a formal investigation into the facts referred to in section twenty-seven, clause (*a*), (*b*) or (*c*), appears to the Local Government to be requisite or expedient, the Local Government (whether the notice is given or not) may appoint a special Court, consisting of not less than two nor more than four persons, and direct the Court to make the investigation, and may fix the place for making the same.

Power for Local Government to appoint special Court of Investigation.

(*2*) One of the members of the Court shall be a Magistrate acting in or near the place where the investigation is made; another shall be some person conversant with maritime affairs or the navigation of inland steam-vessels; and the other or others (if any) shall be conversant with either maritime or mercantile affairs or with the navigation of inland steam-vessels.

29. Any principal Court of ordinary criminal jurisdiction and the Court of any District Magistrate may, when so directed by the Local Government, make the investigation referred to in section twenty-eight.

Power for principal Court of ordinary criminal jurisdiction to hold investigations into cases when directed.

30. (*1*) Any Court making an investigation under section twenty-eight or section twenty-nine may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master or engineer, as well as into any charge of a wrongful act or default on his part causing any wreck, abandonment, damage, casualty or loss referred to in section twenty-seven.

Power for Court of Investigation to inquire into charges against masters and engineers.

[See Act V of 1883, s. 9, and Ben. Act VII of 1879, s. 7.]

[Act XIII of 1875, s. 3.]

(*2*) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default as aforesaid, arises against any master or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

31. (*1*) If the Local Government has reason to believe that there are grounds for charging any master or engineer of an inland steam-vessel with incompetency or misconduct, otherwise than in the course of an investigation under section twenty-eight or section twenty-nine, it may transmit a statement of the case to the principal Court of ordinary criminal jurisdiction, or the Court of the District Magistrate, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge.

Power for Local Government to direct investigation into charges of incompetency or misconduct.

[See Act V of 1883, s. 10, & Ben. Act VII of 1879, s. 7.]

(*2*) Before commencing the investigation, the Court shall cause the master or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.

[See Act V of 1883, s. 9 (2), & Ben. Act VII of 1879, s. 7.]

32. For the purpose of an investigation under this chapter into any charge against a master or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence, either in person or otherwise.

Person accused to be heard.

[See Act V of 1883, ss. 11 & 12, & Ben. Act VII of 1879, s. 7.]

33. (*1*) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master or engineer, the Court making the investigation under section twenty-nine or section thirty-one shall constitute as its assessors, for the purposes of the investigation, two persons having experience in the merchant service or in the navigation of inland steam-vessels; and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor, for the purposes of the investigation, any person conversant with maritime affairs or the navigation of inland steam-vessels and willing to act as assessor.

Assessors.

[See Act V of 1883, s. 13, & Ben. Act VII of 1879, s. 7.]

(*2*) Every person appointed under this section shall attend during the investigation and deliver his opinion in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act shall rest with the Court.

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34. For the purpose of any investigation under this chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

[Cf. Act V of 1883, s. 12 (a), & Ben. Act VII of 1879, s. 7.]

Power of Court as to evidence and regulating proceedings.

(*a*) if the Court is a special Court—the same powers as are exerciseable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;

(*b*) if the Court is a principal Court of ordinary criminal jurisdiction or the Court of the District Magistrate—the same powers as are exerciseable respectively by either Court in the exercise of its criminal jurisdiction.

35. (*1*) If any Court making an investigation under this chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

[See Act V of 1883, s. 15. Cf. Ben. Act VII of 1879.]

Power to arrest witnesses and cause entry and detention of vessels.

(*2*) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

(*3*) No person shall be detained by virtue of this section for more than forty-eight hours.

36. (*1*) Whenever, in the course of any investigation, it appears that any person has committed, within the jurisdiction of any Court in British India, an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court; and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

Power to commit for trial and bind over witnesses.

(*2*) For the purposes of this section the Recorder of Rangoon shall, within the local limits of his ordinary civil jurisdiction, be deemed to be the High Court.

37. (*1*) Whenever, in the course of any such trial, the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making an investigation under this chapter shall, if authenticated by the signature of the Magistrate or presiding Judge or Magistrate, be admissible in evidence on proof—

Depositions.

(*a*) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and

(*b*) that it was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(*2*) A certificate by the Magistrate or presiding Judge or Magistrate that the deposition was made in the presence of the accused and that he had that opportunity shall, unless the contrary be proved, be sufficient evidence that it was so made and that he had that opportunity.

38. The Court shall, in the case of every investigation under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

Report by Court to Local Government.

39. (*1*) Whenever any explosion occurs on board any inland steam-vessel, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

Power to investigate causes of explosions.

(*2*) The person or persons so directed may enter into and upon the steam-vessel, with all necessary workmen and labourers, and remove any portion of the steam-vessel, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what in their opinion was the cause of the explosion.

(*3*) Every such person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 188.

CHAPTER V.

SUSPENSION AND CANCELLATION OF MASTERS' AND ENGINEERS' CERTIFICATES.

40. Any certificate granted under this Act to any master or engineer may be suspended or cancelled by the Local Government which granted it, or by any other Local Government, in the following cases, that is to say:—

Power for Local Government to suspend or cancel certificates in certain cases.

(*a*) if, on any investigation made under this Act, the Court reports that the wreck or abandonment of, or loss or damage to, any inland steam-vessel, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct; or

(*b*) if he is proved to have been convicted of any non-bailable offence:

Provided that, in any case in which an investigation has been made, into a charge against any master or engineer, a certificate shall not be suspended or cancelled under clause (*a*) of this section unless the Local Government is satisfied that the holder of the

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certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section thirty or section thirty-one, as the case may be.

[See Act V of 1883, s. 21.]

41. Every master or engineer whose certificate is cancelled or suspended under section forty shall deliver it to such person as the Local Government which cancelled or suspended it directs.

Obligation to deliver up cancelled or suspended certificate.

[See Act V of 1883, s. 22.]

42. If the Local Government which cancels or suspends, under section forty, a certificate is not the Local Government which granted the certificate, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to the Local Government which granted the certificate.

Report to other Local Governments.

[V of 1883, s. 23.]

43. (*1*) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section forty, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate.

Power to revoke cancellation or suspension and to grant new certificate.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination.

CHAPTER VI.

PROTECTION OF INLAND STEAM-VESSELS FROM DANGER BY FIRE.

[Act IV of 1879, s. 8, cl. 1.]

44. The Governor General in Council may, by notification, declare what shall be deemed to be, for the purposes of this Act, dangerous goods.

Power for Governor General in Council to declare dangerous goods.

[Act IV of 1879, s. 8, cl. 2.]

45. (*1*) A person shall not take with him on board an inland steam-vessel, and a person shall not deliver or tender for carriage on an inland steam-vessel, any dangerous goods without giving notice of their nature to the owner or master of the steam-vessel, or, in the case of goods delivered or tendered for carriage, without distinctly marking their nature on the outside of the package containing the goods.

Carriage of dangerous goods.

(*2*) The owner or master of an inland steam-vessel may refuse to carry upon an inland steam-vessel any luggage or parcel which he suspects to contain dangerous goods, and may require the luggage or parcel to be opened to ascertain the fact previously to carrying the same; and, in case any such luggage or parcel is received for the purpose of being carried in any inland steam-vessel, the owner or master of the vessel may stop the transit thereof until he is satisfied as to the nature of its contents.

[24 & 25 Vic., c. 97, s. 36.]

46. Where any dangerous goods have been sent or brought on board any inland steam-vessel in contravention of section forty-five, the owner or master of the steam-vessel may cause the goods to be thrown overboard, together with any package or receptacle in which they are contained, and neither the owner nor the master shall, in respect of his having so thrown the goods overboard, be subject to any liability, civil or criminal, in any Court.

Power to throw overboard dangerous goods.

[New.]

47. (*1*) The Local Government may make rules for the protection of inland steam-vessels from danger by explosion or fire.

Power for Local Government to make rules for protection of inland steam-vessels from danger by explosion or fire.

(*2*) Rules under this section may provide for the following among other matters, that is to say:—

(*a*) the conditions on, and subject to, which dangerous goods shall be carried on board inland steam-vessels;

(*b*) the precautions to be taken to prevent explosions or fires on board inland steam-vessels; and

(*c*) the apparatus for the purpose of extinguishing fires, which is to be kept on board inland steam-vessels.

(*3*) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VII.

PENALTIES AND LEGAL PROCEEDINGS.

[Act XVI of 1871, s. 27. Bom. Act II of 1864, s. 5. Ben. Act V of 1862, s. 5.]

48. If any inland steam-vessel makes a voyage in contravention of section five, the owner and master of the steam-vessel, or either of them, shall be punished with fine which may extend to one thousand rupees:

Penalty for steam-vessel making a voyage in contravention of section 5.

[Act XVI of 1871, s. 12. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12 as amended by Ben. Act I of 1868.]

Provided that, if any steam-vessel is not in any place of survey when her certificate expires, no penalty shall be incurred for the want of a certificate in respect of any voyage which the steam-vessel may make from the place where she is when her certificate expires to the nearest place of survey.

[Act XVI of 1871, s. 28. Bom. Act II of 1864, s. 6. Ben. Act V of 1862, s. 6.]

49. If the master or any other officer on board of an inland steam-vessel which makes a voyage in contravention of section five is a licensed pilot, he shall be liable to have his license as a pilot taken away from him entirely, or suspended for any period by the Local Government, as the Local Government may see fit to order.

Liability of master or officer, when a licensed pilot, to lose his license.

[Act XVI of 1871, s. 30. Bom. Act II of 1864, s. 11. Ben. Act V of 1862, s. 11.]

50. The owner and master of any inland steam-vessel, or either of them, on which the certificate of survey granted under this Act is not kept affixed, in manner provided by section eleven, shall be punished with fine which may extend to one hundred rupees.

Penalty for neglect to affix certificate of survey.

[Act XVI of 1871, s. 31. Bom. Act II of 1864, s. 13. Ben. Act V of 1862, s. 13.]

51. If the owner or master of an inland steam-vessel, without reasonable cause, neglects or refuses to deliver up a certificate as required under section

Penalty for neglect or refusal to deliver up certificate as required under section 14.

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fourteen, he shall be punished with fine which may extend to one hundred rupees.

[Cf. 25 & 26 Vic., c. 63, s. 5 (5), & Act I of 1859, s. 18. See also Act XVI of 1871, s. 32. Bom. Act IV of 1873, s. 19. Ben. Act I of 1868, s. 12. Ben. Act VII of 1879, s. 4.]

52. (*a*) Whoever, having been engaged to serve as master or first or only engineer of any inland steam-vessel to which section nineteen applies, proceeds on any voyage in that steam-vessel as master or first or only engineer without being at the time entitled to and possessed of the certificate required by that section, and

Penalty for serving, or engaging a person to serve, as master or engineer without certificate.

(*b*) Whoever employs any person as a master or first or only engineer of any inland steam-vessel to which section nineteen applies without ascertaining that he is at the time entitled to, and possessed of, a master's or an engineer's certificate, as the case may be, under this Act,

shall be punished with fine which may extend to five hundred rupees.

[See Act V of 1883, s. 6. Ben. Act VII of 1879, s. 6.]

53. If any master wilfully fails to give notice, as required by section twenty-seven, of any wreck, abandonment, damage, casualty or loss, he shall be punished with fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

Master failing to give notice as required by section 27.

[See Act V of 1883, s. 21.]

54. Every master or engineer whose certificate is cancelled or suspended under section forty, and who fails to deliver the certificate to such person as the Local Government which cancelled or suspended it directs, shall be punished with fine which may extend to five hundred rupees.

Master or engineer failing to deliver up cancelled or suspended certificate.

[Act IV of 1879, s. 9.]

55. Whoever, in contravention of section forty-five, takes with him on board any inland steam-vessel any dangerous goods, or delivers or tenders any such goods for the purpose of being carried on any inland steam-vessel, shall be punished with fine which may extend to two hundred rupees.

Penalty for taking dangerous goods on board inland steam-vessels without notice.

[Cf. Act I of 1859, s. 79.]

56. Any person employed or engaged in any capacity on board an inland steam-vessel—

Penalty for misconduct endangering vessel or life or limb.

(*a*) who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate wreck, destruction or material damage of the vessel, or tending immediately to endanger the life or limb of any person belonging to or on board the vessel, or

(*b*) who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate wreck, destruction or material damage, or for preserving any person belonging to or on board of the vessel from immediate danger to life or limb,

shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both.

[See Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Ben. Act V of 1862, s. 15.]

57. Where the owner or master of a steam-vessel is convicted of an offence under this Act committed on board of, or in relation to, that steam-vessel, and sentenced to pay a fine, the Magistrate may, in addition to any other power he may have for the purpose of compelling payment of the fine, direct the amount thereof to be levied by distress and sale of the vessel and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Distress of vessel.

[See Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Ben. Act V of 1862, s. 15.]

58. A Magistrate other than a Presidency Magistrate, or a Magistrate whose powers are not less than those of a Magistrate of the first class, shall not try any offence under this Act, or the rules under it.

Magistrates having jurisdiction.

[See Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Ben. Act V of 1862, s. 15.]

59. Whoever commits an offence against this Act or the rules under it shall be triable for the offence in any place in which he may be found or which the Local Government may, by notification, direct in this behalf, as well as in any other place in which he might be tried under any other law for the time being in force.

Place of trial.

60. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules under it:

Saving of prosecutions under other Act.

Provided that no person shall be punished twice for the same offence.

CHAPTER VIII.

MISCELLANEOUS.

[Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Bengal Act V of 1862, s. 15.]

61. All fees payable under this Act may be recovered as fines under this Act.

Fees recoverable as fines.

62. (*1*) All rules made under this Act by the Local Government shall be subject to the previous sanction of the Governor General in Council; and all powers conferred by this Act on the Local Government to make rules may be exercised from time to time as occasion requires.

Rules.

[Home Department Resolution No. 49, dated 8th November, 1882.]

(*2*) Every rule made by a Local Government under this Act shall, before being sanctioned by the Governor General in Council, be published in such manner, and for such time, as the Governor General in Council may from time to time direct, with a notice of the intention of the Local Government to apply for sanction thereto.

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(3) The Local Government shall receive and submit for the consideration of the Governor General in Council any objection or suggestion which may be made by any person with respect to any rule published in pursuance of sub-section two, and the Governor General in Council or the Local Government may, if he or it thinks fit, amend the rule with a view to meeting the objection or suggestion without again publishing the rule:

Provided that a failure of the Local Government to submit for the consideration of the Governor General in Council any objection or suggestion made with respect to any rule published in pursuance of sub-section two shall not be deemed to invalidate any rule sanctioned by him under this Act.

(4) A rule sanctioned under this Act by the Governor General in Council shall not take effect until it has been published in the local official Gazette.

(5) Subject to the provisions of section two, sub-section two, every rule when so sanctioned and published shall have the force of law.

63. (1) Except in the case of the notification under section two, sub-section one, all powers to issue notifications conferred by this Act, on the Governor General in Council or the Local Government may be exercised from time to time as occasion requires.

Notifications.

(2) A notification issued by the Governor General in Council or the Local Government under this Act shall not take effect until it has been published in the *Gazette of India* or the local official Gazette, as the case may be.

(3) Subject to the provisions of section two, sub-section two, every notification shall, when published in the *Gazette of India* or the local official Gazette, as the case may be, have the force of law.

THE FIRST SCHEDULE.

ACTS REPEALED.

(*See Section 3.*)

(*a*) *Act of the Governor General in Council.*

Number and year.	Subject or short title.	Extent of repeal.
XVI of 1871	The Burmese Steamer Survey Act.	The whole.

(*b*) *Acts of the Governor of Bombay in Council.*

Number and year.	Subject or short title.	Extent of repeal.
II of 1864 ...	To provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the presidency of Bombay.	The whole.
IV of 1873...	To amend Bombay Act II of 1864, providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam-vessels.	The whole.

(*c*) *Acts of the Lieutenant-Governor of Bengal in Council.*

Number and year.	Subject or short title.	Extent of repeal.
V of 1862 ...	To provide for the periodical survey of steam-vessels in the port of Calcutta.	The whole.
I of 1868 ...	The Steam-boat Survey Amendment Act, 1868.	So much as has not been repealed.
III of 1871...	To increase the fees for the survey of steam-vessels.	The whole.
VII of 1879	To provide for the proper management of certain inland steam-vessels.	The whole.

THE SECOND SCHEDULE.

(*See Section 9.*)

FORM OF SURVEYORS' CERTIFICATE.

Name of steam-vessel.	Tonnage.	When and where built, and material.	Power.	Description of engines and age.	Description of boilers and age.	Ground-tackle.	Condition of hull.	General equipment.	Name of master and number of officers and deck-crew and of engineers and engine-room crew.	When and where last coppered, repaired or cleaned.	Time for which a year less than a year for the hull, boilers, engines or any of the equipments will be sufficient.

We, the undersigned, declare that we have examined the above-named inland steam-vessel, and, to the best of our judgment, she and her engines, as shewn in the above statement, are fully sufficient for service for the period stated above.

A. B.
C. D.

THE THIRD SCHEDULE.

(*See Section 10.*)

RATES OF FEES.

	Tons.	Rs.
For steam-vessels of less than	200	20
" " 200 tons and up to	350	25
" " 350 " " "	700	30
" " 700 " " "	1,000	40
" " 1,000 " " "	1,500	50
" " 1,500 " and upwards	....	60

STATEMENT OF OBJECTS AND REASONS.

IT has been found expedient to legislate in order to bring the law regarding the survey of sea-going steam-vessels into conformity with the law of England and to have one law on that subject applicable to the whole of British India. The present law regulating the survey of these vessels is contained in various local Acts, which also contain provisions relating to inland steam-vessels; and it was thought that it would be better to repeal the whole of these Acts and separately enact the parts relating to sea-going and inland steam-vessels than to repeal only so much as was necessary and leave the Acts in a mutilated and probably obscure form. Moreover, it was thought desirable that there should be one law regarding inland steamers relating to the whole of India. The present law is insufficient. Madras is unprovided for, and there is no law to govern steamers plying in the province of Assam. The present Bill has accordingly been prepared. It is drawn so that it may be brought into force along with the Indian Steamships Bill, and it repeals the seven local Acts, relating to steamships, which are now in force.

2. The Bill is divided into eight chapters. It deals with the survey of inland steam-vessels, the examination and grant of certificates to masters and engineers of those vessels, the investigation into casualties occurring to them, the suspension and cancellation of masters' and engineers' certificates, and the protection of the vessels from fire, and also prescribes the penalties for offences against the provisions of the Act, the jurisdiction of Magistrates and the place of trial.

3. In its main provisions the Bill follows the existing law so far as it goes. The points in which the law is changed and which require notice are as follows. The term for which the certificate of survey is to last is, by section 12 of the Bill, extended to one year, instead of six months as at present; but section 13 enables the Local Government, under certain circumstances, to cancel or suspend a certificate of survey. The power conferred by section 17 of the Bill of making rules to regulate a survey is somewhat larger than that given by the present law. The duties of each of the two surveyors are different, and the Bill therefore enables the Local Government to assign and regulate the duties of each. To meet local requirements, power is given in section 18 of the Bill to Local Governments to exempt any specified class of inland steam-vessels from all or any of the provisions relating to survey. In section 22 the Bill provides for the grant, without examination, of a certificate as engineer to a person who possesses a certificate granted under the Imperial Merchant Shipping Act or a certificate which is by the Merchant Shipping (Colonial) Act, 1869, equivalent thereto. It further provides in section 23 for the grant of certificates of service to engineers who have served for a certain time in certain steamships, or who have obtained the rank of first class assistant engineer in the service of Her Majesty. The provisions of Chapters IV and V of the Bill, regarding investigations into casualties and the cancelling and suspending of the certificates of masters and engineers, are taken, with slight modifications, from the Merchant Shipping Act, 1883, which was recently passed.

4. The whole of Chapter VI is new. At present, there is no way of securing that due precautions are taken against fire and against the carriage of dangerous goods on passenger steamers. Chapter VI follows to a certain extent the provisions of the Indian Railway Act, 1879. It confers on the Governor General in Council power to declare what shall be deemed to be, for the purposes of the Act, dangerous goods, and prohibits persons from taking those goods on board except under certain conditions. Following section 23 of the Imperial Merchant Shipping Act, 1873, it empowers (section 46) the master or owner of a vessel to throw overboard dangerous goods which have been brought on board without notice or without being marked as required by the Act. It also (section 47) enables the Local Government to make rules for the protection of inland steam-vessels from danger by explosion or fire.

5. In Chapter VII a section (56) has been inserted, providing a penalty for misconduct on the part of persons employed on board inland steam-vessels. This section is taken from the Indian Merchant Shipping Act, 1859, section 79, the penalty being modified so as to permit of an offence being punished by fine only.

6. Lastly, with regard to the rules which may be made under the Act, the Bill, section 62, secures that they shall be duly published for general information and criticism before they are sanctioned by the Governor General in Council.

7. A statement is annexed showing how the provisions of the Acts which are repealed by the Bill are dealt with in this Bill and the Indian Steamships Bill.

The 5th March, 1883.

C. P. ILBERT.

Repeal Table showing how the Acts repealed by the Inland Steam-vessels Bill are dealt with.

ACT XVI OF 1871 (the Burmese Steamer Survey Act).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Short title	This is formal	Ditto.
	Local extent	Ditto	Ditto.
2	Interpretation-clause	This is not reproduced, the definition of "Chief Commissioner" being deemed unnecessary, and the object of the definition of "Surveyors" being sufficiently provided for by section 18.	Ditto, see sec. 22.
3	Certain steam-vessels liable to be surveyed twice a year.	This is not reproduced, the scheme of the Bill being different from that of the Act. Cf. section 5.	Ditto, cf. s. 3.
4	Government to appoint Surveyors	This is reproduced, section 6	Ditto, sec. 9.
5	Authority to Surveyors to go on board for purpose of surveying.	This is reproduced, section 7	Ditto, sec. 10.
6	Surveyor when to grant certificate and declaration.	This is reproduced with modifications, sections 8 and 9.	Ditto, secs. 11 and 12.
	No clearance to be given to steamer for voyage for which she has not got certificate.	This is not reproduced, being inapplicable in the case of inland steam-vessels.	This is reproduced, sec. 7.
8	Special survey may be ordered by Government for any British steamer.	This is not reproduced, being unnecessary as the Bill is drawn.	Ditto.
9	Power to make rules as to mode and time of conducting survey.	This is reproduced with modifications, section 17.	Ditto, sec. 21.
10	Fees to be paid for survey	This is reproduced, section 10	Ditto, sec. 13.
11	Certificate to be hung up in vessel	This is reproduced, section 11	Ditto, sec. 14 (1).
12	Certificate to be in force only six months.	This is reproduced with *twelve* months substituted for *six* months, section 12 (*a*)	Ditto, sec. 15 (*a*).
	Provision for vessels absent when certificate expires.	This is reproduced with modifications, section 48.	This is reproduced, sec. 5.
	Power to require delivery of expired certificate.	This is reproduced, section 14	Ditto, sec. 17 (1).
13	Power to cancel certificate and declaration.	The first paragraph and clauses (1), (2) and (3) are reproduced, section 13. The residue is omitted as unnecessary.	Ditto, sec. 16. Ditto.
14	Power to order a second survey	This is reproduced with modifications, section 16.	Ditto, sec. 19.
15	Power to investigate causes of explosions.	This is reproduced, section 39	Ditto, sec. 31.
16	Examinations to be instituted for Engineers.	This is not reproduced, being deemed unnecessary.	Ditto.
17	Examiners and rules of examination.	This is reproduced, section 20	Ditto with modifications, sec. 24.

ACT XVI OF 1871—continued.

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
18	Certificate of competency to be given	This is reproduced with slight modifications, section 22.	Ditto, sec. 25.
19	Certificate of service to be given	This is reproduced with modifications, section 23.	Ditto, sec. 26.
20	No certificate of survey if vessel have not a certificated engineer.	This is not reproduced, being deemed unnecessary as the Bill is drawn.	Ditto, sec. 29.
21	Power to exempt private steam-vessels	This is reproduced, section 19(2).	This is not reproduced, being deemed necessary as the Bill is drawn.
22	Withdrawal of certificate	This is not reproduced, as the subject is provided for in Chapter IV of the Bill.	Ditto, see III Indian chant ping 1883.
23	English certificate to be available	This is not reproduced, but see section 22(*b*)	This is not reproduced, but see sec. 29.
24	Certificate to be made in duplicate	Paragraph one is reproduced, section 24. The second paragraph is omitted, as it can be provided for by executive orders.	Ditto, sec. 27.
25	Copy of certificate to be delivered	This is reproduced, section 25.	Ditto, sec. 28.
26	Hindering survey or withholding required information.	This is not reproduced, being deemed unnecessary, see section 6(3) of Bill, and Penal Code, sections 176, 186 and 187.	Ditto, see sec. 9 (3).
27	Leaving without certificate and declaration.	This is reproduced with certain modifications, section 48.	Ditto, sec. 5.
28	Master or officer who is a licensed pilot attempting to take ship out of port without certificate.	This is reproduced with certain modifications, section 49.	Ditto, sec. 6.
29	Receiving unlawful fees for making survey.	This is not reproduced, see section 6(3) of Bill, and Penal Code, sections 161, *et seq.*	Ditto, see sec. 9 (3).
30	Neglect to hang up certificate and declaration.	This is reproduced, section 50.	Ditto, sec. 14 (2).
31	Refusal to comply with requirements of section 12.	This is reproduced, section 51.	Ditto, sec. 17 (2).
32	Plying without certificated engineer.	This is reproduced with modifications, section 52.	Ditto, sec. 30.
33	Offences under this Act by whom to be tried.	The first paragraph is reproduced with modifications, sections 58, 59. The second paragraph is reproduced, sections 57 and	Ditto, ss. 32, 33. As to fees see sec. 34.

BOMBAY ACT II OF 1864 (to provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the Presidency of Bombay).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Certain steam-vessels liable to be surveyed twice a year.	This, which has been amended by section 4 of Bombay Act IV of 1873, is not reproduced, the scheme of the Bill being different from that of the Act. Cf. section 5.	Ditto, Cf. secs. 3 and 4.
2	Government to appoint one or more surveyors.	This is reproduced, section 6 . . .	Ditto, sec. 9.
3	Authority to surveyors to board steamers for purpose of surveying.	This is reproduced, section 7 . . .	Ditto, sec. 10.
	Penalty for hindering them in making survey or withholding information.	This is not reproduced (see section 26 of Act XVI of 1871 *supra*).	Ditto.
4	Grant by surveyors of certificate and declaration.	This is reproduced with modifications, sections 8 and 9.	Ditto, secs. 11 and 12.
5	No clearance to steamer for voyage for which she has no certificate.	This is not reproduced (see section 7 of Act XVI of 1871 *supra*).	This is reproduced, sec. 7.
	Penalty for leaving port without a certificate.	This is reproduced with certain modifications, section 48.	Ditto, sec. 5.
6	Master or officer being licensed pilot attempting to take ship out of port without certificate liable to lose license.	This is reproduced with certain modifications, section 49.	Ditto, sec. 6.
7	Power to order special survey of British steamers in harbour of Bombay.	This is not reproduced, being unnecessary as Bill is drawn.	Ditto.
8	Power to make rules as to mode and time of conducting survey.	This is reproduced with modifications, section 17.	Ditto, sec. 21.
9	Penalty for surveyor receiving fees, &c., not provided by Act.	This is not reproduced (see section 29 of Act XVI of 1871 *supra*).	Ditto.
10	Fee for survey.	This (as amended by Bombay Act IV of 1873, section 11) is reproduced, section 10.	Ditto, sec. 13.
11	Certificate to be hung up in conspicuous part of vessel.	This is reproduced, section 11 . . .	Ditto, sec. 14 (1).
	Penalty for non-compliance . .	This is reproduced, section 50 . . .	Ditto, sec. 14 (2).
12	Duration of certificate . . .	This is produced with *twelve* months substituted for *six* months, section 12 (*a*).	Ditto, sec. 15 (*a*).
	Proviso as to absence when certificate expires.	This is reproduced with modifications, section 48.	This is reproduced, sec. 5.
	Power to require surrender of expired certificate.	This is reproduced, section 14 . .	Ditto, sec. 17 (1).
	Penalty for non-compliance . .	This is reproduced, section 51 . . .	Ditto, sec. 17 (2).
13	Power to revoke and cancel certificate and declaration.	The first paragraph and clauses (1), (2) and (3) are reproduced, section 13.	Ditto, sec. 16.
	Power to require survey . . .	This is omitted, being deemed unnecessary.	Ditto.
14	If correctness of survey doubted, Government may order second survey by other surveyors.	This is reproduced with modifications, section 16.	Ditto, sec. 19.

BOMBAY ACT II OF 1864—continued.

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
15	Sections of Merchant Shipping Act applied to steam-vessels proceeding to sea from ports in Bombay.	This is not reproduced, being inapplicable to inland steam-vessels.	This is reproduced, sec. 35.
16	Offences by whom tried . . .	This is reproduced with modifications, sections 58 and 59.	Ditto, secs. 32 and 33.
	Penalties and fees how recovered .	This is reproduced, sections 57 and 61.	As to fees see section 34.
17	Interpretation-clause . . .	As to definition of "surveyors" see section 2 of Act XVI of 1871, *supra*. The definition of "survey" is not reproduced, being deemed unnecessary.	Ditto.

BOMBAY ACT IV OF 1873 (to amend Bombay Act No. II of 1864, providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam vessels).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Construction of Act . . .	This is not reproduced, being unnecessary.	Ditto.
2	Commencement of Act . . .	This is formal	Ditto.
	Exemption from Part III . .	This is not reproduced, but see section 22 (*b*).	This is not reproduced, but see sec. 29.
3	Short title	This is formal.	Ditto.
4	Certain steam-vessels liable to be surveyed twice a year.	This is not reproduced (see section 1 of Bombay Act II of 1864, *supra*.)	Ditto.
5	Duty of surveyor on boarding steam-vessels.	This is not reproduced, being deemed unnecessary as the Bill is drawn.	Ditto.
6	Certificate to be delivered by surveyor.	This is not reproduced for same reason.	Ditto.
7	Penalty for receiving passengers on vessel not intended to carry them.	This is not reproduced for same reason.	Ditto.
8	Power to investigate cause of explosion or direct special survey.	This, so far as it relates to investigations into explosions, is reproduced, section 39. The rest is not reproduced, as it applies only to sea-going vessels, and is sufficiently provided for by the Indian Merchant Shipping Act, 1880.	Ditto, sec. 31. The rest is not reproduced, being sufficiently provided for by the Indian Merchant Shipping Act, 1880.
9	Order on receipt of report of investigation or survey.	This is not reproduced for same reason.	Ditto.
10	Expenses of investigation or survey by whom to be paid.	This is not reproduced for same reason.	Ditto.
11	Section substituted for section 10, Bombay Act II of 1864.	This is reproduced (see section 10 of Bombay Act II of 1864, *supra*).	Ditto.
12	Power to appoint ports of survey .	This is reproduced, section 6.	Ditto, sec. 9.

BOMBAY ACT IV OF 1873—*continued.*

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
13	Power to impose additional fees .	This is reproduced, section 10 (*b*).	Ditto, sec. 13 (*b*).
14	Examinations to be instituted for engineers.	This is not reproduced, being deemed unnecessary.	Ditto.
15	Examiners and rules of examination to be provided.	This is reproduced, section 20 . . .	Ditto with modifications, section 24.
16	Certificates of competency to be given.	This is reproduced with slight modifications, section 22.	Ditto, sec. 25.
17	Certificates of service to be given .	This is reproduced with modifications, section 23.	Ditto, sec. 26.
18	No clearance if vessel has not certificated engineer.	This is not reproduced, being inapplicable in the case of inland steam-vessels.	This is not reproduced, being deemed unnecessary as the Bill is drawn.
19	Penalty for plying without certificated engineer.	This is reproduced with modifications, section 52.	Ditto, sec. 30.
20	Power to exempt steam-vessels .	This is reproduced, section 19 (2) . .	This is not reproduced, being deemed unnecessary as section 29 is drawn.
21	Withdrawal of certificate . .	This is not reproduced (see section 22 of Act XVI of 1871, *supra*).	Ditto.
22	Certificate to be made in duplicate .	Paragraph one is reproduced, section 24 . The second paragraph is omitted, as it can be provided for by executive orders.	Ditto, sec. 27.
23	Copy of certificate to be delivered .	This is reproduced, section 25 . . .	Ditto, sec. 28.

BENGAL ACT V OF 1862 (to provide for the periodical survey of steam-vessels in the port of Calcutta).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Steam-vessels liable to be surveyed .	This is not reproduced, the scheme of the Bill being different from that of the Act. Cf. section 5.	Ditto. Cf. sec. 3.
2	Government to appoint surveyors .	This is reproduced, section 6 . . .	Ditto, sec. 9.
3	Authority to surveyors to board steamers for purpose of surveying.	This is reproduced, section 7 . . .	Ditto, sec. 10.
	Penalty for hindering surveyor or withholding information.	This is not reproduced (see section 26 of Act XVI of 1871, *supra*).	Ditto.
4	Grant of certificate and declaration .	This is reproduced with modifications, sections 8 and 9.	Ditto, secs. 11 and 12.

BENGAL ACT V OF 1862—*continued.*

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
5	No clearance to steamer for voyage for which she has not got surveyor's certificate.	The first portion of this section is not reproduced, being inapplicable in the case of inland steam-vessels. The second portion is reproduced with certain modifications, section 48.	This is reproduced, ss. 7 and 5.
6	Master or officer who is licensed pilot attempting to take ship out without certificate liable to lose license.	This is reproduced with certain modifications, section 49.	Ditto, sec. 6.
7	Power to order special survey of British steamer in survey port.	This is not reproduced, being unnecessary as the Bill is drawn.	Ditto.
8	Government may make rules as to mode and time of conducting survey.	This is reproduced with modifications, section 17.	Ditto, sec. 21.
9	Penalty for surveyors receiving unauthorised fee.	This is not reproduced (see section 29 of Act XVI of 1871, *supra*).	Ditto.
10	Fee for survey	This, as amended by Bengal Act III of 1871, is reproduced, section 10.	Ditto, sec. 13.
11	Certificates to be hung up in conspicuous part of vessel.	This is reproduced, section 11.	Ditto, sec. 14(1).
	Penalty for non-compliance . .	This is reproduced, section 50.	Ditto, sec. 14(2).
12	Duration of certificate . . .	This is reproduced with *twelve* months substituted for *six* months, section 12 (*a*).	Ditto, sec. 15 (*a*).
	Proviso as to vessel absent when certificate expires.	This, as amended by Bengal Act I of 1868, is reproduced with modifications, section 48.	This is reproduced, sec. 5.
	Returning of expired or revoked certificate.	This is reproduced, section 14.	Ditto, sec. 17(1).
	Penalty for non-compliance . .	This is reproduced, section 51.	Ditto, sec. 17(2).
13	Power to cancel certificate and declaration.	The first paragraph and clauses (1), (2) and (3) are reproduced, section 13; the rest is omitted, being deemed unnecessary.	Ditto, sec. 16, ditto.
14	When Government may order second survey by other surveyors.	This is reproduced with modifications, section 16.	Ditto, sec. 19.
15	Offences under Act by whom tried .	The first part is reproduced with modifications, sections 58 and 59. The second part, relating to distress of ships and recovery of fees, is reproduced, sections 57 and 61.	Ditto as to first part, ss. 32 and 33. As to fees, see sec. 34.
16	Surveyor includes surveyor acting alone.	This is not reproduced (see section 2 of Act XVI of 1871, *supra*).	Ditto.

BENGAL ACT I OF 1868 (to make further provision for the survey of steam-vessels plying within the provinces subject to the Lieutenant-Governor of Bengal).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Steam-vessels liable to survey . .	This is not reproduced (see section 1 of Bengal Act V of 1862, *supra*).	Ditto.
2	Power to appoint ports of survey .	This is reproduced, section 6.	Ditto, sec. 9.
3	Addition to sections 3, 5, 6 and 7 of Bengal Act V of 1862.	This is not reproduced, being unnecessary in Bill as drawn.	Ditto.

BENGAL ACT I OF 1868—*continued*.

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
4	Amendment of section 2 of Act V of 1862.	This is reproduced (see section 12 of Bengal Act V of 1862, *supra*.)	Ditto.
5	Power to impose additional fees .	This is reproduced, section 10 (*b*).	Ditto, sec. 13 (*b*).
6	Power to investigate causes of explosion.	This is reproduced, section 39.	Ditto, sec. 31.
7	Examination of engineers . .	This is not reproduced (see section 16 of Act XVI of 1871, *supra*)	Ditto.
8	Examiners and rules of examination to be provided.	This is reproduced, section 20.	Ditto with modifications, sec. 24.
9	Certificate of competency to be given	This is reproduced with slight modifications, section 22.	Ditto, sec. 25.
10	Certificate of service to be given .	This is reproduced with modifications, section 23.	Ditto, sec. 26.
11	No certificate of survey if vessel has no certificated engineer.	This is not reproduced, being deemed unnecessary as the Bill is drawn.	Ditto.
12	Penalty for plying without certificated engineer.	This is reproduced with modifications, section 52.	Ditto, sec. 30.
13	Power to exempt private steam-vessels	This is reproduced, section 19 (2) . .	This is not reproduced, being deemed unnecessary as section 29 is drawn.
14	Withdrawal of certificate . .	This is not reproduced (see section 22 of Act XVI of 1871, *supra*.)	Ditto.
15	English certificates to be available .	This is not reproduced, but see section 22 (*b*)	This is not reproduced, but see section 29.
16	Certificates to be made in duplicate .	Paragraph 1 is reproduced, section 24. The second paragraph 2 is omitted, as it can be provided for by executive orders.	Ditto, sec. 27.
17	Copy of certificate to be delivered .	This is reproduced, section 25.	Ditto, sec. 28.
18	Short title	This is formal.	Ditto.
19	Commencement. Repealed by Act XII of 1873.		
20	Construction	This is not reproduced, being unnecessary.	Ditto.

BENGAL ACT III OF 1871 (to increase the fees for the survey of steam-vessels).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Increase of fees	This is reproduced (see section 10 of Bengal Act V of 1862, *supra*.)	Ditto.
2	Construction	This is not reproduced, being unnecessary.	

BENGAL ACT VII OF 1879 (to provide for the proper management of certain inland steam-vessels).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Definition of inland steam-vessels .	This is reproduced with a modification, section 4 (4)	None of the provisions of this Act are reproduced in the Bill, as they are already provided for fully in the Indian Merchant Shipping Act, No. 1 of 1859, and the Indian Merchant Shipping Act, 1883.
2	Local Government may make rules .	This is reproduced with modifications, section 20.	
3	Commanders to have certificates .	This is not reproduced, but cf. section 19 (1).	
4	Penalty on owner if vessel is commanded by uncertificated commander	This is reproduced with modifications, section 52.	
5	Commanders deemed pilots under Indian Ports Act.	This is reproduced, section 26.	
6	Notice of accidents to be given to Local Government.	This is reproduced with modifications, sections 27 and 53.	
7	Investigation of accident . .	The subject-matter of this section is provided for at length in Chapter IV of the Bill.	
8	Local Government may suspend or cancel certificate.	The subject-matter of this section is reproduced at greater length in sections 40 *et seq*.	
9	Proceedings to enforce penalty when to be taken.	This is not reproduced, being no longer necessary.	
10	Commencement	This is not reproduced, being unnecessary.	

R. J. CROSTHWAITE,
Addl. Secretary to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th March, 1883, and was referred to a Select Committee :—

No. 7 OF 1883.

THE INDIAN STEAMSHIPS BILL, 1883.

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Indian Steamships Bill.

Chapter II.—Survey of Steamships.

A Bill to amend the law relating to the Survey of Steamships and the Grant of Certificates to Engineers of those Ships.

WHEREAS it is expedient to amend the law relating to the survey of steamships and the grant of certificates to engineers of those ships; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Indian Steamships Act, 1883; Short title.

(*2*) It extends to the whole of British India; Extent.

(*3*) And it shall come into force on such day as the Governor General in Council by notification in the official Gazette directs. Commencement.

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

(*1*) "steamship" means every description of vessel used in navigation and propelled wholly or in part by the agency of steam: and

(*2*) "passenger" includes any person carried in a steamship other than the master and crew and the owner, his family and servants.

CHAPTER II.

SURVEY OF STEAMSHIPS.

3. A steamship shall not carry more than twelve passengers between places in British India, and Steamship not to carry passengers unless furnished with certificate under Act.

a British steamship shall not carry more than twelve passengers to or from any place in British India from or to any place out of British India,

unless she is furnished with a certificate of survey under this chapter then in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

4. Nothing in section three shall apply to— Exception of certain steamships from provisions of section 3.

(*a*) any steamship furnished with a certificate of survey, granted by the Board of Trade or any British Colonial Government, which is then in force and applicable to the voyage on which that steamship has proceeded or is about to proceed, or the service on which she has been or is about to be employed, unless there is reason to believe that the steamship has, subsequently to the grant of the certificate, sustained injury or damage, or been found unseaworthy or otherwise inefficient; or

(*b*) any inland steam-vessel as defined in the Inland Steam-vessels Act, 1883; or

(*c*) any steamship belonging to, or in the service of, Her Majesty or the Government of India, or belonging to any foreign Prince or State.

5. If any steamship carries or attempts to carry passengers in contravention of section three, the owner and master of the steamship, or either of them, shall be punished with fine which may extend to one thousand rupees: Penalty for carrying passengers in contravention of section 3. [Act XVI of 1871, s. 27. Bom. Act II of 1864, s. 5. Bom. Act V of 1862, s. 5.]

Provided that, if any steamship is not in any port of survey when her certificate expires, no penalty shall be incurred for the want of a certificate until she first begins to carry passengers after her next subsequent arrival at some port of survey. [Act XVI of 1871, s. 12. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12.]

6. If the master or any other officer of any steamship which carries or attempts to carry passengers in contravention of section three, is a licensed pilot, he shall be liable to have his license as a pilot cancelled or suspended for any period by the Local Government, as the Local Government may see fit to order. If master or officer of ship carrying passengers in contravention of section 3 is a licensed pilot, he is liable to loss his license. [Act XVI of 1871, s. 28. Bom. Act II of 1864, s. 6. Ben. Act V of 1862, s. 6.]

7. No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned to any steamship for which a certificate of survey is required by section three, until after the production by the owner or master thereof of a certificate under this Act then in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed. Port-clearance not to be granted until certificate of survey produced. [Act XVI of 1871, s. 7. Bom. Act II of 1864, s. 5. Ben. Act V of 1862, s. 5. 17 & 18 Vic. c. 104, s. 318.]

8. If any steamship for which a certificate of survey is required by section three leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the ship may detain her until she is duly furnished with the certificate. Power to detain ship not furnished with certificate.

9. (*1*) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such ports within the territories under its administration as it may, from time to time, appoint to be ports of survey. Appointment of surveyors and ports of survey. [Act XVI of 1871, s. 4. Bom. Act II of 1864 s. 3. Bom. Act IV of 1873, s. 12. Ben. Act V of 1862, s. 2. 17 & 18 Vic., c. 104, s. 305.]

(*2*) Every surveyor so appointed may be suspended or removed by the Local Government which appointed him.

(*3*) Every surveyor so appointed shall, for the purposes of the survey, be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Indian Steamships Bill.

Chapter II.—Survey of Steamships.

10. (*1*) For the purposes of a survey under this Act, the surveyors appointed under section nine may, at any reasonable time go on board any steamship, and may inspect the steamship and every part thereof, and the machinery, equipments or articles on board thereof: Powers of surveyors. [Act XVI of 1871, s. 5. Bom. Act II of 1864, s. 3. Ben. Act V of 1862, s. 3. 17 & 18 Vic., c. 104, s. 306.]

Provided that they shall not unnecessarily hinder the loading or unloading of the steamship, or unnecessarily detain or delay her from proceeding on any voyage.

(*2*) The owner, master and officers of the steamship shall afford to the surveyors all reasonable facilities for a survey, and all such information respecting the steamship and her machinery and equipments, or any part thereof, respectively, as they may reasonably require.

11. Every survey under this Act shall be made by not less than two surveyors, and when the survey is completed, the surveyors making it shall forthwith, if each of them is satisfied that the steamship is sufficient, so far as it is his duty to survey her, for the service on which it is intended to employ it, grant to the owner or master of the steamship surveyed, on payment by him of the fees hereinafter mentioned, a certificate of survey under this Act. Grant of certificate by surveyors. [Act XVI of 1871, s. 6. Bom. Act II of 1864, s. 4. Ben. Act V of 1862, s. 4. 17 & 18 Vic., c. 104, ss. 309-13.]

12. Every certificate of survey granted under this Act shall be signed by each of the surveyors granting it, and shall contain a statement of the particulars specified, and be framed, as nearly as the circumstances of each case will admit, in the form set forth in the first schedule hereto annexed, or shall contain a statement of such other particulars, or be framed in such other form, as the Local Government may, from time to time, by rule, prescribe. Form of certificate of survey. [Act XVI of 1871, s. 6. Bom. Act II of 1864, s. 4. Ben. Act V of 1862, s. 4.]

13. For every survey made under this Act the owner or master of the steamship surveyed shall pay to each of the surveyors making the survey— Fees for survey. [Act XVI of 1871, s. 10. Bom. Act II of 1864, s. 10 as amended by Bom. Act IV of 1873, s. 11. Ben. Act V of 1862, s. 10, as amended by Ben. Act III of 1871, s 1. 17 & 18 Vic., c. 104, s. 314. [Cf. Bom. Act IV of of 1873, s. 13, & Ben. Act I of 1868, s. 5.]

(*a*) a fee calculated on the tonnage of the ship according to the rates in the second schedule hereto annexed, or according to such other rates as the Local Government may from time to time by notification prescribe, and

(*b*) when the survey is made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense, if any, of the journey of the surveyors to the port, as the Local Government may, from time to time, by notification in the official Gazette, prescribe.

14. (*1*) The owner or master of every steamship for which a certificate of survey has been granted under this Act shall Certificate to be affixed in conspicuous part of ship. [Act XVI of 1871, s. 11. Bom. Act II of 1864, s. 11.

forthwith, on the receipt of the certificate, cause it to be affixed, and kept affixed so long as it remains in force and the ship is in use, on some conspicuous part of the ship where it may be easily read by all persons on board thereof. [Bom. Act V of 1862, s. 11. 17 & 18 Vic., c. 104, s. 317.]

(*2*) The owner and master of every steamship (or either of them), on which the certificate of survey granted under this Act is not kept affixed in manner provided by this section shall be punished with fine which may extend to one hundred rupees. [Act XVI of 1871, s. 30. Bom. Act II of 1864, s. 11. Ben. Act V of 1862, s. 11.]

15. A certificate granted under this Act shall not be in force— Term of certificates. [Act XVI of 1871, s 12. Bom. Act II of 1862, s. Ben. Act V of 1862, s. 12. 17 & 18 Vic., c. 104, s. 315.]

(*a*) after the expiration of twelve months from the date thereof; or

(*b*) after the expiration of the period, if less than a year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or

(*c*) after notice has been given by the Local Government to the owner, agent or master of the steamship to which the certificate relates, that the Local Government has cancelled or suspended it.

16. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe— Cancellation or suspension of certificate by Local Government. [Bom. Act II of 1864, s. 13. Ben. Act V of 1862, s. 13. Act XVI of 1871, s 13. 17 & 18 Vic., c. 104, s. 316.]

(*a*) that the declaration in the certificate of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steamship has been fraudulently or erroneously made; or

(*b*) that the certificate has otherwise been issued upon false or erroneous information; or

(*c*) that, since the granting of the certificate, the hull, boilers, engines or any of the equipments of the steamship have sustained any injury, or have otherwise become insufficient.

17. (*1*) The Local Government may require any certificate of survey which has expired, or has been cancelled or suspended, to be delivered up to such person as it directs. Power to require delivery of expired or cancelled certificate. [Act XVI of 1871, s. 13. Bom. Act II of 1864, s. 13. Ben. Act V of 1862, s. 13.]

(*2*) If the owner or master, without reasonable cause, neglects or refuses to deliver up a certificate as required under this section, he shall be punished with fine which may extend to one hundred rupees. [Act XVI of 1871, s. 31. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12.]

18. If the Local Government which cancels or suspends under section sixteen a certificate is not the Local Government of the place where the certificate was granted, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government of the place where the certificate was granted. Report to be made of cancellation or suspension of certain certificates.

Indian Steamships Bill.

Chapter II.—Survey of Steamships. Chapter III.—Examination and Certificates of Engineers.

[Act XVI of 1871, s. 14. Bom. Act II of 1864, s. 14. Ben. Act V of 1862, s. 14. Cf. the appeal given by 39 & 40 Vic., c. 80, s. 14.]

19. (*1*) If the surveyors making a survey under this Act refuse to give a certificate, or give a certificate with which the owner or master of the steamship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under section nine to survey the steamship.

Power to order a second survey.

(*2*) The surveyors so directed shall forthwith survey the steamship, and may, after the survey, either refuse to give a certificate or give such certificate as under the circumstances seems to them proper, and their decision shall be final.

(*3*) Every survey made under this section shall be made subject to all the provisions and rules both as to the payment of fees and otherwise which are applicable to surveys made in ordinary cases under this Act.

[See 39 & 40 Vic., c. 80, s. 19.]

20. When a foreign steamship requires to be furnished with a certificate of survey under this Act, and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port of survey, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Act:

Survey of foreign steamships.

Provided that this section shall not apply in the case of an official survey at any foreign port with respect to which Her Majesty has by order in Council directed that section 19 of the Imperial Merchant Shipping Act, 1876, shall not apply.

[See 39 & 40 Vic., c. 80, s. 19.]

[Cf. Act XVI of 1871, s. 9. Bom. Act II of 1864, s. 8. Ben. Act V of 1862, s. 8. Cf. 18 Vic., c. 104, ss. 18.]

21. (*1*) The Local Government may, from time to time, make rules to regulate the making of surveys under this Act.

Local Government to make rules as to survey.

(*2*) Rules under this section may, among other matters,

(*a*) declare the times and places at which, and the manner in which, surveys are to be made;

(*b*) assign and regulate the duties of each of the surveyors making a survey; and

(*c*) declare the form in which certificates of survey granted under this Act are to be framed, and the nature of the particulars which are to be stated therein.

[Now. But cf. definition of "Surveyors" in Act XVI of 1871, s. 2. Bom. Act II of 1864, s. 17. Ben. Act V of 1862, s. 16.]

22. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification, declare that all or any of the provisions of this chapter shall not apply in the case of any specified class of steamships, or shall apply to them with such modifications as the Local Government may prescribe.

Power for Local Government to exempt certain steamships.

CHAPTER III.

EXAMINATION AND CERTIFICATES OF ENGINEERS.

[Cf. 25 & 26 Vic., c. 63, s. 5]

23. Engineers' certificates shall be of two grades, namely, "first class engineers' certificates" and "second class engineers' certificates."

Certificates to be of two grades.

[Cf. 25 & 26 Vic., c. 63, ss. 6 & 7. Cf. Act XVI of 1871, s. 17. Bom. Act IV of 1873, s. 15. Ben. Act I of 1868, s. 8.]

24. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as engineers, and, subject to the control of the Governor General in Council, make rules—

Examiners to be appointed and rules of examination made.

(*a*) for the conduct of these examinations, and as to the qualifications to be respectively required of persons desirous of obtaining "first class engineers' certificates" and "second class engineers' certificates"; and

(*b*) for the fees to be paid by all applicants for examination.

[Cf. 25 & 26 Vic., c. 63, s. 8. Cf. Act XVI of 1871, s. 18. Bom. Act IV of 1873, s. 16. Ben. Act I of 1868, s. 9.]

25. (*1*) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first class engineer or as a second class engineer, as the case may be:

Grant of certificates of competency.

Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

(*2*) Every certificate granted under this section shall be in such form as the Local Government may from time to time by rule prescribe.

[Cf. 25 & 26 Vic., c., 18, s. 9. Cf. Act XVI of 1871, s. 19. Bom. Act IV of 1873, s. 17. Ben. Act I of 1868, s. 10.]

26. (*1*) The Local Government shall grant certificates of service as engineers, differing in form from certificates of competency, as follows, namely:—

Grant of certificates of service.

(*a*) To every person who, before the passing of this Act, has served for a period of not less than one year as first engineer in any foreign-going steamship having engines of one hundred nominal horse-power or upwards, or who has attained, or shall attain, the rank of engineer in the service of Her Majesty—a "first class engineers' certificate" of service:

(*b*) To every person who, before the passing of this Act, has served for a period of not less than one year as second engineer in any foreign-going steamship having engines of one hundred nominal horse-power or upwards, or as first or only engineer in any other steamship, or who has obtained or shall obtain the rank of first class assistant engineer in the service of Her Majesty—a "second class engineers' certificate" of service:

Provided that a certificate of service shall not be granted to any person until he—

Indian Steamships Bill.

Chapter III.—Examination and Certificates of Engineers.

(*c*) has proved himself to have served or attained such rank as aforesaid, and has given his name and a full and satisfactory account of the length and nature of his previous services, and

(*d*) has paid such fees as the Local Government may, by a notification in the official Gazette, from time to time direct.

(*2*) Each of such certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is granted, and shall be in such form as the Local Government may from time to time, by rule, prescribe.

Cf. Act XVI of 1871, s. 24. Bom. Act IV of 1873, s. 22. Ben. Act I of 1868, s. 16.]

27. Every certificate granted under this chapter shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Local Government may from time to time by rule prescribe.

Certificates to be made in duplicate.

[Act XVI of 1871, s. 25. Bom. Act IV of 1873, s. 23. Ben. Act I of 1868, s. 17.]

28. Whenever an engineer proves to the satisfaction of the Local Government which granted his certificate that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided under section twenty-seven, he appears to be entitled shall be granted to him, and shall have all the effect of the original.

Copy of certificate to be granted in certain cases.

[Cf. 25 & 26 Vic., c. 63, s. 8 (2),(3) & (4), and Act I of 1859, s. 13. Cf. Act XVI of 1871, s. 20, Bom. Act IV of 1873, s. 18, Ben. Act I of 1868, s. 11, which however lay down a different rule.] 17 & 18 Vic., c. 104. 32 & 33 Vic., c., 11.

29. (*1*) A foreign-going steamship having engines of one hundred nominal horse-power or upwards shall not go to sea from any port in British India unless she has as her first and second engineers two certificated engineers, the first possessing a "first class engineers' certificate" and the second a "second class engineers' certificate" or a certificate of the higher grade, granted under this Act or the Imperial Merchant Shipping Act, for the time being in force, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

Number of engineers and nature of certificates necessary in case of different steamships.

(*2*) A home-trade steamship of a burden exceeding three hundred tons shall not go to sea from any port in British India unless she has as her only or first engineer an engineer possessing a second class engineers' certificate or a certificate of the higher grade, of the nature referred to in sub-section one.

(*3*) Nothing in this section shall apply to any steamship to which section 19 of the Inland Steam-vessels Act is applicable.

[See Act I of 1859, s. 118.]

(*4*) In this section "foreign-going steamship" includes every steamship employed in trading between any port of British India and any port or place not in British India, nor on the continent of India, nor in the island of Ceylon; and

"home-trade steamship" includes every steamship employed in trading between any ports of British India, or between any port of British India and any port or place on the continent of British India, or in the island of Ceylon.

[See Act I of 1859, s. 118.]

[25 & 26 Vic., c. 63, s. 5 (5). Cf. Act XVI of 1871, s. 32. Bom. Act IV of 1873, s. 19 Ben. Act I of 1868, s. 12.]

30. (*a*) Whoever, having been engaged to serve in any of the capacities referred to in section twenty-nine in any steamship to which that section applies, goes to sea in that capacity without being at the time entitled to, and possessed of, the certificate required by that section, and

Penalty for serving, or engaging a person to serve, as engineer without a certificate.

(*b*) whoever employs any person in any capacity referred to in section twenty-nine in any steamship to which that section applies, without ascertaining that he is at the time entitled to, and possessed of, the certificate required by that section,

shall be punished with fine which may extend to five hundred rupees.

Investigation into Explosions.

[Act XVI of 1871, s. 15. Bom. Act IV of 1873, s. 8. Ben. Act I of 1868, s. 6.]

31. (*1*) Whenever any explosion occurs on board any steamship for which a certificate of survey is required under this Act, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

Power to investigate causes of explosions.

(*2*) The person or persons so directed may enter into and upon the steamship with all necessary workmen and labourers, and remove any portion of the steamship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in their opinion, was the cause of the explosion.

(*3*) Every such person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

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Miscellaneous.

[Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Ben. Act V of 1862, s. 15.]

32. A Magistrate other than a Presidency Magistrate, or a Magistrate whose powers are not less than those of a Magistrate of the first class, shall not try any offence under this Act.

Magistrate having jurisdiction.

[See Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Ben. Act V of 1862, s. 15.]

33. Whoever commits an offence against this Act shall be triable for the offence in any place in which he may be found, or which the Local Government may from time to time, by notification in the official Gazette, direct in this behalf, as well as in any other place in which he might be tried under any other law for the time being in force.

Place of trial.

[Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Ben. Act V of 1862, s. 15.]

34. All fees payable, and all fines imposed, under the provisions of this Act may be recovered in like manner as a fine may be recovered under the Indian Merchant Shipping Act, Act I of 1859, section 113.

Fees recoverable as fines.

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Schedule I.—Form of Surveyor's Certificate and Declaration and Schedule II.—Rates of Fees.

[See Bom. Act II of 1864, s. 15.] 17 & 18 Vic., c.104.

35. Sections 292, 293 and 294 of the Imperial Merchant Shipping Act, 1854, and the table marked S. in the schedule of that Act shall apply to all steamships going to sea from any port or place in the Presidency of Bombay.

Sections of Imperial Merchant Shipping Act applied to steamships going to sea from Presidency of Bombay.

In calculating the penalties mentioned in section 293 of the Imperial Merchant Shipping Act, 1854, ten rupees shall be taken as the equivalent of one pound.

17 & 18 Vic., c. 104.

THE FIRST SCHEDULE.

(*See section 12.*)

FORM OF SURVEYORS' CERTIFICATE AND DECLARATION.

Name of steam-vessel.		
Tonnage.		
When and where built, and material.		
Power.		
Description of engines and age.		
Description of boilers and age.		
Ground-tackle.		
Condition of hull.		
General equipment.		
Name of master and number of officers and deck-crew and of engineers and engine-room crew.		
When and where last coppered, repaired or cleaned.		
Limits (if any) beyond which the vessel is not fit to ply.		
Time if less than a year for which the hull, boilers, engines or any of the equipments will be sufficient.		

We, the undersigned, declare that we have examined the abovenamed steamship, and, to the best of our judgment, she and her engines, as shown in the above statement, are fully sufficient for the service on which it is intended to employ her, that is to say (*as the case may be*), and that the certificate (*or* certificates *as the case may be*) of the engineer (*or* engineers *as the case may be*) of the said steamship is (*or* are) such or in such condition as is required by this Act.

A. B.

C. D.

THE SECOND SCHEDULE.

(*See section 13.*)

RATES OF FEES.

	Tons.	Rs.
For steamships of less than	200	20
„ „ 200 tons and up to	350	25
„ „ 350 „ „ „	700	30
„ „ 700 „ „ „	1,000	40
„ „ 1,000 „ „ „	1,500	50
„ „ 1,500 „ and upwards	...	6

STATEMENT OF OBJECTS AND REASONS.

A CASE having occurred in Bombay which showed that the Bombay law relating to the survey of steamships was not in harmony with the English law on the subject, it was thought desirable to amend the Bombay law. When, however, the question of legislation came to be considered, it appeared that there were no less than seven local Acts relating to steamships. Bombay, Bengal and Burma each had its special law regulating the survey of these ships, while there was no law on the subject in the Presidency of Madras. The multiplicity of laws relating to the survey of steamships, it was thought, could not but be inconvenient to shipowners whose ships traded between different Provinces. For instance, Act XVI of 1871, which is in force in Burma, requires every steam-vessel plying on any of the rivers or waters of British Burma, except steam-vessels plying between a port in British Burma and a port not in British India, to be surveyed twice a year. In the same way, the Bombay Act II of 1864, as amended by Bombay Act IV of 1873, requires every British steam-vessel, not holding a Board of Trade, British Indian or Colonial certificate, carrying passengers between any port of the Presidency of Bombay and any other port, to be surveyed twice a year, and the Bengal Act V of 1862, as amended by Act I of 1868, also requires the survey twice in every year of all steam-vessels plying on any of the rivers or waters within the Province of Bengal, except steam-vessels which may ply between some port within that Province and some port not in British India. Under these laws, a steam-vessel which was surveyed in Bombay might, apparently, be required to undergo a fresh survey on arrival in Calcutta, and another survey on arrival at a port in Burma. As legislation is necessary, it is, therefore, clearly expedient to have one uniform law relating to the survey of steam-vessels applicable to the whole of British India.

2. Besides providing for the survey of steam-vessels, the local Acts provide also for the examination of, and the grant of certificates to, engineers, and for holding investigations into explosions occurring on board steam-vessels. In these matters uniformity in the law is desirable.

3. After consulting the Local Governments concerned, the Government of India has decided to legislate so as to provide one law relating to the survey of sea-going steamships, the examination and grant of certificates to engineers of those ships, and the investigation into explosions occurring thereon. The present Bill has accordingly been prepared. It was, however, found at the same time necessary to legislate in like manner for steam-vessels plying on rivers and inland waters, inasmuch as the provisions of the local Acts related, to a certain extent, to those vessels as well as to sea-going vessels. With this view, a separate Bill—the Inland Steam-vessels Bill—has been prepared, so as to keep the law relating to merchant shipping—a law liable to be affected by legislation in England—entirely separate from the law regulating inland steam-vessels, which is a matter solely within the scope of Indian legislation.

4. The present Bill is divided into three chapters. The first chapter is purely formal. The second deals with the subject of the survey of steamships. It provides that a steamship shall not carry more than twelve passengers between places in British India, and that a British steamship shall not carry more than twelve passengers to or from any place in British India from or to any foreign port, unless she is furnished with a certificate of survey. It exempts steamships furnished with Board of Trade certificates or Colonial certificates, provides for the appointment of surveyors and ports of survey, prescribes the powers of surveyors and the conditions on which they are to grant certificates. It provides for the fees which are to be paid for certificates and the term for which they are to last, and it confers on the Local Government the power, under certain circumstances, of cancelling or suspending a certificate. It further enables the Local Government to make rules to regulate the time, place and manner in which surveys shall be made, and to assign and regulate the duties of each of the surveyors making it. To meet local requirements, a section (22) is also added, enabling the Local Government to exempt any specified class of steamships from all or any of the provisions of the chapter.

5. The principal changes introduced in the law by the provisions contained the second chapter are as follows:—

Section 3 follows the English law (39 & 40 Vic., cap. 80, section 16), and only requires a survey in the case of steamships carrying more than twelve passengers.

The law as at present in force in Bengal and Burma is thus amended in an important point, and cargo steamers are exempted from survey.

Another change in the law is made by section 15 of the Bill, which provides that a certificate of survey shall not remain in force for more than twelve months. At present, the law requires a survey twice a year, but it is thought that the power which the Local Government has under section 16 of the Bill of cancelling or suspending a certificate renders a survey every six months unnecessary.

Section 20 of the Bill enacts the provisions (regarding the grant of certificates of survey to foreign ships) of section 19, 39 & 40 Vic., cap. 80. It is considered that these provisions will be of use in India in the case of foreign ships which have been officially surveyed at a foreign port.

6. The third chapter of the Bill deals with the examination of, and grant of certificates to, engineers. It also contains a provision as to inquiries into cases of explosion, and miscellaneous sections regulating the jurisdiction and place of trial in cases of offences under the Act, and applies to steamships going to sea from a place in the Bombay Presidency, the provisions as to boats for sea-going ships of the Imperial Merchant Shipping Act, 1854.

7. Following the Imperial Merchant Shipping Act Amendment Act, 1862, the chapter provides that there are to be two grades of engineers—first class engineers and second class engineers. The Local Government is empowered to appoint examiners, and to make rules as to the conduct of the examinations, the qualifications to be required from the applicants and the fees to be paid by them. Certificates will be granted to those who, by the result of the examination, show themselves to be possessed of the necessary qualifications.

8. This chapter also provides (section 26) for the grant of certificates of service as engineers. A first class certificate may be granted to a person who has served, before the passing of the Act, for a period of not less than one year as first engineer in any foreign-going steamship carrying engines of one hundred nominal horse-power or upwards, or who has attained, or shall attain, the rank of engineer in Her Majesty's service.

A second class certificate may be granted to a person who has, before the passing of the Act, served as second engineer in such a steamship or as sole engineer in a smaller one, or who obtains the rank of first class assistant engineer in Her Majesty's service. It is doubtful whether it is necessary or expedient to provide for the grant of certificates of service. The attention of the Local Governments concerned will be drawn to the point.

9. It is further provided (section 29), that foreign-going steamships shall not proceed to sea without engineers possessing certain specified certificates. Similar provisions are made for home-trade steamships, the steamships which are inland steam-vessels within the meaning of the Inland Steam-vessels Act being excepted.

10. The provisions of section 31, as to investigations into explosions, require no comment; and the last four sections of the Bill merely re-enact the existing law as to jurisdiction, the place of trial, the recovery of fees and fines, and the application to steamships leaving a port in the Bombay Presidency of certain provisions of the Imperial Merchant Shipping Act, 1854, concerning boats for sea-going ships.

The 5th March, 1883.

C. P. ILBERT.

R. J. CROSTHWAITE,
Addl. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th February, 1883:—

No. 8 OF 1883.

A Bill to amend the Code of Criminal Procedure, 1882, so far as it relates to the exercise of jurisdiction over European British subjects.

I of 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, so far as it relates to the exercise of jurisdiction over European British subjects; It is hereby enacted as follows:—

Preamble.

1. For the last clause of section 22, the following shall be substituted:—

Amendment of section 22.

"may, by notification in the official Gazette, appoint such persons as he or it thinks fit, who, being

(*a*) members of the Covenanted Civil Service,

(*b*) members of the Native Civil Service constituted under the Statute 33 Vic., cap. 3,

(*c*) Assistant Commissioners in Non-Regulation Provinces, or

(*d*) Cantonment Magistrates,

are invested with the powers of a Magistrate of the first class, to be Justices of the Peace within and for the territories mentioned in the notification."

2. In section 25, after the words "British India" the following shall be inserted:—

Amendment of section 25.

"Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving".

3. In section 443, the words "and an European British subject" shall be omitted.

Amendment of section 443.

4. For section 444 the following shall be substituted:—

New section substituted for section 444.

"444. An Assistant Sessions Judge shall not exercise jurisdiction over an European British subject, unless he has held the office of Assistant Sessions Judge for at least three years and has been specially empowered in this behalf by the Local Government."

Assistant Sessions Judges who may try European British subjects.

5. Section 450 and the last sixteen words of section 459 are hereby repealed.

Repeal of section 450 and of the last sixteen words of section 459.

6. (*1*) In this Act "section" means section of the Code of Criminal Procedure, 1882.

Construction of Act with Code of Criminal Procedure.

(*2*) All references to that Code made in enactments heretofore passed or hereafter to be passed shall be read as if made to that Code as amended by this Act.

7. Nothing in this Act shall affect the validity of any appointment made before the passing of this Act.

Saving for existing appointments.

STATEMENT OF OBJECTS AND REASONS.

SHORTLY after the Code of Criminal Procedure, Act X of 1882, was passed, the question was raised whether the provisions of that Code which limit the jurisdiction over European British subjects outside the Presidency-towns to judicial officers who are themselves European British subjects should not be modified. It was thought anomalous that, while Natives of India were admitted to the Covenanted Civil Service and held competent to discharge the highest judicial duties, they should be deemed incompetent to be Justices of the Peace and to exercise jurisdiction over European British subjects outside the Presidency-towns.

2. After consulting the Local Governments, the Government of India has arrived at the conclusion that the time has come for modifying the existing law and removing the present bar upon the investment of Native Magistrates in the interior with powers over Euro-

pean British subjects. The Government of India has accordingly decided to settle the question of jurisdiction over European British subjects in such a way as to remove from the Code, at once and completely, every judicial disqualification which is based merely on race distinctions.

3. With this object the present Bill has been prepared. In section one it amends section 22 of the Code, which provides that only European British subjects can be appointed Justices of the Peace, and gives the Government power to appoint to that office such persons as it thinks fit belonging to the following classes:—

(*a*) Members of the Covenanted Civil Service;
(*b*) Members of the Native Civil Service constituted by the rules made under the Statute 33 Vic., cap. 3;
(*c*) Assistant Commissioners in Non-Regulation Provinces; or
(*d*) Cantonment Magistrates,

and being persons invested with the powers of a Magistrate of the first class.

4. The Bill then in section two amends section 25 of the Code, and makes all Sessions Judges and District Magistrates *ex officio* Justices of the Peace.

5. Section three repeals so much of section 443 of the Code as limits jurisdiction over European British subjects outside the Presidency-towns to Magistrates who are themselves European British subjects.

6. Section four repeals the similar provision of section 444 of the Code with regard to Sessions Judges.

7. Lastly, section five repeals section 450 of the Code, which provides for the case where the Sessions Judge of the division within which the offence is ordinarily triable is not an European British subject. The same section of the Bill also repeals so much of section 459 of the Code as provides that that section shall not be deemed to confer on Magistrates and Sessions Judges outside the Presidency-towns, not being European British subjects, jurisdiction over European British subjects.

C. P. ILBERT.

The 30th January, 1883.

R. J. CROSTHWAITE,
Addl. Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 24, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th March, 1883, and was referred to a Select Committee:—

No. 6 OF 1883.

THE INLAND STEAM-VESSELS BILL, 1883.

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Inland Steam-vessels Bill.

Chapter II.—Survey of Inland Steam-vessels.

A Bill to amend the law relating to the Survey, and the Examination and Grant of Certificates to Engineers, of Inland Steam-vessels, and to provide for certain other matters relating to those vessels.

WHEREAS it is expedient to amend the law relating to the survey of inland steam-vessels and the examination and grant of certificates to engineers of those vessels; Preamble.

And whereas it is also expedient to provide for the grant of certificates to the masters of inland steam-vessels, and for investigations into casualties affecting, and into charges against masters and engineers of, those vessels, and for the protection of passengers and goods carried thereon from danger by fire; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Inland Steam-vessels Act, 1883; and Short title.

(*2*) It extends to the whole of British India. Extent.

2. (*1*) This Act shall come into force on such day as the Governor General in Council by notification in the official Gazette directs. Commencement.

(*2*) But any notification, rule or appointment may be made under this Act at any time after the passing thereof, but shall not take effect until the Act comes into force.

(*3*) And nothing in this Act shall apply to any ship belonging to, or in the service of, Her Majesty, or the Government of India, or belonging to any foreign Prince or State.

3. (*1*) On and from the day on which this Act comes into force, the Acts mentioned in the first column of the first schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof. Repeal of enactments.

(*2*) But all proceedings commenced, investigations held, and certificates granted, cancelled or suspended under any of the said Acts, shall be deemed to have been respectively commenced, held, granted, cancelled or suspended under this Act or under the Indian Steamships Act, 1883, as the case may be.

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

(*1*) "vessel" includes anything made for the conveyance by water of human beings or of property:

(*2*) "steam-vessel" means every description of vessel propelled wholly or in part by the agency of steam:

(*3*) "inland water" means any canal, river, navigable lake or water in British India:

(*4*) "inland steam-vessel" means a steam-vessel which ordinarily plies on inland water:

(*5*) "voyage" includes also the plying of a vessel at or about any place: [Ben. Act VIII of 1879, s. 1.

(*6*) "owner" includes also an agent: and

(*7*) "master" means any person (except a pilot or harbour-master) having for the time being the charge or control of a vessel.

CHAPTER II.

SURVEY OF INLAND STEAM-VESSELS.

5. An inland steam-vessel shall not make a voyage unless she is furnished under this Act with a certificate of survey then in force. Inland steam-vessel not to make a voyage unless furnished with certificate under Act. [Cf. Act II of 1871, s. Bombay Act II of 1864, s. 1, as amended by Bom. Act IV of 1879, s. 4. Bengal Act of 1863, s. as amended by Bengal Act of 1863,

6. (*1*) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such places within the territories under its administration as it may, from time to time, appoint to be places of survey. Appointment of surveyors and places of survey. [Cf. Act of 1 Bom. Act of 1864, Ben. Act of 1868, Ben. Act of 1868, s.

(*2*) Every surveyor so appointed may be suspended or removed by the Local Government which appointed him.

(*3*) Every surveyor so appointed shall, for the purposes of the survey, be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

7. (*1*) For the purposes of a survey under this Act, the surveyors appointed under section six may, at any reasonable time, go on board any inland steam-vessel, and may inspect the steam-vessel and every part thereof, and the machinery, equipments or articles on board thereof: Powers of surveyors. [Cf. Act of 1874, Bom. Act of 1864, Ben. Act of 1868,

Provided that they shall not unnecessarily hinder the loading or unloading of the steam-vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(*2*) The owner, master and officers of the steam-vessel shall afford to the surveyors all reasonable facilities for a survey, and all such information respecting the steam-vessel, and her machinery and

Inland Steam-vessels Bill.

Chapter II.—Survey of Inland Steam-vessels.

equipments, or any part thereof, respectively, as they may reasonably require.

[Act XVI of 1871, s. 6. Bom. Act II of 1864, s. 4. Ben. Act V of 1862, s. 4.]

8. Every survey under this Act shall be made by not less than two surveyors, and, when the survey is completed, the surveyors making it shall forthwith, if each of them is satisfied that the steam-vessel is sufficient, so far as it is his duty to survey her, for service as an inland steam-vessel, grant to the owner or master of the steam-vessel surveyed, on payment by him of the fees hereinafter mentioned, a certificate of survey under this Act.

Grant of certificate by surveyors.

[Cf. Act XVI of 1871, s. 6. Bom. Act II of 1864, s. 4. Ben. Act V of 1862, s. 4.]

9. Every certificate of survey granted under this Act shall be signed by each of the surveyors granting it, and shall contain a statement of the particulars specified, and be framed, as nearly as the circumstances of each case will admit, in the form set forth in the second schedule hereto annexed, or shall contain a statement of such other particulars, or be framed in such other form, as the Local Government may by rule prescribe.

Form of certificate of survey.

[Act XVI of 1871, s. 10. Bom. Act II of 1864, s. 10, as modified by Bom. Act IV of 1873, s. 1.] [Bom. Act IV of 1873, s. and Ben. Act I of 1868,

10. For every survey made under this Act, the owner or master of the steam-vessel surveyed shall pay to each of the surveyors making the survey—

Fees for survey.

(*a*) a fee calculated on the tonnage of the vessel according to the rates in the third schedule hereto annexed, or according to such other rates as the Local Government may, by notification, prescribe; and,

(*b*) when the survey is made in any place of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the place, as the Local Government may, by notification, prescribe.

[Act XVI of 1871, s. 11. Bom. Act II of 1864, s. 11. Ben. Act V of 1862, s.]

11. The owner or master of every steam-vessel for which a certificate of survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause it to be affixed, and kept affixed so long as it remains in force and the vessel is in use, on some conspicuous part of the vessel where it may be easily read by all persons on board thereof.

Certificate to be affixed in conspicuous part of vessel.

[Act XVI of 1871, s. 12. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12.]

12. A certificate of survey granted under this Act shall not be in force—

Term of certificate.

(*a*) after the expiration of twelve months from the date thereof; or

(*b*) after the expiration of the period, if less than a year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or

(*c*) after notice has been given by the Local Government, to the owner or master of the steam-vessel to which the certificate relates, that the Local Government has cancelled or suspended the certificate.

[Act XVI of 1871, s. 13. Bom. Act II of 1864, s. 13. Ben. Act V of 1862, s. 13.]

13. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe—

Cancellation or suspension of certificate by Local Government.

(*a*) that the declaration in the certificate of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-vessel has been fraudulently or erroneously made; or [17 & 18 Vic. c. 104, s. 315.]

(*b*) that the certificate has otherwise been granted upon false or erroneous information; or

(*c*) that, since the granting of the certificate, the hull, boilers, engines or any of the equipments of the steam-vessel have sustained any injury, or have otherwise become insufficient.

[Act XVI of 1871, s. 12. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 13.]

14. The Local Government may require any certificate of survey which has expired or has been cancelled or suspended to be delivered up to such person as it directs.

Power to require delivery of expired or cancelled certificate.

[Cf. Act XVI of 1871, s. 21. Bom. Act IV of 1873, s. 20. Ben. Act I of 1868, s. 13.]

15. If the Local Government which cancels or suspends under section thirteen a certificate is not the Local Government of the place where the certificate was granted, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government of the place where the certificate was granted.

Report to be made of cancellation or suspension of certain certificates.

[Act XVI of 1871, s. 14. Bombay Act II of 1864, s. 14. Bengal Act V of 1862, s. 14.]

16. (*1*) If the surveyors making a survey under this Act refuse to give a certificate, or give a certificate with which the owner or master of the steam-vessel surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under section six to survey the steam-vessel.

Power to order a second survey.

(*2*) The surveyors so directed shall forthwith survey the steam-vessel, and may, after the survey, either refuse to give a certificate or give such certificate as under the circumstances seems to them proper, and their decision shall be final.

(*3*) Every survey made under this section shall be made subject to all the provisions and rules both as to the payment of fees and otherwise which are applicable to surveys made in ordinary cases under this Act.

[Cf. Act XVI of 1871, s. 8. Bom. Act II of 1864, s. 8. Ben. Act V of 1862, s. 8.]

17. (*1*) The Local Government may make rules to regulate the making of surveys under this Act.

Power for Local Government to make rules as to surveys.

(*2*) Rules under this section may, among other matters,

(*a*) declare the time and places at which, and the manner in which, surveys are to be made;

(*b*) assign and regulate the duties of each of the surveyors making a survey; and

(*c*) declare the form in which certificates of survey granted under this Act are to be framed, and the nature of the particulars which are to be stated therein.

Inland Steam-vessels Bill.

Chapter III.—Masters and Engineers of Inland Steam-vessels.

[New, but Cf. definition of surveyors in Act XVI of 1871, s. 2. Bom. Act II of 1864, s. 17. Ben. Act V of 1862, s. 16.]

18. The Local Government may, with the previous sanction of the Governor General in Council, by notification, declare that all or any of the provisions of this Act relating to the survey of inland steam-vessels shall not apply in the case of any specified class of inland steam-vessels, or shall apply to them with such modifications as the Local Government may prescribe.

Power for Local Government to exempt certain vessels.

CHAPTER III.

MASTERS AND ENGINEERS OF INLAND STEAM-VESSELS.

[Cf. Ben. Act VII of 1879, s. 3. See also Act XVI of 1871, s. 20, Bom. Act IV of 1873, s. 18, Ben. Act I of 1868, s. 11, which, however, lay down a different rule.]

19. (*1*) An inland steam-vessel shall not make a voyage unless she has as her master a person possessing a master's certificate, and as her first or only engineer a person possessing an engineer's certificate, duly granted under this chapter and then in force.

Inland steam-vessels not to make voyage without certificated master and engineer.

[Cf. Act XVI of 1871, s. 21. Bom. Act IV of 1873, s. 20. Ben. Act I of 1868, s. 13.]

(*2*) Nothing in this section shall apply to any steam-vessel which does not ply with passengers or goods, or as a steam-tug, for hire, and which the Local Government may, by notification, exempt from its operation.

Exception.

[Cf. Act XVI of 1871, s. 17. Bom. Act IV of 1873, s. 15. Ben. Act I of 1868, s. 8. Act VII of 1879, s. 2.]

20. The Local Government may, by notification, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as masters or as engineers of inland steam-vessels, and make rules—

Examiners to be appointed and rules of examination made.

(*a*) for the conduct of these examinations, and as to the qualifications to be respectively required of persons desirous of obtaining either of these certificates, and

(*b*) for the fees to be paid by all applicants for examination.

21. (*1*) The Local Government shall grant, to every person who is reported by the examiners to possess the necessary qualifications, a master's certificate of competency to the effect that he is competent to act as master of an inland steam-vessel.

Grant of masters' certificates of competency.

(*2*) Every certificate granted under this section shall be in such form as the Local Government may by rule prescribe.

[Cf. Act XVI of 1871, s. 18. Bom. Act IV of 1873, s. 16. Ben. Act I of 1868, s. 9.]

22. (*1*) The Local Government shall grant to every person—

Grant of engineers' certificates of competency.

(*a*) who is reported by the examiners to possess the necessary qualifications, or

(*b*) who possesses an engineer's certificate under the Imperial Merchant Shipping Acts for the time being in force, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869,

[Cf. Act XVI of 1871, s. 23. Bom. Act IV of 1873, s. 2. Ben. Act I of 1868, s. 15.] 32 & 33. Vic., c. 11.

an engineer's certificate of competency to the effect that he is competent to act as engineer of an inland steam-vessel.

(*2*) Every certificate granted under this section shall be in such form as the Local Government may, by rule, prescribe.

(*3*) Before granting a certificate under section twenty-one or this section, the Local Government, if it has reason to believe that the report of the examiners regarding any applicant has been unduly made, may require a re-examination of the applicant or a further inquiry into his testimonials and character.

[Cf. Act XVI of 1871, s. 19. Bom. Act IV of 1873, s. 17. Ben. Act I of 1868, s. 10.]

23. (*1*) The Local Government shall grant to every person—

Grant of engineers' certificates of service.

(*a*) who, before the passing of this Act, has served for a period of not less than one year as first or second engineer in any foreign-going steam-vessel having engines of one hundred nominal horse-power or upwards, or as first or only engineer in any other steam-vessel, or

(*b*) who has obtained or shall obtain the rank of first class assistant engineer in the service of Her Majesty,

an engineer's certificate of service under this Act: Provided that a certificate of service shall not be granted to any person until he—

(*c*) has proved himself to have served or obtained such rank as aforesaid, and has given his name and a full and satisfactory account of the length and nature of his previous services, and

(*d*) has paid such fees as the Local Government may, by notification, direct.

(*2*) Every certificate of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is granted, and shall be in such form as the Local Government may, by rule, prescribe.

[Cf. Act XVI of 1871, s. 24. Bom. Act IV of 1873, s. 22. Ben. Act I of 1868, s. 16.]

24. Every certificate granted under this chapter shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Local Government may by rule prescribe.

Certificates to be made in duplicate.

[Cf. Act XVI of 1871, s. 25. Bom. Act IV of 1873, s. 23. Ben. Act I of 1868, s. 17.]

25. Whenever a master or an engineer proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as prescribed under section twenty-four, he appears to be entitled shall be granted to him, and shall have all the effect of the original.

Copy of certificate to be granted in certain cases.

Inland Steam-vessels Bill.

Chapter IV.—Investigation into Casualties.

[Cf. Ben. Act V 11 of 1879, s.5.]

Certificated masters to be deemed pilots under Indian Ports Act.

26. (*1*) Every master of an inland steam-vessel who possesses a master's certificate duly granted under this Act and then in force shall, in ports to which section 38 of the Indian Ports Act, 1875, has been extended, be deemed, for the purposes of that section, to be the pilot of the steam-vessel of which he is in charge.

XII of 1875.

[Cf. Bom. Act I of 1863, ss. 9 *et seq.*]

(*2*) Nothing in this section shall be deemed to affect the provisions of Bombay Act I of 1863, which require persons in charge of vessels passing through any of the channels or tidal channels at the mouths of the river Indus to pay fees for pilotage.

CHAPTER IV.

INVESTIGATIONS INTO CASUALTIES.

[See Ben. Act VII of 1879, s. 6. Cf. Act V of 1883, s. 6.]

Report of casualties to be made to Local Government.

27. (*1*) Whenever—

(*a*) any inland steam-vessel has been wrecked, abandoned or materially damaged, or

(*b*) by reason of any casualty happening to or on board of any inland steam-vessel, loss of life has ensued, or

(*c*) any inland steam-vessel has caused loss or material damage to any other vessel,

the master shall give immediate notice of the wreck, abandonment, damage, casualty or loss to the nearest Magistrate.

(*2*) The Magistrate receiving the notice shall, without delay, communicate it to the Local Government.

[See Act V of 1883, s. 7, and Ben. Act VII of 1879, s. 7.]

Power for Local Government to appoint special Court of Investigation.

28. (*1*) If in any such case a formal investigation into the facts referred to in section twenty-seven, clause (*a*), (*b*) or (*c*), appears to the Local Government to be requisite or expedient, the Local Government (whether the notice is given or not) may appoint a special Court, consisting of not less than two nor more than four persons, and direct the Court to make the investigation, and may fix the place for making the same.

(*2*) One of the members of the Court shall be a Magistrate acting in or near the place where the investigation is made; another shall be some person conversant with maritime affairs or the navigation of inland steam-vessels; and the other or others (if any) shall be conversant with either maritime or mercantile affairs or with the navigation of inland steam-vessels.

[See Act V of 1883, s. 8.]

Power for principal Court of ordinary criminal jurisdiction to hold investigations into casualties when so directed.

29. Any principal Court of ordinary criminal jurisdiction and the Court of any District Magistrate may, when so directed by the Local Government, make the investigation referred to in section twenty-eight.

[See Act V of 1883, s. 9 and Ben. Act VII of 1879, s. 7.]

Power for Court of Investigation to inquire into charges against masters and engineers.

30. (*1*) Any Court making an investigation under section twenty-eight or section twenty-nine may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master or engineer, as well as into any charge of a wrongful act or default on his part causing any wreck, abandonment, damage, casualty or loss referred to in section twenty-seven.

[Act XIII of 1875, s. 3.]

(*2*) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default as aforesaid, arises against any master or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

[See Act V of 1883, s. 10 & Ben. Act VII of 1879, s. 7.]

Power for Local Government to direct investigation into charges of incompetency or misconduct.

31. (*1*) If the Local Government has reason to believe that there are grounds for charging any master or engineer of an inland steam-vessel with incompetency or misconduct, otherwise than in the course of an investigation under section twenty-eight or section twenty-nine, it may transmit a statement of the case to the principal Court of ordinary criminal jurisdiction, or the Court of the District Magistrate, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge.

[See Act V of 1883, s. 9 (2), & Ben. Act VII of 1879, s. 7.]

(*2*) Before commencing the investigation, the Court shall cause the master or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.

[See Act V of 1883, ss. 11 & 12, & Ben. Act VII of 1879, s. 7.]

Person accused to be heard.

32. For the purpose of an investigation under this chapter into any charge against a master or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence, either in person or otherwise.

[See Act V of 1883, s. 13, & Ben. Act VII of 1879, s. 7.]

Assessors.

33. (*1*) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master or engineer, the Court making the investigation under section twenty-nine or section thirty-one shall constitute as its assessors, for the purposes of the investigation, two persons having experience in the merchant service or in the navigation of inland steam-vessels; and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor, for the purposes of the investigation, any person conversant with maritime affairs or the navigation of inland steam-vessels and willing to act as assessor.

(*2*) Every person appointed under this section shall attend during the investigation and deliver his opinion in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act shall rest with the Court.

Inland Steam-vessels Bill.

Chapter IV.—Investigations into Casualties. Chapter V.—Suspension and Cancellation of Masters' and Engineers' certificates.

[Cf. Act V of 1883, s. 12 (*a*), & Ben. Act VII of 1879, s. 7.]

Power of Court as to evidence and regulating proceedings.

34. For the purpose of any investigation under this chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

(*a*) if the Court is a special Court—the same powers as are exerciseable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;

(*b*) if the Court is a principal Court of ordinary criminal jurisdiction or the Court of the District Magistrate—the same powers as are exerciseable respectively by either Court in the exercise of its criminal jurisdiction.

[See Act V of 1883, s. 15. Cf. Ben. Act VII of 1879.]

Power to arrest witnesses and cause entry and detention of vessels.

35. (*1*) If any Court making an investigation under this chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

(*2*) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

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(*3*) No person shall be detained by virtue of this section for more than forty-eight hours.

[See Act V of 1883, s. 15. Cf. Ben. Act VII of 1879, s. 7.]

Power to commit for trial and bind over witnesses.

36. (*1*) Whenever, in the course of any investigation, it appears that any person has committed, within the jurisdiction of any Court in British India, an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court; and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

(*2*) For the purposes of this section the Recorder of Rangoon shall, within the local limits of his ordinary civil jurisdiction, be deemed to be the High Court.

[See Act V of 1883, s. 16(1). Cf. Ben. Act VII of 1879, s. 7.]

Depositions.

37. (*1*) Whenever, in the course of any such trial, the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making an investigation under this chapter shall, if authenticated by the signature of the Magistrate or presiding Judge or Magistrate, be admissible in evidence on proof—

(*a*) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and

(*b*) that it was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(*2*) A certificate by the Magistrate or presiding Judge or Magistrate that the deposition was made in the presence of the accused and that he had that opportunity shall, unless the contrary be proved, be sufficient evidence that it was so made and that he had that opportunity.

[See Act V of 1883, s. 17 (1) Cf. Ben. Act VII of 1879, s. 7.]

Report by Court to Local Government.

38. The Court shall, in the case of every investigation under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

[See Act XVI of 1871, s. 1, Bom. Act IV of 1873, s. 2, Ben. Act I of 1868, s. 6.]

Power to investigate causes of explosions.

39. (*1*) Whenever any explosion occurs on board any inland steam-vessel, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

(*2*) The person or persons so directed may enter into and upon the steam-vessel, with all necessary workmen and labourers, and remove any portion of the steam-vessel, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what in their opinion was the cause of the explosion.

(*3*) Every such person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

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CHAPTER V.

SUSPENSION AND CANCELLATION OF MASTERS' AND ENGINEERS' CERTIFICATES.

[See Ben. Act VII of 1879, s. 8, and Cf. Act V of 1883, s. 20.]

Power for Local Government to suspend or cancel certificates in certain cases.

40. Any certificate granted under this Act to any master or engineer may be suspended or cancelled by the Local Government which granted it, or by any other Local Government, in the following cases, that is to say:—

(*a*) if, on any investigation made under this Act, the Court reports that the wreck or abandonment of, or loss or damage to, any inland steam-vessel, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct; or

(*b*) if he is proved to have been convicted of any non-bailable offence:

Provided that, in any case in which an investigation has been made, into a charge against any master or engineer, a certificate shall not be suspended or cancelled under clause (*a*) of this section unless the Local Government is satisfied that the holder of the

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certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section thirty or section thirty-one, as the case may be.

[See Act V of 1883, s. 21.]

Obligation to deliver up cancelled or suspended certificate.

41. Every master or engineer whose certificate is cancelled or suspended under section forty shall deliver it to such person as the Local Government which cancelled or suspended it directs.

[See Act V of 1883, s. 22.]

Report to other Local Governments.

42. If the Local Government which cancels or suspends, under section forty, a certificate is not the Local Government which granted the certificate, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to the Local Government which granted the certificate.

[See Act V of 1883, s. 24.]

Power to revoke cancellation or suspension and to grant new certificate.

43. (*1*) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section forty, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination.

CHAPTER VI.

PROTECTION OF INLAND STEAM-VESSELS FROM DANGER BY FIRE.

[New.
Cf. Act IV of 1879, s. 8, cl. (*a*).]

Power for Governor General in Council to declare dangerous goods.

44. The Governor General in Council may, by notification, declare what shall be deemed to be, for the purposes of this Act, dangerous goods.

[New.
Cf. Act IV of 1879, s. 8, cl.]

Carriage of dangerous goods.

45. (*1*) A person shall not take with him on board an inland steam-vessel, and a person shall not deliver or tender for carriage on an inland steam-vessel, any dangerous goods without giving notice of their nature to the owner or master of the steam-vessel, or, in the case of goods delivered or tendered for carriage, without distinctly marking their nature on the outside of the package containing the goods.

(*2*) The owner or master of an inland steam-vessel may refuse to carry upon an inland steam-vessel any luggage or parcel which he suspects to contain dangerous goods, and may require the luggage or parcel to be opened to ascertain the fact previously to carrying the same; and, in case any such luggage or parcel is received for the purpose of being carried in any inland steam-vessel, the owner or master of the vessel may stop the transit thereof until he is satisfied as to the nature of its contents.

[36 & 37 Vic., c. 85, s. 26.]

Power to throw overboard dangerous goods.

46. Where any dangerous goods have been sent or brought on board any inland steam-vessel in contravention of section forty-five, the owner or master of the steam-vessel may cause the goods to be thrown overboard, together with any package or receptacle in which they are contained, and neither the owner nor the master shall, in respect of his having so thrown the goods overboard, be subject to any liability, civil or criminal, in any Court.

[New.]

Power for Local Government to make rules for protection of inland steam-vessels from danger by explosion or fire.

47. (*1*) The Local Government may make rules for the protection of inland steam-vessels from danger by explosion or fire.

(*2*) Rules under this section may provide for the following among other matters, that is to say:—

(*a*) the conditions on, and subject to, which dangerous goods shall be carried on board inland steam-vessels;

(*b*) the precautions to be taken to prevent explosions or fires on board inland steam-vessels; and

(*c*) the apparatus for the purpose of extinguishing fires, which is to be kept on board inland steam-vessels.

(*3*) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VII.

PENALTIES AND LEGAL PROCEEDINGS.

Penalty for steam-vessel making a voyage in contravention of section 5.

48. If any inland steam-vessel makes a voyage in contravention of section five, the owner and master of the steam-vessel, or either of them, shall be punished with fine which may extend to one thousand rupees:

[Act XVI of 1871, s. 27. Bom. Act II of 1864, s. 5. Ben. Act V of 1862, s. 5.]

Provided that, if any steam-vessel is not in any place of survey when her certificate expires, no penalty shall be incurred for the want of a certificate in respect of any voyage which the steam-vessel may make from the place where she is when her certificate expires to the nearest place of survey.

[Act XVI of 1871, s. 12. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12 as amended by Ben. Act I of 1868.]

Liability of master or officer, when a licensed pilot, to lose his license.

49. If the master or any other officer on board of an inland steam-vessel which makes a voyage in contravention of section five is a licensed pilot, he shall be liable to have his license as a pilot taken away from him entirely, or suspended for any period by the Local Government, as the Local Government may see fit to order.

[Act XVI of 1871, s. 28. Bom. Act II of 1864, s. 6. Ben. Act V of 1862, s. 6.]

Penalty for neglect to affix certificate of survey.

50. The owner and master of any inland steam-vessel, or either of them, on which the certificate of survey granted under this Act is not kept affixed, in manner provided by section eleven, shall be punished with fine which may extend to one hundred rupees.

[Act XVI of 1871, s. 30. Bom. Act II of 1864, s. 11. Ben. Act V of 1862, s. 11.]

Penalty for neglect or refusal to deliver up certificate as required under section 14.

51. If the owner or master of an inland steam-vessel, without reasonable cause, neglects or refuses to deliver up a certificate as required under section

[Act XVI of 1871, s. 31. Bom. Act II of 1864, s. 12. Ben. Act V of 1862, s. 12.]

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fourteen, he shall be punished with fine which may extend to one hundred rupees.

[Cf. 25 & 26 Vic., c. 63, s. 5 (5), & Act I of 1859, s. 13. See also Act XVI of 1871, s. 32. Bom. Act IV of 1873, s. 19. Ben. Act I of 1868, s. 12. Ben. Act VII of 1879, s. 4.]

Penalty for serving, or engaging a person to serve, as master or engineer without certificate.

52. (*a*) Whoever, having been engaged to serve as master or first or only engineer of any inland steam-vessel to which section nineteen applies, proceeds on any voyage in that steam-vessel as master or first or only engineer without being at the time entitled to and possessed of the certificate required by that section, and

(*b*) Whoever employs any person as a master or first or only engineer of any inland steam-vessel to which section nineteen applies without ascertaining that he is at the time entitled to, and possessed of, a master's or an engineer's certificate, as the case may be, under this Act,

shall be punished with fine which may extend to five hundred rupees.

[See Act V of 1883, s. 6. Ben. Act VII of 1879, s. 6.]

Master failing to give notice as required by section 27.

53. If any master wilfully fails to give notice, as required by section twenty-seven, of any wreck, abandonment, damage, casualty or loss, he shall be punished with fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

[See Act V of 1883, s. 21.]

Master or engineer failing to deliver up cancelled or suspended certificate.

54. Every master or engineer whose certificate is cancelled or suspended under section forty, and who fails to deliver the certificate to such person as the Local Government which cancelled or suspended it directs, shall be punished with fine which may extend to five hundred rupees.

[Cf. Act IV of 1879, s. 30.]

Penalty for taking dangerous goods on board inland steam-vessels without notice.

55. Whoever, in contravention of section forty-five, takes with him on board any inland steam-vessel any dangerous goods, or delivers or tenders any such goods for the purpose of being carried on any inland steam-vessel, shall be punished with fine which may extend to two hundred rupees.

[Cf. Act I of 1859, s. 79.]

Penalty for misconduct endangering vessel or life or limb.

56. Any person employed or engaged in any capacity on board an inland steam-vessel—

(*a*) who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate wreck, destruction or material damage of the vessel, or tending immediately to endanger the life or limb of any person belonging to or on board the vessel, or

(*b*) who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate wreck, destruction or material damage, or for preserving any person belonging to or on board of the vessel from immediate danger to life or limb,

shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both.

[See Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Ben. Act V of 1862, s. 15.]

Distress of vessel.

57. Where the owner or master of a steam-vessel is convicted of an offence under this Act committed on board of, or in relation to, that steam-vessel, and sentenced to pay a fine, the Magistrate may, in addition to any other power he may have for the purpose of compelling payment of the fine, direct the amount thereof to be levied by distress and sale of the vessel and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

[See Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Ben. Act V of 1862, s. 15.]

Magistrates having jurisdiction.

58. A Magistrate other than a Presidency Magistrate, or a Magistrate whose powers are not less than those of a Magistrate of the first class, shall not try any offence under this Act, or the rules under it.

[See Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Ben. Act V of 1862, s. 15.]

Place of trial.

59. Whoever commits an offence against this Act or the rules under it shall be triable for the offence in any place in which he may be found or which the Local Government may, by notification, direct in this behalf, as well as in any other place in which he might be tried under any other law for the time being in force.

Saving of prosecutions under other Acts.

60. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules under it:

Provided that no person shall be punished twice for the same offence.

CHAPTER VIII.

MISCELLANEOUS.

Fees recoverable as fines.

61. All fees payable under this Act may be recovered as fines under this Act.

[Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Bengal Act of 1862, s. 15.]

Rules.

62. (*1*) All rules made under this Act by the Local Government shall be subject to the previous sanction of the Governor General in Council; and all powers conferred by this Act on the Local Government to make rules may be exercised from time to time as occasion requires.

(*2*) Every rule made by a Local Government under this Act shall, before being sanctioned by the Governor General in Council, be published in such manner, and for such time, as the Governor General in Council may from time to time direct, with a notice of the intention of the Local Government to apply for sanction thereto.

[Home Department Resolution No. 49, dated 8th November, 1882.]

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(3) The Local Government shall receive and submit for the consideration of the Governor General in Council any objection or suggestion which may be made by any person with respect to any rule published in pursuance of sub-section two, and the Governor General in Council or the Local Government may, if he or it thinks fit, amend the rule with a view to meeting the objection or suggestion without again publishing the rule:

Provided that a failure of the Local Government to submit for the consideration of the Governor General in Council any objection or suggestion made with respect to any rule published in pursuance of sub-section two shall not be deemed to invalidate any rule sanctioned by him under this Act.

(4) A rule sanctioned under this Act by the Governor General in Council shall not take effect until it has been published in the local official Gazette.

(5) Subject to the provisions of section two, sub-section two, every rule when so sanctioned and published shall have the force of law.

63. (1) Except in the case of the notification under section two, sub-section one, all powers to issue notifications conferred by this Act on the Governor General in Council or the Local Government may be exercised from time to time as occasion requires.

Notifications.

(2) A notification issued by the Governor General in Council or the Local Government under this Act shall not take effect until it has been published in the *Gazette of India* or the local official Gazette, as the case may be.

(3) Subject to the provisions of section two, sub-section two, every notification shall, when published in the *Gazette of India* or the local official Gazette, as the case may be, have the force of law.

THE FIRST SCHEDULE.

ACTS REPEALED.

(*See Section 3.*)

(*a*) *Act of the Governor General in Council.*

Number and year.	Subject or short title.	Extent of repeal.
XVI of 1871	The Burmese Steamer Survey Act.	The whole.

(*b*) *Acts of the Governor of Bombay in Council.*

Number and year.	Subject or short title.	Extent of repeal.
II of 1864 ...	To provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the presidency of Bombay.	The whole.
IV of 1873...	To amend Bombay Act II of 1864, providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam-vessels.	The whole.

(*c*) *Acts of the Lieutenant-Governor of Bengal in Council.*

Number and year.	Subject or short title.	Extent of repeal.
V of 1862 ...	To provide for the periodical survey of steam-vessels in the port of Calcutta.	The whole.
I of 1868 ...	The Steam-boat Survey Amendment Act, 1868.	So much as has not been repealed.
III of 1871...	To increase the fees for the survey of steam-vessels.	The whole.
VII of 1879	To provide for the proper management of certain inland steam-vessels.	The whole.

THE SECOND SCHEDULE.

(*See Section 9.*)

FORM OF SURVEYORS' CERTIFICATE.

Name of steam-vessel.	Tonnage.	When and where built, and material.	Power.	Description of engines and age.	Description of boilers and age.	Ground-tackle.	Condition of hull.	General equipment.	Name of master and number of officers and deck-crew and of engine-room crew.	When and where last coppered, repaired or cleaned.	Time if less than a year for which the hull, boilers, engines or any of the equipments will be sufficient.

We, the undersigned, declare that we have examined the above-named inland steam-vessel, and, to the best of our judgment, she and her engines, as shewn in the above statement, are fully sufficient for service for the period stated above.

A. B.
C. D.

THE THIRD SCHEDULE.

(*See Section 10.*)

RATES OF FEES.

	Tons.	Rs.
For steam-vessels of less than	200	20
" " 200 tons and up to	350	25
" " 350 " "	700	30
" " [illegible] " "	1,000	40
" " 1,000 " "	1,500	50
" " 1,500 " and upwards	...	60

STATEMENT OF OBJECTS AND REASONS.

IT has been found expedient to legislate in order to bring the law regarding the survey of sea-going steam-vessels into conformity with the law of England and to have one law on that subject applicable to the whole of British India. The present law regulating the survey of these vessels is contained in various local Acts, which also contain provisions relating to inland steam-vessels; and it was thought that it would be better to repeal the whole of these Acts and separately enact the parts relating to sea-going and inland steam-vessels than to repeal only so much as was necessary and leave the Acts in a mutilated and probably obscure form. Moreover, it was thought desirable that there should be one law regarding inland steamers relating to the whole of India. The present law is insufficient. Madras is unprovided for, and there is no law to govern steamers plying in the province of Assam. The present Bill has accordingly been prepared. It is drawn so that it may be brought into force along with the Indian Steamships Bill, and it repeals the seven local Acts, relating to steamships, which are now in force.

2. The Bill is divided into eight chapters. It deals with the survey of inland steam-vessels, the examination and grant of certificates to masters and engineers of those vessels, the investigation into casualties occurring to them, the suspension and cancellation of masters' and engineers' certificates, and the protection of the vessels from fire, and also prescribes the penalties for offences against the provisions of the Act, the jurisdiction of Magistrates and the place of trial.

3. In its main provisions the Bill follows the existing law so far as it goes. The points in which the law is changed and which require notice are as follows. The term for which the certificate of survey is to last is, by section 12 of the Bill, extended to one year, instead of six months as at present; but section 13 enables the Local Government, under certain circumstances, to cancel or suspend a certificate of survey. The power conferred by section 17 of the Bill of making rules to regulate a survey is somewhat larger than that given by the present law. The duties of each of the two surveyors are different, and the Bill therefore enables the Local Government to assign and regulate the duties of each. To meet local requirements, power is given in section 18 of the Bill to Local Governments to exempt any specified class of inland steam-vessels from all or any of the provisions relating to survey. In section 22 the Bill provides for the grant, without examination, of a certificate as engineer to a person who possesses a certificate granted under the Imperial Merchant Shipping Act or a certificate which is by the Merchant Shipping (Colonial) Act, 1869, equivalent thereto. It further provides in section 23 for the grant of certificates of service to engineers who have served for a certain time in certain steamships, or who have obtained the rank of first class assistant engineer in the service of Her Majesty. The provisions of Chapters IV and V of the Bill, regarding investigations into casualties and the cancelling and suspending of the certificates of masters and engineers, are taken, with slight modifications, from the Merchant Shipping Act, 1862, which was recently passed.

4. The whole of Chapter VI is new. At present, there is no way of securing that due precautions are taken against fire and against the carriage of dangerous goods on passenger steamers. Chapter VI follows to a certain extent the provisions of the Indian Railway Act, 1879. It confers on the Governor General in Council power to declare what shall be deemed to be, for the purposes of the Act, dangerous goods, and prohibits persons from taking those goods on board except under certain conditions. Following section 23 of the Imperial Merchant Shipping Act, 1873, it empowers (section 46) the master or owner of a vessel to throw overboard dangerous goods which have been brought on board without notice or without being marked as required by the Act. It also (section 47) enables the Local Government to make rules for the protection of inland steam-vessels from danger by explosion or fire.

5. In Chapter VII a section (56) has been inserted, providing a penalty for misconduct on the part of persons employed on board inland steam-vessels. This section is taken from the Indian Merchant Shipping Act, 1859, section 79, the penalty being modified so as to permit of an offence being punished by fine only.

6. Lastly, with regard to the rules which may be made under the Act, the Bill, section 62, secures that they shall be duly published for general information and criticism before they are sanctioned by the Governor General in Council.

7. A statement is annexed showing how the provisions of the Acts which are repealed by the Bill are dealt with in this Bill and the Indian Steamships Bill.

The 5th March, 1883.

C. P. ILBERT.

Repeal Table showing how the Acts repealed by the Inland Steam-vessels Bill are dealt with.

ACT XVI OF 1871 (the Burmese Steamer Survey Act).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Short title	This is formal	Ditto.
	Local extent	Ditto	Ditto.
2	Interpretation-clause	This is not reproduced, the definition of "Chief Commissioner" being deemed unnecessary, and the object of the definition of "Surveyors" being sufficiently provided for by section 18.	Ditto, see sec. 22.
3	Certain steam-vessels liable to be surveyed twice a year.	This is not reproduced, the scheme of the Bill being different from that of the Act. Cf. section 5.	Ditto, cf. s. 3.
4	Government to appoint Surveyors	This is reproduced, section 6	Ditto, sec. 9.
5	Authority to Surveyors to go on board for purpose of surveying.	This is reproduced, section 7	Ditto, sec. 10.
6	Surveyor when to grant certificate and declaration.	This is reproduced with modifications, sections 8 and 9.	Ditto, secs. 11 and 12.
7	No clearance to be given to steamer for voyage for which she has not got certificate.	This is not reproduced, being inapplicable in the case of inland steam-vessels.	This is reproduced, sec. 7.
8	Special survey may be ordered by Government for any British steamer.	This is not reproduced, being unnecessary as the Bill is drawn.	Ditto.
9	Power to make rules as to mode and time of conducting survey.	This is reproduced with modifications, section 17.	Ditto, sec. 21.
10	Fees to be paid for survey	This is reproduced, section 10	Ditto, sec. 13.
11	Certificate to be hung up in vessel	This is reproduced, section 11	Ditto, sec. 14 (1).
12	Certificate to be in force only six months.	This is reproduced with *twelve* months substituted for *six* months, section 12 (*a*)	Ditto, sec. 15 (*a*).
	Provision for vessels absent when certificate expires.	This is reproduced with modifications, section 48.	This is reproduced, sec. 5.
	Power to require delivery of expired certificate.	This is reproduced, section 14	Ditto, sec. 17 (1).
13	Power to cancel certificate and declaration.	The first paragraph and clauses (1), (2) and (3) are reproduced, section 13. The residue is *omitted as unnecessary.*	Ditto, sec. 16. Ditto.
14	Power to order a second survey	This is reproduced with modifications, section 16.	Ditto, sec. 19.
15	Power to investigate causes of explosions.	This is reproduced, section 39	Ditto, sec. 31.
16	Examinations to be instituted for Engineers.	This is not reproduced, being deemed unnecessary.	Ditto.
17	Examiners and rules of examination.	This is reproduced, section 20	Ditto with modifications, sec. 24.

ACT XVI OF 1871—continued.

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
18	Certificate of competency to be given	This is reproduced with slight modifications, section 22.	Ditto, sec. 25.
19	Certificate of service to be given	This is reproduced with modifications, section 23.	Ditto, sec. 26.
20	No certificate of survey if vessel have not a certificated engineer.	This is not reproduced, being deemed unnecessary as the Bill is drawn.	Ditto, see sec. 29.
21	Power to exempt private steam-vessels	This is reproduced, section 19(2).	This is not reproduced, being deemed unnecessary as section 29 is drawn.
22	Withdrawal of certificate	This is not reproduced, as the subject is provided for in Chapter IV of the Bill.	Ditto, see Chap. III of the Indian Merchant Shipping Act, 1883.
23	English certificate to be available	This is not reproduced, but see section 22(*b*)	This is not reproduced, but see sec. 29.
24	Certificate to be made in duplicate	Paragraph one is reproduced, section 24. The second paragraph is omitted, as it can be provided for by executive orders.	Ditto, sec. 27.
25	Copy of certificate to be delivered	This is reproduced, section 25.	Ditto, sec. 28.
26	Hindering survey or withholding required information.	This is not reproduced, being deemed unnecessary, see section 6(3) of Bill, and Penal Code, sections 176, 186 and 187.	Ditto, see sec. 9 (3).
27	Leaving without certificate and declaration.	This is reproduced with certain modifications, section 48.	Ditto, sec. 5.
28	Master or officer who is a licensed pilot attempting to take ship out of port without certificate.	This is reproduced with certain modifications, section 49.	Ditto, sec. 6.
29	Receiving unlawful fees for making survey.	This is not reproduced, see section 6(3) of Bill, and Penal Code, sections 161, *et seq.*	Ditto, see sec. 9 (3).
30	Neglect to hang up certificate and declaration.	This is reproduced, section 50.	Ditto, sec. 14 (2).
31	Refusal to comply with requirements of section 12.	This is reproduced, section 51.	Ditto, sec. 17 (2).
32	Plying without certificated engineer.	This is reproduced with modifications, section 52.	Ditto, sec. 30.
33	Offences under this Act by whom to be tried.	The first paragraph is reproduced with modifications, sections 58, 59. The second paragraph is reproduced, sections 57 and	Ditto, ss. 32, 33. As to fees see sec. 34.

BOMBAY ACT II OF 1864 (to provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the Presidency of Bombay).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Certain steam-vessels liable to be surveyed twice a year.	This, which has been amended by section 4 of Bombay Act IV of 1873, is not reproduced, the scheme of the Bill being different from that of the Act. Cf. section 5.	Ditto, Cf. secs. 3 and 4.
2	Government to appoint one or more surveyors.	This is reproduced, section 6 . . .	Ditto, sec. 9.
3	Authority to surveyors to board steamers for purpose of surveying.	This is reproduced, section 7 . . .	Ditto, sec. 10.
	Penalty for hindering them in making survey or withholding information.	This is not reproduced (see section 26 of Act XVI of 1871 *supra*).	Ditto.
4	Grant by surveyors of certificate and declaration.	This is reproduced with modifications, sections 8 and 9.	Ditto, secs. 11 and 12.
5	No clearance to steamer for voyage for which she has no certificate.	This is not reproduced (see section 7 of Act XVI of 1871 *supra*).	This is reproduced, sec. 7.
	Penalty for leaving port without a certificate.	This is reproduced with certain modifications, section 48.	Ditto, sec. 5.
6	Master or officer being licensed pilot attempting to take ship out of port without certificate liable to lose license.	This is reproduced with certain modifications, section 49.	Ditto, sec. 6.
7	Power to order special survey of British steamers in harbour of Bombay.	This is not reproduced, being unnecessary as Bill is drawn.	Ditto.
8	Power to make rules as to mode and time of conducting survey.	This is reproduced with modifications, section 17.	Ditto, sec. 21.
9	Penalty for surveyor receiving fees, &c., not provided by Act.	This is not reproduced (see section 29 of Act XVI of 1871 *supra*).	Ditto.
10	Fee for survey.	This (as amended by Bombay Act IV of 1873, section 11) is reproduced, section 10.	Ditto, sec. 13.
11	Certificate to be hung up in conspicuous part of vessel.	This is reproduced, section 11 . . .	Ditto, sec. 14 (1).
	Penalty for non-compliance . .	This is reproduced, section 50 . . .	Ditto, sec. 14 (2).
12	Duration of certificate . . .	This is produced with *twelve* months substituted for *six* months, section 12 (*a*).	Ditto, sec. 15 (*a*).
	Proviso as to absence when certificate expires.	This is reproduced with modifications, section 48.	This is reproduced, sec. 5.
	Power to require surrender of expired certificate.	This is reproduced, section 14 . .	Ditto, sec. 17 (1).
	Penalty for non-compliance . .	This is reproduced, section 51 . . .	Ditto, sec. 17 (2).
13	Power to revoke and cancel certificate and declaration.	The first paragraph and clauses (1), (2) and (3) are reproduced, section 13.	Ditto, sec. 16.
	Power to require survey . . .	This is omitted, being deemed unnecessary.	Ditto.
14	If correctness of survey doubted, Government may order second survey by other surveyors.	This is reproduced with modifications, section 16.	Ditto, sec. 19.

BOMBAY ACT II OF 1864—continued.

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
15	Sections of Merchant Shipping Act applied to steam-vessels proceeding to sea from ports in Bombay.	This is not reproduced, being inapplicable to inland steam-vessels.	This is reproduced, sec. 35.
16	Offences by whom tried . . .	This is reproduced with modifications, sections 58 and 59.	Ditto, secs. 32 and 33.
	Penalties and fees how recovered .	This is reproduced, sections 57 and 61.	As to fees see section 34.
17	Interpretation-clause	As to definition of "surveyors" see section 2 of Act XVI of 1871, *supra*. The definition of "survey" is not reproduced, being deemed unnecessary.	Ditto.

BOMBAY ACT IV OF 1873 (to amend Bombay Act No. II of 1864, providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam-vessels).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Construction of Act . . .	This is not reproduced, being unnecessary.	Ditto.
2	Commencement of Act . . .	This is formal	Ditto.
	Exemption from Part III . .	This is not reproduced, but see section 22 (*b*).	This is not reproduced, but see sec. 29.
3	Short title	This is formal.	Ditto.
4	Certain steam-vessels liable to be surveyed twice a year.	This is not reproduced (see section 1 of Bombay Act II of 1864, *supra*.)	Ditto.
5	Duty of surveyor on boarding steam-vessels.	This is not reproduced, being deemed unnecessary as the Bill is drawn.	Ditto.
6	Certificate to be delivered by surveyor.	This is not reproduced for same reason,	Ditto.
7	Penalty for receiving passengers on vessel not intended to carry them.	This is not reproduced for same reason.	Ditto.
8	Power to investigate cause of explosion or direct special survey.	This, so far as it relates to investigations into explosions, is reproduced, section 39. The rest is not reproduced, as it applies only to sea-going vessels, and is sufficiently provided for by the Indian Merchant Shipping Act, 1880.	Ditto, sec. 31. The rest is not reproduced, being sufficiently provided for by the Indian Merchant Shipping Act, 1880.
9	Order on receipt of report of investigation or survey.	This is not reproduced for same reason.	Ditto.
10	Expenses of investigation or survey by whom to be paid.	This is not reproduced for same reason.	Ditto.
11	Section substituted for section 10, Bombay Act II of 1864.	This is reproduced (see section 10 of Bombay Act II of 1864, *supra*).	Ditto.
12	Power to appoint ports of survey .	This is reproduced, section 6.	Ditto, sec. 9.

BOMBAY ACT IV OF 1873—*continued.*

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
13	Power to impose additional fees .	This is reproduced, section 10 (*b*).	Ditto, sec. 13 (*b*).
14	Examinations to be instituted for engineers.	This is not reproduced, being deemed unnecessary.	Ditto.
15	Examiners and rules of examination to be provided.	This is reproduced, section 20 . . .	Ditto with modifications, section 24.
16	Certificates of competency to be given.	This is reproduced with slight modifications, section 22.	Ditto, sec. 25.
17	Certificates of service to be given .	This is reproduced with modifications, section 23.	Ditto, sec. 26.
18	No clearance if vessel has not certificated engineer.	This is not reproduced, being inapplicable in the case of inland steam-vessels.	This is not reproduced, being deemed unnecessary as the Bill is drawn.
19	Penalty for plying without certificated engineer.	This is reproduced with modifications, section 52.	Ditto, sec. 30.
20	Power to exempt steam-vessels .	This is reproduced, section 19 (2) . .	This is not reproduced, being deemed unnecessary as section 29 is drawn.
21	Withdrawal of certificate . .	This is not reproduced (see section 22 of Act XVI of 1871, *supra*).	Ditto.
22	Certificate to be made in duplicate .	Paragraph one is reproduced, section 24 . The second paragraph is omitted, as it can be provided for by executive orders.	Ditto, sec. 27.
23	Copy of certificate to be delivered .	This is reproduced, section 25 . . .	Ditto, sec. 28.

BENGAL ACT V OF 1862 (to provide for the periodical survey of steam-vessels in the port of Calcutta).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Steam-vessels liable to be surveyed .	This is not reproduced, the scheme of the Bill being different from that of the Act. Cf. section 5.	Ditto. Cf. sec. 3.
2	Government to appoint surveyors .	This is reproduced, section 6 . . .	Ditto, sec. 9.
3	Authority to surveyors to board steamers for purpose of surveying.	This is reproduced, section 7 . . .	Ditto, sec. 10.
	Penalty for hindering surveyor or withholding information.	This is not reproduced (see section 26 of Act XVI of 1871, *supra*).	Ditto.
4	Grant of certificate and declaration .	This is reproduced with modifications, sections 8 and 9.	Ditto, secs. 11 and 12.

BENGAL ACT V OF 1862—*continued.*

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
5	No clearance to steamer for voyage for which she has not got surveyor's certificate.	The first portion of this section is not reproduced, being inapplicable in the case of inland steam-vessels. The second portion is reproduced with certain modifications, section 48.	This is reproduced, ss. 7 and 5.
6	Master or officer who is licensed pilot attempting to take ship out without certificate liable to lose license.	This is reproduced with certain modifications, section 49.	Ditto, sec. 6.
7	Power to order special survey of British steamer in survey port.	This is not reproduced, being unnecessary as the Bill is drawn.	Ditto.
8	Government may make rules as to mode and time of conducting survey.	This is reproduced with modifications, section 17.	Ditto, sec. 21.
9	Penalty for surveyors receiving unauthorised fee.	This is not reproduced (see section 29 of Act XVI of 1871, *supra*).	Ditto.
10	Fee for survey	This, as amended by Bengal Act III of 1871, is reproduced, section 10.	Ditto, sec. 13.
11	Certificates to be hung up in conspicuous part of vessel.	This is reproduced, section 11.	Ditto, sec. 14(1).
	Penalty for non-compliance . .	This is reproduced, section 50.	Ditto, sec. 14(2).
12	Duration of certificate . . .	This is reproduced with *twelve* months substituted for *six* months, section 12 (*a*).	Ditto, sec. 15 (*a*).
	Proviso as to vessel absent when certificate expires.	This, as amended by Bengal Act I of 1868, is reproduced with modifications, section 48.	This is reproduced, sec. 5.
	Returning of expired or revoked certificate.	This is reproduced, section 14.	Ditto, sec. 17(1).
	Penalty for non-compliance . .	This is reproduced, section 51.	Ditto, sec. 17(2).
13	Power to cancel certificate and declaration.	The first paragraph and clauses (1), (2) and (3) are reproduced, section 13; the rest is omitted, being deemed unnecessary.	Ditto, sec. 16, ditto.
14	When Government may order second survey by other surveyors.	This is reproduced with modifications, section 16.	Ditto, sec. 19.
15	Offences under Act by whom tried .	The first part is reproduced with modifications, sections 58 and 59. The second part, relating to distress of ships and recovery of fees, is reproduced, sections 57 and 61.	Ditto as to first part, ss. 32 and 33. As to fees, see sec. 34.
16	Surveyor includes surveyor acting alone.	This is not reproduced (see section 2 of Act XVI of 1871, *supra*).	Ditto.

BENGAL ACT I OF 1868 (to make further provision for the survey of steam-vessels plying within the provinces subject to the Lieutenant-Governor of Bengal).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Steam-vessels liable to survey . .	This is not reproduced (see section 1 of Bengal Act V of 1862, *supra*).	Ditto.
2	Power to appoint ports of survey .	This is reproduced, section 6.	Ditto, sec. 9.
3	Addition to sections 3, 5, 6 and 7 of Bengal Act V of 1862.	This is not reproduced, being unnecessary in Bill as drawn.	Ditto.

BENGAL ACT I OF 1868—*continued.*

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
4	Amendment of section 2 of Act V of 1862.	This is reproduced (see section 12 of Bengal Act V of 1862, *supra*.)	Ditto.
5	Power to impose additional fees .	This is reproduced, section 10 (*b*).	Ditto, sec. 13 (*b*).
6	Power to investigate causes of explosion.	This is reproduced, section 39.	Ditto, sec. 31.
7	Examination of engineers . .	This is not reproduced (see section 16 of Act XVI of 1871, *supra*.)	Ditto.
8	Examiners and rules of examination to be provided.	This is reproduced, section 20.	Ditto with modifications, sec. 24.
9	Certificate of competency to be given	This is reproduced with slight modifications, section 22.	Ditto, sec. 25.
10	Certificate of service to be given .	This is reproduced with modifications, section 23.	Ditto, sec. 26.
11	No certificate of survey if vessel has no certificated engineer.	This is not reproduced, being deemed unnecessary as the Bill is drawn.	Ditto.
12	Penalty for plying without certificated engineer.	This is reproduced with modifications, section 52.	Ditto, sec. 30.
13	Power to exempt private steam-vessels	This is reproduced, section 19 (2) . .	This is not reproduced, being deemed unnecessary as section 29 is drawn.
14	Withdrawal of certificate . .	This is not reproduced (see section 22 of Act XVI of 1871, *supra*.)	Ditto.
15	English certificates to be available .	This is not reproduced, but see section 22 (*b*)	This is not reproduced, but see section 29.
16	Certificates to be made in duplicate .	Paragraph 1 is reproduced, section 24. The second paragraph 2 is omitted, as it can be provided for by executive orders.	Ditto, sec. 27.
17	Copy of certificate to be delivered .	This is reproduced, section 25.	Ditto, sec. 28.
18	Short title	This is formal.	Ditto.
19	Commencement. Repealed by Act XII of 1873.		
20	Construction	This is not reproduced, being unnecessary.	Ditto.

BENGAL ACT III OF 1871 (to increase the fees for the survey of steam-vessels).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Increase of fees	This is reproduced (see section 10 of Bengal Act V of 1862, *supra*.)	Ditto.
2	Construction	This is not reproduced, being unnecessary.	

BENGAL ACT VII OF 1879 (to provide for the proper management of certain inland steam-vessels).

Section.	Marginal Note.	How dealt with.	
		The Inland Steam-vessels Bill.	The Indian Steam-ships Bill.
1	Definition of inland steam-vessels .	This is reproduced with a modification, section 4 (4)	None of the provisions of this Act are reproduced in the Bill, as they are already provided for fully in the Indian Merchant Shipping Act, No. 1 of 1859, and the Indian Merchant Shipping Act, 1883.
2	Local Government may make rules .	This is reproduced with modifications, section 20.	
3	Commanders to have certificates .	This is not reproduced, but cf. section 19 (1).	
4	Penalty on owner if vessel is commanded by uncertificated commander	This is reproduced with modifications, section 52.	
5	Commanders deemed pilots under Indian Ports Act.	This is reproduced, section 26.	
6	Notice of accidents to be given to Local Government.	This is reproduced with modifications, sections 27 and 53.	
7	Investigation of accident . .	The subject-matter of this section is provided for at length in Chapter IV of the Bill.	
8	Local Government may suspend or cancel certificate.	The subject-matter of this section is reproduced at greater length in sections 40 *et seq.*	
9	Proceedings to enforce penalty when to be taken.	This is not reproduced, being no longer necessary.	
10	Commencement	This is not reproduced, being unnecessary.	

R. J. CROSTHWAITE,
Addl. Secretary to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th March, 1883, and was referred to a Select Committee :—

No. 7 OF 1883.

THE INDIAN STEAMSHIPS BILL, 1883.

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Indian Steamships Bill.

Chapter II.—Survey of Steamships.

A Bill to amend the law relating to the Survey of Steamships and the Grant of Certificates to Engineers of those Ships.

WHEREAS it is expedient to amend the law relating to the survey of steamships and the grant of certificates to engineers of those ships; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Indian Steamships Act, 1883; Short title.

(*2*) It extends to the whole of British India; Extent.

(*3*) And it shall come into force on such day as the Governor General in Council by notification in the official Gazette directs. Commencement.

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

(*1*) "steamship" means every description of vessel used in navigation and propelled wholly or in part by the agency of steam: and

(*2*) "passenger" includes any person carried in a steamship other than the master and crew and the owner, his family and servants.

CHAPTER II.

SURVEY OF STEAMSHIPS.

[18 Vic., ss. 291 (see also 30 Vic., c. 16, also Act of 1871, Bombay Act of 1864, amended Bombay Act of 1873, Bengal Act of 1862, amended Bengal Act of 1868,

3. A steamship shall not carry more than twelve passengers between places in British India, and a British steamship shall not carry more than twelve passengers to or from any place in British India from or to any place out of British India, unless she is furnished with a certificate of survey under this chapter then in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed. Steamship not to carry passengers unless furnished with certificate under Act.

[Bom. Act of 1864, s. paragraph

4. Nothing in section three shall apply to— Exception of certain steamships from provisions of section 3.

(*a*) any steamship furnished with a certificate of survey, granted by the Board of Trade or any British Colonial Government, which is then in force and applicable to the voyage on which that steamship has proceeded or is about to proceed, or the service on which she has been or is about to be employed, unless there is reason to believe that the steamship has, subsequently to the grant of the certificate, sustained injury or damage, or been found unseaworthy or otherwise inefficient; or

(*b*) any inland steam-vessel as defined in the Inland Steam-vessels Act, 1883; or

(*c*) any steamship belonging to, or in the service of, Her Majesty or the Government of India, or belonging to any foreign Prince or State.

[Act XVI of 1871, s. 27, Bom. Act of 1864, s. Bom. Act of 1862, s. 5.]

5. If any steamship carries or attempts to carry passengers in contravention of section three, the owner and master of the steamship, or either of them, shall be punished with fine which may extend to one thousand rupees: Penalty for carrying passengers in contravention of section 3.

[Act XVI of 1871, s. 12. Bom. Act II of 1864, s. 12. Ben. Act of 1862, s. 12.]

Provided that, if any steamship is not in any port of survey when her certificate expires, no penalty shall be incurred for the want of a certificate until she first begins to carry passengers after her next subsequent arrival at some port of survey.

[Act XVI of 1871, s. 28, Bom. Act of 1864, s. Ben. Act of 1862, s. 6.]

6. If the master or any other officer of any steamship which carries or attempts to carry passengers in contravention of section three, is a licensed pilot, he shall be liable to have his license as a pilot cancelled or suspended for any period by the Local Government, as the Local Government may see fit to order. If master or officer of ship carrying passengers in contravention of section 3 is a licensed pilot, he is liable to loss his license.

[Act XVI 1871, s. Bom. Act of 1864, s. Ben. Act of 1862, s. 7, 17 & 18 Vic., c. 104, s. 318.]

7. No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned to any steamship for which a certificate of survey is required by section three, until after the production by the owner or master thereof of a certificate under this Act then in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed. Port-clearance not to be granted until certificate of survey produced.

8. If any steamship for which a certificate of survey is required by section three leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the ship may detain her until she is duly furnished with the certificate. Power to detain ship not furnished with certificate.

9. (*1*) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such ports within the territories under its administration as it may, from time to time appoint to be ports of survey. Appointment of surveyors and ports of survey.

(*2*) Every surveyor so appointed may be suspended or removed by the Local Government which appointed him.

(*3*) Every surveyor so appointed shall, for the purposes of the survey, be deemed to be a public servant within the meaning of the Indian Penal Code. XLV 1860.

Indian Steamships Bill.

Chapter II.—Survey of Steamships.

[Act XVI of 1871, s. 5. Bom. Act II of 1864, s. 3. Ben. Act V of 1862, s. 3. 17 & 18 Vic., c. 104, s. 306.]

10. (*1*) For the purposes of a survey under this Act, the surveyors appointed under section nine may, at any reasonable time, go on board any steamship, and may inspect the steamship and every part thereof, and the machinery, equipments or articles on board thereof: Powers of surveyors.

Provided that they shall not unnecessarily hinder the loading or unloading of the steamship, or unnecessarily detain or delay her from proceeding on any voyage.

(*2*) The owner, master and officers of the steamship shall afford to the surveyors all reasonable facilities for a survey, and all such information respecting the steamship and her machinery and equipments, or any part thereof, respectively, as they may reasonably require.

[Act XVI of 1871, s. 6. Bom. Act II of 1864, s. 4. Ben. Act V of 1862, s. 4. 17 & 18 Vic., c. 104, ss. 308, 12.]

11. Every survey under this Act shall be made by not less than two surveyors, and when the survey is completed, the surveyors making it shall forthwith, if each of them is satisfied that the steamship is sufficient, so far as it is his duty to survey her, for the service on which it is intended to employ it, grant to the owner or master of the steamship surveyed, on payment by him of the fees hereinafter mentioned, a certificate of survey under this Act. Grant of certificate by surveyors.

[Act XVI of 1871, s. 6. Bom. Act II of 1864, s. 4. Ben. Act V of 1862, s. 4.]

12. Every certificate of survey granted under this Act shall be signed by each of the surveyors granting it, and shall contain a statement of the particulars specified, and be framed, as nearly as the circumstances of each case will admit, in the form set forth in the first schedule hereto annexed, or shall contain a statement of such other particulars, or be framed in such other form, as the Local Government may, from time to time, by rule, prescribe. Form of certificate of survey.

[Act XVI of 1871, s. 10. Bom. Act II of 1864, s. 10, as amended by Act IV of 1868, s. 11. Ben. Act V of 1862, s. 10, as amended by Act III of 1871, s. 1. 17 & 18 Vic., c. 104, s. 314. Cf. Bom. Act IV of 1878, s. 18, & Ben.

13. For every survey made under this Act the owner or master of the steamship surveyed shall pay to each of the surveyors making the survey— Fees for survey.

(*a*) a fee calculated on the tonnage of the ship according to the rates in the second schedule hereto annexed, or according to such other rates as the Local Government may from time to time by notification prescribe, and

(*b*) when the survey is made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense, if any, of the journey of the surveyors to the port, as the Local Government may, from time to time, by notification in the official Gazette, prescribe.

[Act XVI of 1871, s. 11. Bom. Act II of 1864, s. 11.

14. (*1*) The owner or master of every steamship for which a certificate of survey has been granted under this Act shall Certificate to be affixed in conspicuous part of ship.

forthwith, on the receipt of the certificate, cause it to be affixed, and kept affixed so long as it remains in force and the ship is in use, on some conspicuous part of the ship where it may be easily read by all persons on board thereof. [Bom. Act V of 1862, s. 11, 17 & 18 Vic., c. 104, s. 3

(*2*) The owner and master of every steamship (or either of them), on which the certificate of survey granted under this Act is not kept affixed in manner provided by this section shall be punished with fine which may extend to one hundred rupees. [Act XVI of 1871, s. 30, Bom. Act II of 1864, s. 1 Ben. Act V of 1862, s. 11.

15. A certificate granted under this Act shall not be in force— Term of certificates.

(*a*) after the expiration of twelve months from the date thereof; or

(*b*) after the expiration of the period, if less than a year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or

(*c*) after notice has been given by the Local Government to the owner, agent or master of the steamship to which the certificate relates, that the Local Government has cancelled or suspended it. [Act XVI of 1871, s. 13, Bom. Act II of 1864, s. Ben. Act V of 1862, s. 12, 17 & 18 Vic., c. 104, s. 315.]

16. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe— Cancellation or suspension of certificate by Local Government.

(*a*) that the declaration in the certificate of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steamship has been fraudulently or erroneously made; or [Bom. Act of 1864, s. 13. Ben. Act V of 1862, s. 13, Act XVI of 1871, s. 13, 17 & 18 Vic., c. 104, s. 316.]

(*b*) that the certificate has otherwise been issued upon false or erroneous information; or

(*c*) that, since the granting of the certificate, the hull, boilers, engines or any of the equipments of the steamship have sustained any injury, or have otherwise become insufficient.

17. (*1*) The Local Government may require any certificate of survey which has expired, or has been cancelled or suspended, to be delivered up to such person as it directs. Power to require delivery of expired or cancelled certificate. [Act XVI 1871, s. Bom. Act of 1864, Ben. Act of 1862, s. 1

(*2*) If the owner or master, without reasonable cause, neglects or refuses to deliver up a certificate as required under this section, he shall be punished with fine which may extend to one hundred rupees. [Act XVI 1871, s. Bom. Act of 1864, 12. Ben. Act of 1862, 12.]

18. If the Local Government which cancels or suspends under section sixteen a certificate is not the Local Government of the place where the certificate was granted, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government of the place where the certificate was granted. Report to be made of cancellation or suspension of certain certificates.

Indian Steamships Bill.

Chapter II.—Survey of Steamships. Chapter III.—Examination and Certificates of Engineers.

[Act XVI of 1871, s. 14 Bom. Act II of 1864, s. 14. Ben. Act V of 1862, s. 14. Cf. the appeal given by 39 & 40 Vic., c. 80, s. 14.]

Power to order a second survey.

19. (*1*) If the surveyors making a survey under this Act refuse to give a certificate, or give a certificate with which the owner or master of the steamship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under section nine to survey the steamship.

(*2*) The surveyors so directed shall forthwith survey the steamship, and may, after the survey, either refuse to give a certificate or give such certificate as under the circumstances seems to them proper, and their decision shall be final.

(*3*) Every survey made under this section shall be made subject to all the provisions and rules both as to the payment of fees and otherwise which are applicable to surveys made in ordinary cases under this Act.

[See 39 & 40 Vic., c. 80, s. 19.]

Survey of foreign steamships.

20. When a foreign steamship requires to be furnished with a certificate of survey under this Act, and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port of survey, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Act:

Provided that this section shall not apply in the case of an official survey at any foreign port with respect to which Her Majesty has by order in Council directed that section 19 of the Imperial Merchant Shipping Act, 1876, shall not apply.

[See 39 & 40 Vic., c. 80, s. 19.]

[Cf. Act XVI of 1871, s. 9. Bom. Act II of 1864, s. 8. Ben. Act V of 1862, s. 8. 17 & 18 Vic., c. 104, ss. 103-13.]

Local Government to make rules as to survey.

21. (*1*) The Local Government may, from time to time, make rules to regulate the making of surveys under this Act.

(*2*) Rules under this section may, among other matters,

(*a*) declare the times and places at which, and the manner in which, surveys are to be made;

(*b*) assign and regulate the duties of each of the surveyors making a survey; and

(*c*) declare the form in which certificates of survey granted under this Act are to be framed, and the nature of the particulars which are to be stated therein.

[New. But cf. definition of "Surveyors" in Act XVI of 1871, s. 2. Bom. Act II of 1864, s. 17. Ben. Act V of 1862, s. 16.]

Power for Local Government to exempt certain steamships.

22. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification, declare that all or any of the provisions of this chapter shall not apply in the case of any specified class of steamships, or shall apply to them with such modifications as the Local Government may prescribe.

CHAPTER III.

EXAMINATION AND CERTIFICATES OF ENGINEERS.

Certificates to be of two grades.

23. Engineers' certificates shall be of two grades, namely, "first class engineers' certificates" and "second class engineers' certificates." [Cf. 25 & 26 Vic., c. 63, s. 5 (1).]

Examiners to be appointed and rules of examination made.

24. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as engineers, and, subject to the control of the Governor General in Council, make rules—

(*a*) for the conduct of these examinations, and as to the qualifications to be respectively required of persons desirous of obtaining "first class engineers' certificates" and "second class engineers' certificates"; and

(*b*) for the fees to be paid by all applicants for examination.

[Cf. 25 & 26 Vic., c. 63, ss. 6 & 7. Cf. Act XVI of 1871, s. 17. Bom. Act IV of 1873, s. 15. Ben. Act I of 1868, s. 8.]

Grant of certificates of competency.

25. (*1*) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first class engineer or as a second class engineer, as the case may be:

Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

(*2*) Every certificate granted under this section shall be in such form as the Local Government may from time to time by rule prescribe.

[Cf. 25 & 26 Vic., c. 63, s. 8. Cf. Act XVI of 1871, s. 18. Bom. Act IV of 1873, s. 16. Ben. Act I of 1868, s. 9.]

Grant of certificates of service.

26. (*1*) The Local Government shall grant certificates of service as engineers, differing in form from certificates of competency, as follows, namely:—

(*a*) To every person who, before the passing of this Act, has served for a period of not less than one year as first engineer in any foreign-going steamship having engines of one hundred nominal horse-power or upwards, or who has attained, or shall attain, the rank of engineer in the service of Her Majesty—a "first class engineers' certificate" of service:

(*b*) To every person who, before the passing of this Act, has served for a period of not less than one year as second engineer in any foreign-going steamship having engines of one hundred nominal horse-power or upwards, or as first or only engineer in any other steamship, or who has obtained or shall obtain the rank of first class assistant engineer in the service of Her Majesty—a "second class engineers' certificate" of service:

Provided that a certificate of service shall not be granted to any person until he—

[Cf. 25 & 26 Vic., c., 13, s. 9. Cf. Act XVI of 1871, s. 19. Bom. Act IV of 1873, s. 17. Ben. Act I of 1868, s. 10.]

Indian Steamships Bill.

Chapter III.—Examination and Certificates of Engineers.

(*c*) has proved himself to have served or attained such rank as aforesaid, and has given his name and a full and satisfactory account of the length and nature of his previous services, and

(*d*) has paid such fees as the Local Government may, by a notification in the official Gazette, from time to time direct.

(*2*) Each of such certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is granted, and shall be in such form as the Local Government may from time to time, by rule, prescribe.

[Cf. Act XVI of 1871, s. 24. Bom. Act IV of 1873, s. 22. Ben. Act I of 1868, s. 16.]

27. Every certificate granted under this chapter shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Local Government may from time to time by rule prescribe.

Certificates to be made in duplicate.

[Act XVI of 1871, s. 25. Bom. Act IV of 1873, s. 23. Ben. Act I of 1868, s. 17.]

28. Whenever an engineer proves to the satisfaction of the Local Government which granted his certificate that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided under section twenty-seven, he appears to be entitled shall be granted to him, and shall have all the effect of the original.

Copy of certificate to be granted in certain cases.

[25 & 26 Vic., c. 63, s. 3, (3) & (4), Act I of 1859, s. 18. Act XVI of 1871, s. 30. Bom. Act IV of 1873, s. 18. Act I of 1868, s. 11, so far as how-ever they lay down a different rule from that laid down in 17 & 18 Vic., c. 104, s. 92 (2), 25 & 26 Vic., c. 63, s. 11.]

29. (*1*) A foreign-going steamship having engines of one hundred nominal horse-power or upwards shall not go to sea from any port in British India unless she has as her first and second engineers two certificated engineers, the first possessing a "first class engineers' certificate" and the second a "second class engineers' certificate" or a certificate of the higher grade, granted under this Act or the Imperial Merchant Shipping Act, for the time being in force, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

Number of engineers and nature of certificates necessary in case of different steamships.

(*2*) A home-trade steamship of a burden exceeding three hundred tons shall not go to sea from any port in British India unless she has as her only or first engineer an engineer possessing a second class engineers' certificate or a certificate of the higher grade, of the nature referred to in sub-section one.

(*3*) Nothing in this section shall apply to any steamship to which section 19 of the Inland Steam-vessels Act is applicable.

[See Act I of 1859, s. 118.]

(*4*) In this section "foreign-going steamship" includes every steamship employed in trading between any port of British India and any port or place not in British India, nor on the continent of India, nor in the island of Ceylon; and

[See Act I of 1859, s. 118.]

"home-trade steamship" includes every steamship employed in trading between any ports of British India, or between any port of British India and any port or place on the continent of British India, or in the island of Ceylon.

[25 & 26 Vic., c. 63, s. 5 (5). Cf. Act XVI of 1871, s. 33. Bom. Act IV of 1873, s. 19. Ben. Act I of 1868, s. 12.]

30. (*a*) Whoever, having been engaged to serve in any of the capacities referred to in section twenty-nine in any steamship to which that section applies, goes to sea in that capacity without being at the time entitled to, and possessed of, the certificate required by that section, and

Penalty for serving, or engaging a person to serve, as engineer without a certificate.

(*b*) whoever employs any person in any capacity referred to in section twenty-nine in any steamship to which that section applies, without ascertaining that he is at the time entitled to, and possessed of, the certificate required by that section,

shall be punished with fine which may extend to five hundred rupees.

Investigation into Explosions.

[1871, s. 15. Bom. Act IV of 1873, s. 8. Ben. Act I of 1868, s. 6.]

31. (*1*) Whenever any explosion occurs on board any steamship for which a certificate of survey is required under this Act, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

Power to investigate causes of explosions.

(*2*) The person or persons so directed may enter into and upon the steamship with all necessary workmen and labourers, and remove any portion of the steamship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in their opinion, was the cause of the explosion.

(*3*) Every such person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

XLV of 1860.

Miscellaneous.

[Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Ben. Act V of 1862, s. 15.]

32. A Magistrate other than a Presidency Magistrate, or a Magistrate whose powers are not less than those of a Magistrate of the first class, shall not try any offence under this Act.

Magistrate having jurisdiction.

[See Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Ben. Act V of 1862, s. 15.]

33. Whoever commits an offence against this Act shall be triable for the offence in any place in which he may be found, or which the Local Government may from time to time, by notification in the official Gazette, direct in this behalf, as well as in any other place in which he might be tried under any other law for the time being in force.

Place of trial.

[Act XVI of 1871, s. 33. Bom. Act II of 1864, s. 16. Ben. Act V of 1862, s. 15.]

34. All fees payable, and all fines imposed, under the provisions of this Act may be recovered in like manner as a fine may be recovered under the Indian Merchant Shipping Act, Act I of 1859, section 113.

Fees recoverable as fines.

Indian Steamships Bill.

Schedule I.—Form of Surveyor's Certificate and Declaration and Schedule II.—Rates of Fees.

[See Bom. Act II of 1864, s. 15.] 17 & 18 Vic., c.104.

35. Sections 292, 293 and 294 of the Imperial Merchant Shipping Act, 1854, and the table marked S. in the schedule of that Act shall apply to all steamships going to sea from any port or place in the Presidency of Bombay.

Sections of Imperial Merchant Shipping Act applied to steamships going to sea from Presidency of Bombay.

17 & 18 Vic., c. 104.

In calculating the penalties mentioned in section 293 of the Imperial Merchant Shipping Act, 1854, ten rupees shall be taken as the equivalent of one pound.

THE FIRST SCHEDULE.

(*See section 12.*)

FORM OF SURVEYORS' CERTIFICATE AND DECLARATION.

Name of steam-vessel.	Tonnage.	When and where built, and material.	Power.	Description of engines and age.	Description of boilers and age.	Ground-tackle.	Condition of hull.	General equipment	Name of master and number of officers and deck crew and of engineers and engine-room crew.	When and where last coppered, repaired or cleaned.	Limits (if any) beyond which the vessel is not fit to ply.	Time if less than a year for which the hull, boilers, engines or any of the equipments will be sufficient.

We, the undersigned, declare that we have examined the abovenamed steamship, and, to the best of our judgment, she and her engines, as shown in the above statement, are fully sufficient for the service on which it is intended to employ her, that is to say (*as the case may be*), and that the certificate (*or* certificates *as the case may be*) of the engineer (*or* engineers *as the case may be*) of the said steamship is (*or* are) such or in such condition as is required by this Act.

A. B.

C. D.

THE SECOND SCHEDULE.

(*See section 13.*)

RATES OF FEES.

	Tons.	Rs.
For steamships of less than	200	20
„ „ 200 tons and up to	350	25
„ „ 350 „ „ „	700	30
„ „ 700 „ „ „	1,000	40
„ „ 1,000 „ „ „	1,500	50
„ „ 1,500 „ and upwards	...	60

STATEMENT OF OBJECTS AND REASONS.

A CASE having occurred in Bombay which showed that the Bombay law relating to the survey of steamships was not in harmony with the English law on the subject, it was thought desirable to amend the Bombay law. When, however, the question of legislation came to be considered, it appeared that there were no less than seven local Acts relating to steamships. Bombay, Bengal and Burma each had its special law regulating the survey of these ships, while there was no law on the subject in the Presidency of Madras. The multiplicity of laws relating to the survey of steamships, it was thought, could not but be inconvenient to shipowners whose ships traded between different Provinces. For instance, Act XVI of 1871, which is in force in Burma, requires every steam-vessel plying on any of the rivers or waters of British Burma, except steam-vessels plying between a port in British Burma and a port not in British India, to be surveyed twice a year. In the same way, the Bombay Act II of 1864, as amended by Bombay Act IV of 1873, requires every British steam-vessel, not holding a Board of Trade, British Indian or Colonial certificate, carrying passengers between any port of the Presidency of Bombay and any other port, to be surveyed twice a year, and the Bengal Act V of 1862, as amended by Act I of 1868, also requires the survey twice in every year of all steam-vessels plying on any of the rivers or waters within the Province of Bengal, except steam-vessels which may ply between some port within that Province and some port not in British India. Under these laws, a steam-vessel which was surveyed in Bombay might, apparently, be required to undergo a fresh survey on arrival in Calcutta, and another survey on arrival at a port in Burma. As legislation is necessary, it is, therefore, clearly expedient to have one uniform law relating to the survey of steam-vessels applicable to the whole of British India.

2. Besides providing for the survey of steam-vessels, the local Acts provide also for the examination of, and the grant of certificates to, engineers, and for holding investigations into explosions occurring on board steam-vessels. In these matters uniformity in the law is desirable.

3. After consulting the Local Governments concerned, the Government of India has decided to legislate so as to provide one law relating to the survey of sea-going steamships, the examination and grant of certificates to engineers of those ships, and the investigation into explosions occurring thereon. The present Bill has accordingly been prepared. It was, however, found at the same time necessary to legislate in like manner for steam-vessels plying on rivers and inland waters, inasmuch as the provisions of the local Acts related, to a certain extent, to those vessels as well as to sea-going vessels. With this view, a separate Bill—the Inland Steam-vessels Bill—has been prepared, so as to keep the law relating to merchant shipping—a law liable to be affected by legislation in England—entirely separate from the law regulating inland steam-vessels, which is a matter solely within the scope of Indian legislation.

4. The present Bill is divided into three chapters. The first chapter is purely formal. The second deals with the subject of the survey of steamships. It provides that a steamship shall not carry more than twelve passengers between places in British India, and that a British steamship shall not carry more than twelve passengers to or from any place in British India from or to any foreign port, unless she is furnished with a certificate of survey. It exempts steamships furnished with Board of Trade certificates or Colonial certificates, provides for the appointment of surveyors and ports of survey, prescribes the powers of surveyors and the conditions on which they are to grant certificates. It provides for the fees which are to be paid for certificates and the term for which they are to last, and it confers on the Local Government the power, under certain circumstances, of cancelling or suspending a certificate. It further enables the Local Government to make rules to regulate the time, place and manner in which surveys shall be made, and to assign and regulate the duties of each of the surveyors making it. To meet local requirements, a section (22) is also added, enabling the Local Government to exempt any specified class of steamships from all or any of the provisions of the chapter.

5. The principal changes introduced in the law by the provisions contained the second chapter are as follows:—

Section 3 follows the English law (39 & 40 Vic., cap. 80, section 16), and only requires a survey in the case of steamships carrying more than twelve passengers.

The law as at present in force in Bengal and Burma is thus amended in an important point, and cargo steamers are exempted from survey.

Another change in the law is made by section 15 of the Bill, which provides that a certificate of survey shall not remain in force for more than twelve months. At present, the law requires a survey twice a year, but it is thought that the power which the Local Government has under section 16 of the Bill of cancelling or suspending a certificate renders a survey every six months unnecessary.

Section 20 of the Bill enacts the provisions (regarding the grant of certificates of survey to foreign ships) of section 19, 39 & 40 Vic., cap. 80. It is considered that these provisions will be of use in India in the case of foreign ships which have been officially surveyed at a foreign port.

6. The third chapter of the Bill deals with the examination of, and grant of certificates to, engineers. It also contains a provision as to inquiries into cases of explosion, and miscellaneous sections regulating the jurisdiction and place of trial in cases of offences under the Act, and applies to steamships going to sea from a place in the Bombay Presidency, the provisions as to boats for sea-going ships of the Imperial Merchant Shipping Act, 1854.

7. Following the Imperial Merchant Shipping Act Amendment Act, 1862, the chapter provides that there are to be two grades of engineers—first class engineers and second class engineers. The Local Government is empowered to appoint examiners, and to make rules as to the conduct of the examinations, the qualifications to be required from the applicants and the fees to be paid by them. Certificates will be granted to those who, by the result of the examination, show themselves to be possessed of the necessary qualifications.

8. This chapter also provides (section 26) for the grant of certificates of service as engineers. A first class certificate may be granted to a person who has served, before the passing of the Act, for a period of not less than one year as first engineer in any foreign-going steamship carrying engines of one hundred nominal horse-power or upwards, or who has attained, or shall attain, the rank of engineer in Her Majesty's service.

A second class certificate may be granted to a person who has, before the passing of the Act, served as second engineer in such a steamship or as sole engineer in a smaller one, or who obtains the rank of first class assistant engineer in Her Majesty's service. It is doubtful whether it is necessary or expedient to provide for the grant of certificates of service. The attention of the Local Governments concerned will be drawn to the point.

9. It is further provided (section 29), that foreign-going steamships shall not proceed to sea without engineers possessing certain specified certificates. Similar provisions are made for home-trade steamships, the steamships which are inland steam-vessels within the meaning of the Inland Steam-vessels Act being excepted.

10. The provisions of section 31, as to investigations into explosions, require no comment; and the last four sections of the Bill merely re-enact the existing law as to jurisdiction, the place of trial, the recovery of fees and fines, and the application to steamships leaving a port in the Bombay Presidency of certain provisions of the Imperial Merchant Shipping Act, 1854, concerning boats for sea-going ships.

The 5th March, 1883.

C. P. ILBERT.

R. J. CROSTHWAITE,
Addl. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th February, 1883:—

No. 8 OF 1883.

A Bill to amend the Code of Criminal Procedure, 1882, so far as it relates to the exercise of jurisdiction over European British subjects.

X of 1882.

Preamble.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, so far as it relates to the exercise of jurisdiction over European British subjects; It is hereby enacted as follows:—

Amendment of section 22.

1. For the last clause of section 22, the following shall be substituted:—

"may, by notification in the official Gazette, appoint such persons as he or it thinks fit, who, being

(*a*) members of the Covenanted Civil Service,

(*b*) members of the Native Civil Service constituted under the Statute 33 Vic., cap. 3,

(*c*) Assistant Commissioners in Non-Regulation Provinces, or

(*d*) Cantonment Magistrates,

are invested with the powers of a Magistrate of the first class, to be Justices of the Peace within and for the territories mentioned in the notification."

Amendment of section 25.

2. In section 25, after the words "British India" the following shall be inserted:—

"Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving".

Amendment of section 443.

3. In section 443, the words "and an European British subject" shall be omitted.

New section substituted for section 444.

4. For section 444 the following shall be substituted:—

Assistant Sessions Judges who may try European British subjects.

"444. An Assistant Sessions Judge shall not exercise jurisdiction over an European British subject, unless he has held the office of Assistant Sessions Judge for at least three years, and has been specially empowered in this behalf by the Local Government."

Repeal of section 450 and of the last sixteen words of section 459.

5. Section 450 and the last sixteen words of section 459 are hereby repealed.

Construction of Act with Code of Criminal Procedure.

6. (*1*) In this Act "section" means section of the Code of Criminal Procedure, X of 1882. 1882.

(*2*) All references to that Code made in enactments heretofore passed or hereafter to be passed shall be read as if made to that Code as amended by this Act.

Saving for existing appointments.

7. Nothing in this Act shall affect the validity of any appointment made before the passing of this Act.

STATEMENT OF OBJECTS AND REASONS.

SHORTLY after the Code of Criminal Procedure, Act X of 1882, was passed, the question was raised whether the provisions of that Code which limit the jurisdiction over European British subjects outside the Presidency-towns to judicial officers who are themselves European British subjects should not be modified. It was thought anomalous that, while Natives of India were admitted to the Covenanted Civil Service and held competent to discharge the highest judicial duties, they should be deemed incompetent to be Justices of the Peace and to exercise jurisdiction over European British subjects outside the Presidency-towns.

2. After consulting the Local Governments, the Government of India has arrived at the conclusion that the time has come for modifying the existing law and removing the present bar upon the investment of Native Magistrates in the interior with powers over Euro-

pean British subjects. The Government of India has accordingly decided to settle the question of jurisdiction over European British subjects in such a way as to remove from the Code, at once and completely, every judicial disqualification which is based merely on race distinctions.

3. With this object the present Bill has been prepared. In section one it amends section 22 of the Code, which provides that only European British subjects can be appointed Justices of the Peace, and gives the Government power to appoint to that office such persons as it thinks fit belonging to the following classes:—

(*a*) Members of the Covenanted Civil Service;
(*b*) Members of the Native Civil Service constituted by the rules made under the Statute 33 Vic., cap. 3;
(*c*) Assistant Commissioners in Non-Regulation Provinces; or
(*d*) Cantonment Magistrates,

and being persons invested with the powers of a Magistrate of the first class.

4. The Bill then in section two amends section 25 of the Code, and makes all Sessions Judges and District Magistrates *ex officio* Justices of the Peace.

5. Section three repeals so much of section 443 of the Code as limits jurisdiction over European British subjects outside the Presidency-towns to Magistrates who are themselves European British subjects.

6. Section four repeals the similar provision of section 444 of the Code with regard to Sessions Judges.

7. Lastly, section five repeals section 450 of the Code, which provides for the case where the Sessions Judge of the division within which the offence is ordinarily triable is not an European British subject. The same section of the Bill also repeals so much of section 459 of the Code as provides that that section shall not be deemed to confer on Magistrates and Sessions Judges outside the Presidency-towns, not being European British subjects, jurisdiction over European British subjects.

C. P. ILBERT.

The 30th January, 1883.

R. J. CROSTHWAITE,
Addl. Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, MAY 5, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 19th April, 1883, and was referred to a Select Committee on the 3rd May, 1883:—

No. 9 OF 1883.

A Bill to amend the law relating to certificates granted under Act XXVII of 1860 (An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons).

Preamble.

WHEREAS it is expedient to amend, in manner hereinafter appearing, Act XXVII of 1860 (*An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), and certain provisions of the Court-fees Act, 1870, and the Probate and Administration Act, 1881, relating to certificates granted under the said Act XXVII of 1860; It is hereby enacted as follows:—

VII of 1870.
V of 1881.

Short title.

1. This Act may be called the Succession Certificate Act, 1883;

Commencement.

and it shall come into force on the first day of October, 1883.

Saving as to certificates already granted.

But nothing in this Act shall affect any certificate granted under Act XXVII of 1860 before that day.

Amendment of section 2 of Act XXVII of 1860.

2. In section two of Act XXVII of 1860, after the words "hereinafter mentioned" the words "and comprising that debt" shall be inserted.

Amendment of section 3 of same Act.

3. *(1)* To the second clause of section three of that Act the following shall be added, namely:—"and shall specify, in such form and with such particulars as the Sadr Court may from time to time prescribe, the debts in respect of which he desires the certificate."

(2) To the same section the following shall be added, namely:—"specifying therein the debts in respect of which it is granted."

Amendment of section 4 of same Act.

4. To section four of the same Act the following shall be added, namely:—

"Provided that nothing in this section shall apply to any debt which is not specified in the certificate."

Amendment of section 12 of same Act.

5. In section twelve of the same Act, after the word "payments," the words "of debts specified in the later certificate" shall be inserted.

Amendment of section 14 of same Act.

6. In section fourteen of the same Act, after the word "payments" the words "of debts specified in the certificate" shall be inserted.

Amendment of section 21 of same Act.

7. *(1)* In section twenty-one of the same Act, before the words "Government security," in both places in which they occur, the word "debt" shall be inserted.

(2) To the same section the following shall be added, namely:—

"Provided that, if no court-fee has been paid in respect of the certificate, and a court-fee would, under the law relating to court-fees for the time being in force, be payable in respect of the extended certificate, or if the court-fee already paid in respect of the certificate is less than the court-fee which would under that law be payable in respect of the extended certificate, the certificate shall not be extended until the amount of the court-fee payable in respect of the extended certificate, or (as the case may be) the difference between the court-fee which would be payable in respect of the extended certificate and the court-fee already paid, has been paid into the Court or to the officer."

8. In the note to article 12 of the first schedule annexed to the Court-fees Act, 1870, for the words "such certificate," where they first occur, the words "certificate under Bombay Regulation VIII of 1827" shall be substituted.

Amendment of note to article 12, schedule I, Act VII of 1870.

VII of 1870.

9. In the proviso to section 152 of the Probate and Administration Act, 1881, after the word "payments" the words "of debts specified in such certificate" shall be inserted.

Amendment of proviso to section 152, Act V of 1881.

V of 1881.

STATEMENT OF OBJECTS AND REASONS.

ARTICLE 12, Schedule I, of the Court-fees Act, VII of 1870, provides, among other matters, for the levy of a fee of two per cent. on the amount or value of the property in respect of which a certificate is granted under Act XXVII of 1860. The following note is appended to the article:—

"The person to whom any such certificate is granted, or his representative, shall, after the expiration of twelve months from the date of such certificate, and thereafter whenever the Court granting such certificate requires him so to do, file a statement on oath of all monies recovered or realized by him under such certificate.

"If the monies so recovered or realized exceed the amount of debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same, and order such person to take out a fresh certificate, and pay the fee prescribed by this schedule for such excess.

"In default of filing such statement within the time allowed, the Court may cancel the certificate."

2. In the course of the discussions in the Legislative Council which preceded the passing of the Probate and Administration Act, V of 1881, a proposal was made by Mr. Pitt Kennedy that Act XXVII of 1860 and the Court-fees Act should be amended so as to require, from any one obtaining a certificate under the former Act for the recovery of any portion of the estate of a deceased person, payment of a court-fee at the rate of two per cent. on the entire value of the estate.

3. A circular was thereupon addressed to Local Governments calling for opinions on this proposal.

The replies received show that the weight of authority is altogether against its adoption; but many of them call attention to the fact, already more than once brought to the notice of the Government of India, that the requirements of the note in the Court-fees Act above referred to are as a rule neglected or evaded; that persons taking out certificates do not file the statements required by it, that the Courts have no proper means of compelling them to do so, and that large amounts of debts are thus collected under certificates obtained for trifling sums.

4. Various suggestions have been made for enforcing compliance with the provisions of the note; but it appears to the Government of India that there are objections to any device for securing the fee which involves the imposition on the person obtaining the certificate of a duty to be performed after he has obtained the certificate.

The great mass of the people who take out certificates are so indolent or careless or unintelligent, that there is little hope of getting them to comply with the provisions of such a law; and the consequence is that, if it is not allowed to remain a dead-letter, as the present law has been, public officers will be constantly compelled to inflict penalties on large numbers of persons, many of whom have been guilty of no deliberate wrong.

5. The simple plan, as it seems to the Government of India, is that already adopted without any warrant of law by some of the officers consulted, namely, to require each applicant for a certificate to file with his application a schedule of the debts in respect of which the certificate is required, and to amend Act XXVII of 1860, so as to make the certificate good only for the debts entered in the schedule, at the same time allowing the certificate-holder, if he afterwards finds that he needs a certificate for other debts, to obtain an extension of the certificate on paying the additional duty, and (if the Court requires him to do so) giving additional security.

6. The only objection that has been taken to this arrangement is that taken by the Calcutta High Court in their Registrar's letter No. 54, dated 10th January, 1880, printed in paper No. 20 to the Court-fees Bill. They fear that "improper use" might be made of the schedule "by fraudulent debtors whose debts were not in the knowledge of the applicant at the time [he filed the schedule], or in some way prejudice might arise."

Now, there is little doubt that a fraudulent debtor would take the point referred to, and that he would thereby put the certificate-holder to the trouble of explaining his omission to enter the debt in his original schedule; but there would be no great hardship in this, and there would, on the other hand, be a certain compensating advantage, inasmuch as (as observed in one of the replies to the circular) the fear of this would stimulate applicants for certificates to be careful in compiling their schedules.

7. Assuming that the law is to be amended in the manner proposed, a further question arises as to what debts the applicant for a certificate should be bound to include in his application. Should he be bound to include—

(*a*) all debts known to him to be outstanding, including those which could be realised equally well without a certificate; or

(*b*) only those debts which he chooses to include, because he believes he cannot realise them without a certificate?

The former, it is believed, would be more in accordance with the views of those who framed the existing law; but it appears to the Governor General in Council that it would be sufficient to adopt the second mode of valuation and allow the applicant to take out a certificate in respect of such debts only as he thinks fit. No doubt a larger revenue might be obtained by insisting on the other mode of valuation; but it is apprehended, having regard to the class of people who take out these certificates, that any system requiring the applicant to give a complete list of debts would, if it was to be thoroughly enforced, necessitate proceedings of an inquisitorial nature, for which no sufficient machinery exists, and which it would not be worth while to undertake for the sake of the additional revenue to be obtained.

8. The rule which it is now proposed to lay down, while it dispenses with all proceedings of an inquisitorial or penal nature, may reasonably be expected to lead to some increase of the revenue under this head, inasmuch as, the certificate being expressly limited in its operation to the debts specified in it, the necessity of including in it all debts except those due from persons standing in some peculiarly friendly or confidential relation will be brought home to the applicants, and debtors will probably become alive to the risk they run in paying a debt which is omitted from it.

The additional revenue realized will not, as just observed, be as large as if the alternative mode of valuation were adopted, but this is a result which, for the reason already stated, the Government is prepared to accept.

9. The present Bill has been prepared for the purpose of carrying out the above views. The effect of it, if it becomes law, will be that every applicant for a certificate under Act XXVII of 1860 will be required to state in his application the debts in respect of which he desires the certificate. It will be in his option to include what debts he pleases. He will pay duty only in respect of the debts which he elects to include, and the operation of the certificate will be limited to those debts. If he subsequently desires to include other debts, he can have the certificate extended to them on paying the additional duty. The note appended to article 12 of the schedule to the Court-fees Act will not apply to him. For the rest, the amendments made by the Bill in Act XXVII of 1860 and in the Probate and Administration Act, 1881, are of an unimportant nature, and merely such as are necessitated by the above alterations in the substance of the law.

CALCUTTA;
The 5th March, 1883.

E. BARING.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, MAY 12, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 19th April, 1883, and was referred to a Select Committee on the 3rd May, 1883 :—

No. 9 of 1883.

Bill to amend the law relating to certificates granted under Act XXVII of 1860 (An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons).

Preamble.

WHEREAS it is expedient to amend, in manner hereinafter appearing, Act XXVII of 1860 (*An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), and certain provisions of the Court-fees Act, 1870, and the Probate and Administration Act, 1881, relating to certificates granted under the said Act XXVII of 1860; It is hereby enacted as follows :—

VII of 1870. V of 1881.

Short title. Commencement.

1. This Act may be called the Succession Certificate Act, 1883;

and it shall come into force on the first day of October, 1883.

Saving as to certificates already granted.

But nothing in this Act shall affect any certificate granted under Act XXVII of 1860 before that day.

Amendment of section 2 of Act XXVII of 1860.

2. In section two of Act XXVII of 1860, after the words "hereinafter mentioned" the words "and comprising that debt" shall be inserted.

Amendment of section 3 of same Act.

3. *(1)* To the second clause of section three of that Act the following shall be added, namely :—" and shall specify, in such form and with such particulars as the Sadr Court may from time to time prescribe, the debts in respect of which he desires the certificate."

(2) To the same section the following shall be added, namely :—"specifying therein the debts in respect of which it is granted."

Amendment of section 4 of same Act.

4. To section four of the same Act the following shall be added, namely :—

"Provided that nothing in this section shall apply to any debt which is not specified in the certificate."

Amendment of section 12 of same Act.

5. In section twelve of the same Act, after the word "payments," the words "of debts specified in the later certificate" shall be inserted.

Amendment of section 14 of same Act.

6. In section fourteen of the same Act, after the word "payments" the words "of debts specified in the certificate" shall be inserted.

Amendment of section 21 of same Act.

7. *(1)* In section twenty-one of the same Act, before the words "Government security," in both places in which they occur, the word "debt" shall be inserted.

(2) To the same section the following shall be added, namely :—

"Provided that, if no court-fee has been paid in respect of the certificate, and a court-fee would, under the law relating to court-fees for the time being in force, be payable in respect of the extended certificate, or if the court-fee already paid in respect of the certificate is less than the court-fee which would under that law be payable in respect of the extended certificate, the certificate shall not be extended until the amount of the court-fee payable in respect of the extended certificate, or (as the case may be) the difference between the court-fee which would be payable in respect of the extended certificate and the court-fee already paid, has been paid into the Court or to the officer."

8. In the note to article 12 of the first schedule annexed to the Court-fees Act, 1870, for the words "such certificate," where they first occur, the words "certificate under Bombay Regulation VIII of 1827" shall be substituted.

Amendment of note to article 12, schedule I, Act VII of 1870.

VII of 1870.

9. In the proviso to section 152 of the Probate and Administration Act, 1881, after the word "payments" the words "of debts specified in such certificate" shall be inserted.

Amendment of proviso to section 152, Act V of 1881.

V of 1881.

STATEMENT OF OBJECTS AND REASONS.

ARTICLE 12, Schedule I, of the Court-fees Act, VII of 1870, provides, among other matters, for the levy of a fee of two per cent. on the amount or value of the property in respect of which a certificate is granted under Act XXVII of 1860. The following note is appended to the article:—

"The person to whom any such certificate is granted, or his representative, shall, after the expiration of twelve months from the date of such certificate, and thereafter whenever the Court granting such certificate requires him so to do, file a statement on oath of all monies recovered or realized by him under such certificate.

"If the monies so recovered or realized exceed the amount of debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same, and order such person to take out a fresh certificate, and pay the fee prescribed by this schedule for such excess.

"In default of filing such statement within the time allowed, the Court may cancel the certificate."

2. In the course of the discussions in the Legislative Council which preceded the passing of the Probate and Administration Act, V of 1881, a proposal was made by Mr. Pitt Kennedy that Act XXVII of 1860 and the Court-fees Act should be amended so as to require, from any one obtaining a certificate under the former Act for the recovery of any portion of the estate of a deceased person, payment of a court-fee at the rate of two per cent. on the entire value of the estate.

3. A circular was thereupon addressed to Local Governments calling for opinions on this proposal.

The replies received show that the weight of authority is altogether against its adoption; but many of them call attention to the fact, already more than once brought to the notice of the Government of India, that the requirements of the note in the Court-fees Act above referred to are as a rule neglected or evaded; that persons taking out certificates do not file the statements required by it, that the Courts have no proper means of compelling them to do so, and that large amounts of debts are thus collected under certificates obtained for trifling sums.

4. Various suggestions have been made for enforcing compliance with the provisions of the note; but it appears to the Government of India that there are objections to any device for securing the fee which involves the imposition on the person obtaining the certificate of a duty to be performed after he has obtained the certificate.

The great mass of the people who take out certificates are so indolent or careless or unintelligent, that there is little hope of getting them to comply with the provisions of such a law; and the consequence is that, if it is not allowed to remain a dead-letter, as the present law has been, public officers will be constantly compelled to inflict penalties on large numbers of persons, many of whom have been guilty of no deliberate wrong.

5. The simple plan, as it seems to the Government of India, is that already adopted without any warrant of law by some of the officers consulted, namely, to require each applicant for a certificate to file with his application a schedule of the debts in respect of which the certificate is required, and to amend Act XXVII of 1860, so as to make the certificate good only for the debts entered in the schedule, at the same time allowing the certificate-holder, if he afterwards finds that he needs a certificate for other debts, to obtain an extension of the certificate on paying the additional duty, and (if the Court requires him to do so) giving additional security.

6. The only objection that has been taken to this arrangement is that taken by the Calcutta High Court in their Registrar's letter No. 54, dated 10th January, 1880, printed in paper No. 20 to the Court-fees Bill. They fear that "improper use" might be made of the schedule "by fraudulent debtors whose debts were not in the knowledge of the applicant at the time [he filed the schedule], or in some way prejudice might arise."

Now, there is little doubt that a fraudulent debtor would take the point referred to, and that he would thereby put the certificate-holder to the trouble of explaining his omission to enter the debt in his original schedule; but there would be no great hardship in this, and there would, on the other hand, be a certain compensating advantage, inasmuch as (as observed in one of the replies to the circular) the fear of this would stimulate applicants for certificates to be careful in compiling their schedules.

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(*b*) only those debts which he chooses to include, because he believes he cannot realise them without a certificate?

The former, it is believed, would be more in accordance with the views of those who framed the existing law; but it appears to the Governor General in Council that it would be sufficient to adopt the second mode of valuation and allow the applicant to take out a certificate in respect of such debts only as he thinks fit. No doubt, a larger revenue might be obtained by insisting on the other mode of valuation; but it is apprehended, having regard to the class of people who take out these certificates, that any system requiring the applicant to give a complete list of debts would, if it was to be thoroughly enforced, necessitate proceedings of an inquisitorial nature for which no sufficient machinery exists and which it would not be worth while to undertake for the sake of the additional revenue to be obtained.

8. The rule which it is now proposed to lay down, while it dispenses with all proceedings of an inquisitorial or penal nature, may reasonably be expected to lead to some increase of the revenue under this head, inasmuch as, the certificate being expressly limited in its operation to the debts specified in it, the necessity of including in it all debts except those due from persons standing in some peculiarly friendly or confidential relation will be brought home to the applicants, and debtors will probably become alive to the risk they run in paying a debt which is omitted from it.

The additional revenue realized will not, as just observed, be as large as if the alternative mode of valuation were adopted, but this is a result which, for the reason already stated, the Government is prepared to accept.

9. The present Bill has been prepared for the purpose of carrying out the above views. The effect of it, if it becomes law, will be that every applicant for a certificate under Act XXVII of 1860 will be required to state in his application the debts in respect of which he desires the certificate. It will be in his option to include what debts he pleases. He will pay duty only in respect of the debts which he elects to include, and the operation of the certificate will be limited to those debts. If he subsequently desires to include other debts, he can have the certificate extended to them on paying the additional duty. The note appended to article 12 of the schedule to the Court-fees Act will not apply to him. For the rest, the amendments made by the Bill in Act XXVII of 1860 and in the Probate and Administration Act, 1881, are of an unimportant nature, and merely such as are necessitated by the above alterations in the substance of the law.

CALCUTTA;
The 5th March, 1883.

E. BARING.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

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 May, 1883 :—

No. 10 OF 1883.

THE NORTH-WESTERN PROVINCES AND OUDH LOCAL BOARDS BILL, 1883.

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PREAMBLE.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Interpretation-clause.

Constitution of Local Boards and District Boards.

3. Formation of sub-districts.
4. Establishment of local boards for sub-districts and of district boards for districts.
5. Constitution of local board.
6. Constitution of district boards.
7. Term of office of members of local boards and of certain district boards.
8. Resignation of members of those boards.
9. Removal of members of those boards.
10. Filling of casual vacancies on those boards.
11. Incorporation of district board.
12. Time for boards coming into existence.

Chairmen and Vice-chairmen.

13. Chairman of local board.
14. Chairman of district board.
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16. Term of office of chairman and vice-chairman of district board.
17. Casual vacancies in office of chairman or vice-chairman of district board.
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SECTIONS.

19. Person to preside at meeting of district board.
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21. Notification of elections, &c.

Duties of District Boards.

22. Matters to be administered by district boards.

Duties of Local Boards and their Relations to District Boards.

23. Local board to be agent of district board.
24. Control of district board over local boards.

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25. Joint committee of two or more boards

Conduct of Business.

26. Ordinary and special meetings.
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28. Vote of majority decisive.
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30. Resolutions to be recorded.
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Officers and Servants.

32. Appointment of secretary.
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34. Power to vest property in district board.

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N.-W. P. and Oudh Local Boards Bill, 1883—Sections 1-6.

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43. Privileges of district boards and their officers.

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44. Liability of members for loss, waste or misapplication.

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50. Power of Local Government to except local area from operation of Act.
51. Case of sub-district excepted from provisions regarding election.
52. Administrative committee to be appointed for district wholly excepted from Act.

Amendment of the North-Western Provinces Local Rates Act, 1878.

53. Section 11, clause (c), Act III of 1878, amended.
54. Sections 12, 13 and 15 of same repealed.
55. New section substituted for section 14 of same

Amendment of the Oudh Local Rates Act, 1878.

56. Section 11, clause (c), of Act IV of 1878, amended.
57. Sections 12 and 14 of same repealed.
58. New section substituted for section 13 of same.

Contracts made by the Committees under the North-Western Provinces and Oudh Local Rates Acts.

59. Contracts of local rates committees.

Amendment of the Northern India Ferries Act, 1878.

60. New section to follow section 7 of Act XVII of 1878.
61. Amendments of sections 6 and 17 of same Act.

A Bill to provide for the constitution of Local Boards in the North-Western Provinces and Oudh.

WHEREAS it is expedient to make better provision for the constitution of local bodies in each district in the North-Western Provinces and Oudh to administer the expenditure of that portion of the rates levied on land which is applicable to local purposes in that district, and of the income accruing from certain other sources of revenue which may from time to time be made applicable to the like purposes; It is hereby enacted as follows:— Preamble.

(1) This Act may be called the North-Western Provinces and Oudh Local Boards Act, 1883. Short title.

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh; and Local extent.

(3) it shall come into force on the first day of September, 1883. Commencement.

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

"Prescribed" means prescribed by rules made under section 15.

Constitution of Local Boards and District Boards.

3. *(1)* The Local Government shall, by order in writing, for the purposes of this Act, divide each district into sub-districts. Formation of sub-districts.

(2) There shall be excluded from the sub-districts formed under this section such portions of the district as are for the time being included in the limits of a military cantonment or of a municipality.

(3) The Local Government may, from time to time, by order in writing, vary any order made under this section.

4. There shall be established for each sub-district a local board having authority over that sub-district, and for each district a district board having authority over the entire district, except such portions thereof as are for the time being included in the limits of a military cantonment or of a municipality. Establishment of local boards for sub-districts and of district boards for districts.

5. *(1)* The local board for a sub-district shall consist of— Constitution of local board.

(a) so many persons residing or owning landed property or carrying on trade or business in the sub-district, and elected as next hereinafter provided, as the Local Government may, from time to time, fix in this behalf; and

(b) such person or persons (if any), not exceeding in number one-fourth of the board, as the Local Government may, subject to the rules made under section 45, from time to time appoint in this behalf.

(2) The elective members of a local board shall be elected in manner prescribed by the rules made under section 45, and the persons entitled to vote at the election shall be nominated by the Local Government or determined in such other manner as may be prescribed by the rules: Provided that the persons entitled to vote at the election of any such member shall not be less than twenty-five in number.

6. The district board for a district shall consist of all persons who for the time being are members of the local boards of the sub-districts comprised in that district: Constitution of district boards.

Provided that the Local Government may, if it thinks fit, by notification in the official Gazette, direct that the district board shall consist of so many members of each local board as it thinks fit, elected in this behalf by the local board in manner

N.-W. P. and Oudh Local Boards Bill, 1883—Sections 7-17.

prescribed, and may by a like notification rescind any such direction with effect from the date on which all the persons holding office as members of the district board at the date of the notification shall, under the provisions next hereinafter contained, have vacated their offices as such members.

7. *(1)* The term of office of a member of a local board and of a member of a district board elected under the proviso to section 6 shall be fixed, from time to time, by the Local Government by rules made under this Act, but shall not exceed three years. Term of office of members of local boards and of certain district boards.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

8. A member of a local board and a member of a district board elected as aforesaid may resign by notifying in writing his intention to do so to the Local Government; and, on the acceptance by the Local Government of such resignation, the member shall be deemed to have vacated his office as such member. Resignation of members of those boards.

9. The Local Government may, from time to time, remove any member of a local board or of a district board elected as aforesaid who refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any offence, or subjected by a Criminal Court to any order, implying, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who without sufficient excuse neglects for more than six consecutive months to be present at the meetings of the board. Removal of members of those boards.

10. *(1)* When the place of an elected member of a local board or of a member of a district board elected as aforesaid becomes vacant by the resignation or removal of the member under section 8 or section 9, or by his death, a new member shall be elected in manner prescribed to fill the place: Filling of casual vacancies on those boards.

Provided that the Local Government may, subject to the limitation of the proportion of appointed members of a local board prescribed by section 5, clause (b), direct in any such case that the vacancy shall be left unfilled.

(2) When the place of an appointed member of a local board becomes vacant as aforesaid, the Local Government may, if it thinks fit, but subject to the rules made under section 45, appoint a new member to fill the place.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

11. Every district board shall be a body corporate by the name of the district board of its district, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, to transfer any moveable property, and, with the previous approval in writing of the Commissioner of the Division, any immoveable property held by it, and to contract and to do all things necessary Incorporation of district board.

purposes of its constitution, and may sue and be sued in its corporate name.

12. The several local boards and district boards under this Act shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf. Time for boards coming into existence.

Chairmen and Vice-chairmen.

13. *(1)* Every local board shall, from time to time, elect one of its members to be chairman for one year. Chairman of local board.

(2) If the chairman so elected dies, ceases to be a member of the board, resigns the office of chairman or becomes incapable of acting, the board shall elect another of its members to be chairman for the period during which the person so dying, ceasing to be a member, resigning or becoming incapable would have been entitled to continue in office, and no longer.

(3) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting, the members present shall elect one of their number to be chairman of the meeting.

14. *(1)* Every district board shall, on first coming into existence and thereafter whenever the term of office of its chairman expires under this Act, take into consideration, at a special meeting convened for the purpose within the time prescribed, the appointment of a chairman, and, if the meeting is attended by not less than three-fourths of the members of the board, may, by a majority of the members present at such meeting— Chairman of district board.

(a) determine whether the chairman shall be elected, or his appointment shall be left to be made by the Local Government, and

(b) if it is determined that the chairman shall be elected, elect one of its members to be chairman; and

the Local Government may, if it approves of the person so elected, declare him to be chairman of the board.

(2) If no such meeting is held within the time prescribed, or if three-fourths of the members of the board are not present at the meeting, or where several meetings are convened under this section at any of those meetings, or if no such election takes place, or if the person elected is not approved of by the Local Government, the Local Government shall appoint as chairman such person as it thinks fit.

15. At a special meeting held under section 14, or at another special meeting held for this purpose, the district board shall elect one or two of its members to be its vice-chairman or vice-chairmen. Vice-chairman of district board.

16. The term of office of a chairman or vice-chairman of a district board shall be one year. Term of office of chairman and vice-chairman of district board.

17. *(1)* If a chairman of a district board elected under section 14, sub-section (1), dies, ceases to be a member of the board, resigns the office of chairman or becomes incapable of acting, a special meeting shall be held within the period prescribed, Casual vacancies in office of chairman or vice-chairman of district board.

N.-W. P. and Oudh Local Boards Bill, 1883—Sections 18-25.

and a new chairman shall be elected or appointed in manner provided by that section.

(2) If a chairman of a district board appointed under section 14, sub-section (2), dies, resigns or becomes incapable of acting, the Local Government shall appoint another chairman.

(3) If a vice-chairman of a district board dies, ceases to be a member of the board, resigns his office of vice-chairman or becomes incapable of acting, the board shall, at a special meeting held for this purpose, elect one of its members to be vice-chairman in his place.

(4) A chairman or vice-chairman elected or appointed under this section to filla casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office.

18. Notwithstanding anything in the foregoing sections, a chairman appointed by the Local Government under section 14, sub-section (2), or section 17, sub-section (1) or sub-section(2), shall, if he is not already a member of the district board, become a member thereof by virtue of such appointment, and continue to be a member thereof while he holds the office of chairman.

Chairman appointed by Local Government to be member of district board.

19. *(1)* At every meeting of a district board the chairman, if present, shall preside.

Person to preside at meeting of district board.

(2) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting, and a vice-chairman is present, such vice-chairman or, when two vice-chairmen are present, the senior of them by date of appointment, shall preside.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

20. A chairman of a local board, and a chairman or vice-chairman of a district board, shall be again eligible for election or appointment on the expiration of his term of office.

Chairmen and vice-chairman of local or district board re-eligible.

Notification of Elections, &c.

21. All elections, appointments and removals of members of local boards and district boards, and all elections and appointments of chairmen of district boards, shall be notified in the local official Gazette.

Notification of elections, &c.

Duties of District Boards.

22. The following matters shall, subject to such exceptions and conditions as the Local Government may, from time to time, make and impose, be under the control and administration of the district board within the area subject to its authority:—

Matters to be administered by district boards.

(*a*) the construction, repair and maintenance of public roads and other means of communication;

the management, maintenance and visiting of schools, hospitals, dispensaries, markets, staging-houses, inspection-houses and other public institutions, and the construction and repair of all buildings connected with these institutions;

(*c*) the construction and repair of public wells, tanks and water-works, and the supply of water from them and from other sources;

(*d*) the establishment and maintenance of relief-works in time of famine or scarcity;

(*e*) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in force, all the functions of the Local Government and the Magistrate of the district under sections four, five, six, seven, twelve, fourteen and seventeen, and clause (*a*) of section eighteen, of that Act; 1 of 1871.

(*f*) the management of such public ferries as may be entrusted to its charge under section 7A of the Northern India Ferries Act, 1878, as amended by this Act; XVII of 1878.

(*g*) the licensing and regulation of stage-carriages under Act No. XVI of 1861 (*an Act for licensing and regulating stage-carriages*), including the functions of a Magistrate under sections two, three and ten of that Act;

(*h*) the regulation of encamping-grounds and, where the Saráís Act, 1867, is in force, of saráís and paráos, including the functions of the Magistrate of the district under sections three, four, six, seven, ten, eleven and twelve of that Act; XXII of 1867.

(*i*) the maintenance of any building or other property which is vested under this Act in the district board, or may be placed by the Local Government under the management of that board; and

(*j*) any other local works or measures likely to promote the health, comfort or convenience of the public.

Duties of Local Boards and their Relations to District Boards.

23. Every local board shall, in the sub-district under its authority, be the agent of the district board, and, as such agent, shall have such authority and discharge such duties in respect of all or any of the matters specified in section 22 as the district board may, by written authority in that behalf, from time to time, confer or impose upon it.

Local board to be agent of district board.

24. The district board may, by a resolution passed by two-thirds of the members present at a meeting, either on complaint made to it or of its own motion, reverse or vary any order or other proceeding of any local board within the district:

Control of district board over local boards.

Provided that, except for reasons recorded in writing, no such resolution shall be passed until the local board has been allowed an opportunity of showing cause against the same.

Joint Committees.

25. *(1)* A district board may, from time to time, concur with any other district board, or with the board of any municipality, or with more than one such board, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee, and in delegating to any such committee any power which might be exercised by either or any of the boards, and in framing and modifying [illegible] as to the pro-

Joint committee of two or more boards.

N.-W. P. and Oudh Local Boards Bill, 1883—Sections 26-35.

ceedings of any such committee, and as to the conduct of correspondence relating to the purpose for which the committee is appointed.

(2) If any difference of opinion arises between boards acting under this section, the decision thereon of the Commissioner of the Division if the areas under the authority of the boards are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

26. *(1)* A meeting of a district board or local board shall be either ordinary or special.

Ordinary and special meetings.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

27. *(1)* The quorum necessary for the transaction of business at a special meeting of a district board or local board shall, except where otherwise provided by this Act, be one-half of the whole board.

Quorum.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a district board or local board shall be such number or proportion of the members of the board as may, from time to time, be fixed by the rules made under this Act.

28. *(1)* Except as otherwise provided by this Act, or by any rule made under this Act, all questions coming before a meeting of a district board or local board shall be decided by a majority of the votes of the members present.

Vote of majority decisive.

(2) In case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

29. The Civil Surgeon of the district, the Executive Engineer of the division, and the Inspector of Schools of the circle, shall be entitled to attend any meeting of a district board or local board, and to address the board on any matter affecting respectively sanitation, public works or public instruction.

Certain officers entitled to attend and speak.

30. *(1)* Every resolution passed by a district board or local board at a meeting shall be recorded in a book kept for the purpose, and shall be signed by the chairman of the meeting.

Resolutions to be recorded.

(2) A copy of every resolution passed by a local board at a meeting shall, within ten days from the date of the meeting, be forwarded to the district board.

(3) A copy of every resolution passed by a district board at a meeting shall, within ten days from the date of the meeting, be forwarded to the Magistrate of the district.

31. Every district board, and, with the previous sanction of the district board, every local board, may, from time to time, make rules consistent with this Act and with any rules made under this Act by the Local Government as to—

Power to make rules as to conduct of business.

(*a*) the time and place of its meetings;

(*b*) the quorum necessary for the transaction of business at ordinary meetings;

(*c*) the conduct of proceedings at meetings;

(*d*) the language of the board;

(*e*) the appointment, duties and proceedings of committees of the board; and

(*f*) the persons by whom receipts may be granted on behalf of the board for money paid under this Act.

Officers and Servants.

32. *(1)* Every district board and every local board shall, from time to time, appoint one or more of its members, or, with the sanction of the Commissioner of the Division, any other person or persons, to be its secretary or secretaries, and may remove any person so appointed.

Appointment of secretary.

(2) If a secretary appointed under sub-section (1) is a member of the board, he shall receive no remuneration in respect of his services. If he is not a member of the board, the district board may, with the previous sanction of the Commissioner of the Division, assign to him such pay, leave-allowances, gratuity or pension as it thinks fit.

33. Subject to such general or special orders as the Local Government may, from time to time, make in this behalf, every district board may employ, in addition to its secretary or secretaries, such other officers and servants as may be necessary and proper for the efficient execution of its duties and of the duties of the local boards in the district, and may assign to such officers and servants such pay, leave-allowances, gratuities or pensions as it thinks fit, and as may be approved by the Commissioner of the Division.

Employment of other officers and servants.

Vesting of Property by order of Government.

34. The Local Government may, from time to time, by notification in the official Gazette, direct that any property, moveable or immoveable, which is vested in Her Majesty and is situate in the territories administered by the Local Government, shall vest in any district board; and thereupon that property shall vest in that board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, that property.

Power to vest property in district board.

District Fund.

35. There shall be formed for each district a fund, to be called the district fund, and there shall be placed to the credit thereof—

Constitution of district fund.

(*a*) the balance (if any) of the allotments made for the district under section 11 of the North-Western Provinces Local Rates Act, 1878, or the Oudh Local Rates Act, 1878, which may be available for expenditure in the district on the day on which the district board comes into existence; III of 1878. IV of 1878.

(*b*) all sums which may, from time to time, be allotted by the Local Government to the district fund under section 11 of the North-Western Provinces Local Rates Act, 1878, or of the Oudh Local Rates Act, 1878, as amended by this Act; III of 1878. IV of 1878.

N.-W. P. and Oudh Local Boards Bill, 1883—Sections 36-40.

and, subject to such conditions as the Local Government may from time to time impose, the following, namely:—

(*c*) the surplus accruing in the district under section eighteen of the Cattle-trespass Act, 1871; I of 1871.

(*d*) the proceeds of public ferries payable into the district fund under section 7A of the Northern India Ferries Act, 1878, as amended by this Act; XVII of 1878.

(*e*) all fees for licenses realised in the district under the Stage-carriages Act, 1861; XVI of 1861.

(*f*) receipts from paráos and encamping-grounds under the regulation of the district board;

(*g*) the sale-proceeds of grass on the sides of roads, and on other public ground, under the control and administration of the district board, and of timber fallen or felled thereon;

(*h*) receipts from property vested in the district board;

(*i*) rents and profits accruing from nazúl and other property placed by the Local Government under the management of the district board;

(*j*) other sums assigned to the district fund by the Local Government;

(*k*) sums contributed to the district fund by local bodies or private persons; and

(*l*) all other sums received by or on behalf of the district board in the carrying out of this Act.

36. The district fund shall be vested in the district board, and the balance standing at the credit of the fund shall be kept in the Government treasury of the district.

Vesting and custody of district fund.

37. The district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the several matters specified in sections 22, 32 and 33 within the area subject to the authority of the district board, and, with the sanction of the Local Government, outside of that area, and also to the payment of Inspectors of Schools, normal school teachers, officers of the Public Works Department and subordinate medical officers (including vaccinators) appointed by the Government and employed in the district.

Application of district fund.

Control.

Control of Commissioner and Magistrate over boards and joint committees.

38. *(1)* The Commissioner of the division or the Magistrate of the district may—

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any local board, district board or joint committee, or any work in progress within those limits under the direction of any such board or committee;

(*b*) call for and inspect any document in the possession or under the control of any such board or committee having authority within those limits;

(*c*) require any such board or committee to furnish such statements, accounts, reports and copies of documents, relating to the proceedings or duties of the board or committee, as he may think fit to call for; and

(*d*) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(2) If any difference of opinion arises between officers exercising the powers conferred by sub-section (1), it shall be referred—

(*a*) if it arises between two or more Magistrates in the same division, to the Commissioner; and

(*b*) if it arises between two or more Magistrates in different divisions or between two or more Commissioners, to the Local Government;

and the decision thereon of the Commissioner or of the Local Government, as the case may be, shall be final.

(3) When the Magistrate of the district is a member of a district board or joint committee, he shall not exercise, in respect of that board or committee, the powers conferred upon him by this section.

Power of Commissioner to suspend action under this Act.

39. *(1)* A Commissioner may, by order in writing, suspend within his division the execution of any resolution or order of a local board, district board or joint committee, and may prohibit the doing of any act which is about to be done or is being done within his division in pursuance of, or under cover of, this Act, if, in his opinion, such resolution, order or act is in excess of the powers conferred by law, or the execution of such resolution or order, or the doing of such act is likely to lead to a serious breach of the peace or to cause serious injury or annoyance to the public or to any class or body of persons.

(2) When the Commissioner makes any such order, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order, or direct that it continue in force with or without modification, permanently or for such period, as it thinks fit.

Extraordinary powers of Magistrate in case of emergency.

40. *(1)* In cases of emergency the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a district board or local board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the district board.

(2) If the expense is not so paid, the Magistrate of the district may make an order directing the person in charge of the treasury where the balance of the district fund is kept to pay the expense, or as much thereof as is from time to time possible, from the balance in priority to any or all other charges against the same.

(3) The Magistrate of the district shall forthwith report to the Commissioner every case in

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which he uses the powers given to him by this section.

Powers of Local Government in cases of default of local board.

41. *(1)* If at any time it appears to the Local Government that any district board has made default in performing, or has inefficiently performed, any duty imposed on it by this or any other Act for the time being in force, the Local Government may, by order in writing, direct the district board to perform that duty, or to take such measures as the Local Government may direct for the performance thereof, and may fix a time within which the duty shall be performed or the measures shall be taken.

(2) If the order is not obeyed to the satisfaction of the Local Government within the time fixed, the Local Government may appoint the Magistrate of the district to execute it, and may direct that the expense of executing it shall be paid within such time as it may fix to the Magistrate by the district board.

(3) If the expense is not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person in charge of the treasury where the balance of the district fund is kept to pay the expense, or so much thereof as is from time to time possible, from the balance in priority to any or all other charges against the same.

Power to supersede district board in case of incompetency, persistent default or abuse of powers.

42. *(1)* If a district board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declared the board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(2) When the district board of a district is so superseded, the following consequences shall ensue:—

(*a*) all members of the board and all members of the local boards of the district shall, as from the date of the order, vacate their offices as such members;

(*b*) all powers and duties of the district board may, during the period of supersession, be exercised and performed by such person or persons as the Local Government from time to time appoints in that behalf;

(*c*) all property vested in the district board shall, during the period of supersession, vest in Her Majesty.

(3) On the expiration of the period of supersession specified in the order, the local board and district board shall be re-established, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified for appointment or election.

Suits by and against District Boards.

Privileges of district boards and their officers.

43. In respect of every suit instituted against the district board, or against any officer or servant of the board in respect of an act purporting to be done by him in his official capacity, the board, officer or servant, shall have, as nearly as may be, all the privileges which the Secretary of State for India in Council or a public officer, respectively, has under Chapter XXVII of the Code of Civil Procedure. XIV of 1882.

Liability of Members of Boards.

Liability of members for loss, waste or misapplication.

44. Every member of a local board or district board shall be liable for the loss, waste or misapplication of any money or other property belonging to the district board if such loss, waste or misapplication is a direct consequence of his neglect or misconduct; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the district board or by the Secretary of State for India in Council.

Forms and Rules.

Power of Local Government to frame forms and make rules.

45. The Local Government may, from time to time, frame forms for any proceeding for which it considers that a form should be provided, and make rules consistent with this Act—

(*a*) as to the method and time of election of elective members of local boards, and of members of such boards to be members of district boards;

(*b*) as to the appointment of members of local boards under section 5, clause (*b*);

(*c*) as to the notice to be given of meetings, the business that may be transacted at general and special meetings respectively, and the majority by which any question which may come before a board at a meeting shall be decided;

(*d*) as to the formation of committees and the delegation of powers to such committees;

(*e*) as to the mode of entering into and executing contracts and transfers of property on behalf of district boards, and the authority on which money may be paid from the district fund;

(*f*) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of district boards, and as to the authority by which, and the conditions subject to which, such plans and estimates may be sanctioned;

(*g*) for the guidance of district boards when suits or other proceedings are intended to be, or have been, instituted by or against them in Civil Courts;

(*h*) as to the office or offices through which correspondence of, and with, local boards and district boards shall pass;

(*i*) as to the accounts to be kept, and as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(*j*) as to the preparation of estimates of income and expenditure, and the authority by whom, and the conditions subject to which, such estimates may be sanctioned;

(*k*) as to the returns, statements and reports to be submitted by local boards and district boards respectively; and,

(*l*) generally, for the guidance of local boards, district boards and officers of Govern-

ment in all matters connected with the carrying out of this Act and for settling their relations to one another.

46. The Local Government shall, before making any rules under section 45, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person concerned with respect to the draft before the date so specified.

Procedure for making rules.

47. Every rule made under section 45 shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by section 46.

Publication of rules.

Miscellaneous.

48. Where any land is required for the purposes of this Act, the Local Government may, at the request of the district board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the district board of the compensation awarded under that Act, the land shall vest in the district board.

Acquisition of land.

49. If any member, officer or servant of a local board, district board or joint committee appointed under this Act is, otherwise than with the permission in writing of the Commissioner of the division, directly or indirectly interested in any contract made with such board or committee, he shall be deemed to have committed an offence under section one hundred and sixty-eight of the Indian Penal Code:

Penalty on member, officer or servant being interested in contracts made with board or committee.

Provided that no person shall by reason of being a shareholder in, or a member of, any incorporated or registered company be held to be interested in any contract entered into between such company and a board or committee.

Exceptional Provisions.

50. If the circumstances of any district or part of a district are, in the opinion of the Local Government, such that all or any of the provisions of this Act are unsuited thereto, the Local Government may, by notification in the official Gazette, except the district or part from the operation of those provisions; and thereupon those provisions shall not apply to the excepted district or part until again applied thereto by a like notification.

Power of Local Government to except local area from operation of Act.

51. When a sub-district is excepted, under section 50, from the provisions of this Act requiring that a certain proportion of the members of a local board shall be elected, the Local Government may itself appoint all such members.

Case of sub-district excepted from provisions regarding election.

52. When a district is excepted, under section 50, from all the provisions of this Act, a committee shall be appointed for the control and administration in that district of the matters mentioned in section 22, or of such of them as the Local Government may, from time to time, specify; and the Local Government shall, from time to time, prescribe the manner in which the members of the committee shall be appointed and removed, define the functions and authority of the committee, and place at its disposal, subject to such control as the Local Government thinks fit, the amounts mentioned in clauses (*a*) and (*b*) of section 35, and such of the sources of income mentioned in the other clauses of that section as the Local Government thinks fit:

Administrative committee to be appointed for district wholly excepted from Act.

Provided that not less than one-half of the members of the committee shall be persons who own or occupy land, or reside, in the district, and are not in the service of Government.

Amendment of the North-Western Provinces Local Rates Act, 1878.

53. For section 11, clause (*c*), of the North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely:— III of 1878.

Section 11, clause (*c*), Act III of 1878, amended.

"(*c*) Subject to the appropriation directed by clause (*a*), the Lieutenant-Governor shall, from time to time, allot from such fund to the district fund constituted for each district under the North-Western Provinces and Oudh Local Boards Act, 1883, such amounts as he thinks fit:

"Provided that the amounts so allotted in any year to the district fund of any district shall not be less than nine-tenths of the proceeds of the rates assessed under the first clause of section five in such district in such year."

54. Sections 12, 13 and 15 of the said North-Western Provinces Local Rates Act, 1878, are repealed. III of 1878.

Sections 12, 13 and 15 of same repealed.

55. For section 14 of the said North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely:— III of 1878.

New section substituted for section 14 of same.

"14. Accounts of the receipts in respect of all rates levied under this Act shall be kept in each district, and shall at all reasonable times be open to the inspection of the district board constituted for the district under the North-Western Provinces and Oudh Local Boards Act, 1883.

Accounts to be kept.

"An abstract of such accounts shall also be published annually in the local Gazette."

Amendment of the Oudh Local Rates Act, 1878.

56. For section 11, clause (*c*), of the Oudh Local Rates Act, 1878, the following shall be substituted, namely:— IV of 1878.

Section 11, clause (*c*), of Act IV of 1878, amended.

"(*c*) Subject to such appropriation, the Chief Commissioner shall, from time to time, allot from the said fund to the district fund constituted for each district under the North-Western Provinces and Oudh Local Boards Act, 1883, such amounts as he thinks fit:

"Provided that the amounts so allotted in any year shall not be less than one-half of the proceeds of the rate assessed in such district in such year."

57. Sections 12 and 14 of the said Oudh Local Rates Act, 1878, are repealed. IV of 1878.

Sections 12 and 14 of same repealed.

58. For section 13 of the said Oudh Local Rates Act, 1878, the following shall be substituted, namely:— IV of 1878

New section substituted for section 13 of same.

"13. Accounts of the receipts in respect of all rates levied under this Act shall be kept in each district, and shall at all reasonable times be open to the inspection of the district board constituted for the district under the North-Western Provinces and Oudh Local Boards Act, 1883.

Accounts to be kept.

"An abstract of such accounts shall also be published annually in the local Gazette."

Contracts made by Committees under the North-Western Provinces and Oudh Local Rates Acts.

59. Every contract entered into, whether in its own name or in the name of the Government, by the committee appointed in a district under section 15 of the North-Western Provinces Local Rates Act, 1878, or section 14 of the Oudh Local Rates Act, 1878, may be enforced by and against the local board constituted for that district under this Act, in like manner as it might have been by and against the committee if this Act had not been passed. III of 1878. IV of 1878.

Contracts of local rates committees.

Amendment of the Northern India Ferries Act, 1878.

60. After section seven of the Northern India Ferries Act, 1878, the following shall be inserted, namely:— XVII of 1878.

New section to follow section 7 of Act XVII of 1878.

"7A. The Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh may direct that any public ferry wholly or partly within the area subject to the authority of a district board in any district in the North-Western Provinces or Oudh, as the case may be, be managed by that board, and may further direct that all or any part of the proceeds from such ferry be paid into the district fund of that district;

In North-Western Provinces and Oudh management may be vested in district board; and proceeds paid into district fund.

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

61. In section six of the same Act, after the words "section seven," and in section seventeen of the same Act, after the words "section seven" when they first occur, the following shall be inserted, namely:—"and section 7A."

Amendments of sections 6 and 17 of same Act.

STATEMENT OF OBJECTS AND REASONS.

THE existing law respecting the constitution and functions of district committees in the North-Western Provinces and Oudh is contained in Acts III and IV of 1878. Those Acts, while directing the Local Government to make allotments for local purposes to each district from the rates levied under them, yet enable the Government to appropriate for the benefit generally of the North-Western Provinces or Oudh, as the case may be, the balances of such allotments remaining unexpended in each district at the close of the year, and thus prevent all continuity in local financial administration.

2. They also, while establishing committees for the propose of determining how allotments shall be applied, and of supervising and controlling such allotments, leave the appointment of these committees and the definition of their functions and authority altogether in the hands of the Lieutenant-Governor or Chief Commissioner.

3. In accordance with the proposals for the extension of local self-government enunciated by the Government of the North-Western Provinces and Oudh in its resolution of 5th December, 1882, fresh legislation is now necessary in order to constitute local bodies for smaller areas, and to impose upon district boards more extensive duties and confer upon them greater financial and administrative independence.

4. With this object the Bill has been drawn up. It has been drafted on lines laid down by the Local Government after consultation with its most experienced officers and with non-official gentlemen throughout the provinces most competent to give advice on the subject. Its principal provisions are as follows.

5. Sections 3 to 12 provide for the constitution of local bodies in each district.

6. The Local Government is empowered by section 3 to divide every district into sub-districts, excluding military cantonments and municipalities.

7. For each sub-district there will be established a local Board, and for each district a district Board.

8. The district board will ordinarily consist of the aggregate members of the local boards, but power is reserved to Government to direct that it shall consist only of delegates chosen from the local boards to meet cases where the total number of members of local boards would constitute too large a body for the efficient transaction of business.

9. The qualifications for members of the local boards are contained in section 5 and such members must be elected, except in case of one-fourth of the board, who may be nominated by the Government. This principle of nomination has been already accepted by the Council in the Central Provinces Local Self-government Act. The electoral body may be constituted either by nomination of the electors by the Local Government or according to rules which the Local Government shall make in that behalf.

10. Provisions are next made for the term of office of members of the board, for their resignation, removal, for filling up casual vacancies among them, for the incorporation of the district boards, and for fixing a time for their coming into existence.

11. Sections 13 to 20 deal with the appointment of chairmen and vice-chairmen of district and local boards. Both may elect vice-chairmen. Local boards may elect their own chairman, and district boards must, within a certain time after coming into existence, decide at a special meeting whether they will elect their chairman or leave the appointment to be made by the Local Government.

12. These provisions are mainly in accordance with the views elicited at public meetings held throughout the North-Western Provinces and Oudh, with the recommendations of the provincial committee, and the opinion of His Honour the Lieutenant-Governor that for a time at least, unless there be a strong expression of popular feeling to the contrary, it is expedient that the district officer should be Chairman of the district board.

13. The duties of district boards are enumerated in section 22. Among these is the management of ferries made over to them by Government. The Northern India Ferries Act vests the immediate superintendence of every public ferry in the Magistrate or some other officer duly appointed, except where the Local Government makes over the superintendence of a ferry situated within municipal limits to a municipality. Section 60 of the Bill adds a section to the Northern India Ferries Act, giving corresponding powers to make over the management of ferries and their proceeds to district boards.

14. Sections 23 and 24 define the relations between district and local boards, and the control to be exercised by the former. The smaller is to be the agent of the larger body, which may reverse or vary any orders of a local board within the district under certain conditions laid down.

15. Section 25 gives power to district boards to appoint joint committees for any purpose, such as a long line of communication, in which they may be jointly interested.

16. Sections 26 to 30 lay down general rules for the conduct of business, and provide for the views of departmental officers on subjects connected with their departments being brought before the district board by those officers in person, as well as for the record of the resolutions of the board and the communication of them to the Magistrate of the district within 10 days.

17. Sections 32 and 33 enable the district board, subject to general or special orders of the Local Government, to appoint such officers and servants, as are necessary for the proper discharge of its duties, and to appoint as secretary one of its members, or, with the sanction of the Commissioner, an outsider.

The limitations on the power of appointment are made, as it is necessary that certain officers of the provincial establishments employed in the departments made over to the board should be taken over; and as much of the routine work will be in the hands of the secretary, it is desirable that, when a salary is attached to that office, there should be some guarantee that an incapable man is not appointed.

18. Section 35 establishes a district fund, which shall be at the disposal of the district board for the discharge of its duties under the Bill.

The principal items will consist of the allotments from local rates prescribed by Acts III and IV of 1878, and of assignments from provincial revenues; but various petty sources of income are also made over, and it is expected that the closer supervision to be hoped for from the local boards will develop them to a considerable extent.

19. The subject of control by the Executive is dealt with in sections 38-42. The powers conferred are almost identical with those in the Central Provinces Local Self-government Act, with the addition that authority has been given to the Commissioner to suspend and to the Local Government to rescind any single act, order or resolution of the board that is in excess of its powers.

It is considered advisable that Government should have this power, to be exercised in cases where it might think it undesirable to resort to the heroic remedy of supersession.

20. Section 45 gives power to the Local Government to make forms and rules consistent with the Act. These are much the same as the corresponding powers in the Central Provinces Act.

21. Sections 50, 51 and 52 deal with those exceptional localities to which the whole or some of the provisions of this Act may be deemed unsuitable. In territories so vast, and among a population characterized by such differences in knowledge, habits and modes of thought, as those of the North-Western Provinces and Oudh, such tracts must be met with; and it is not desirable to insist on the residents of them being forced to accept an Act which would prove inoperative if not mischievous.

22. When the provisions as to election only are deemed unsuitable, the Local Government will appoint the members of the local boards; but when the whole Act is unsuited to the district, a district committee shall be appointed in such manner, shall perform such duties, and shall be placed in possession of such funds from the local rates allotments as the Local Government shall prescribe.

The 10th May, 1883.

J. W. QUINTON.

D. FITZPATRICK,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

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 May, 1883:—

No. 11 OF 1883.

THE NORTH-WESTERN PROVINCES AND OUDH MUNICIPALITIES BILL, 1883.

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A Bill to make better provision for the Organization and Administration of Municipalities in the North-Western Provinces and Oudh.

Preamble.

WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the North-Western Provinces and Oudh; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. *(1)* This Act may be called the North-Western Provinces and Oudh Municipalities Act, 1883.

Local extent.

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh; and

Commencement.

(3) it shall come into force on the 1st day of September, 1883.

Interpretation-clause.

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

(a) "Municipality" means a local area to which this Act has been applied under section 4 or section 5.

(b) "Honorary Magistrate" means a Magistrate who holds no salaried office in any department of the Government service.

(c) "Prescribed" means prescribed by rules made by the Local Government under this Act.

Notification of intention to apply Act.

3. *(1)* The Local Government may, from time to time, by notification in the official Gazette, declare its intention to apply this Act to any town or to any group of towns in the immediate neighbourhood of one another.

(2) Every notification under sub-section (1) shall define the limits of the town or group of towns to which it refers, and may include within those limits any railway-station, village, building or land in the vicinity of any such town:

Provided that it shall not, without the previous consent of the Governor General in Council, so include any military cantonment.

Application of Act.

4. *(1)* Any inhabitant of a local area in respect of which a notification has been published under section 3 may, if he objects to the application of the Act, submit his objection in writing to the Secretary to the Local Government within six weeks from the publication of the notification, and the Local Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by like notification, apply this Act to the local area.

Special rule as to application of Act to towns to which Act XV of 1873 applies.

5. The Local Government may, by notification in the official Gazette, apply this Act to any local area comprised in a municipality established under the North-Western Provinces and Oudh Municipalities Act, 1873, and shall, within three months from the date on which this Act comes into force, so apply it to every such local area unless before the expiration of that period— XV of 1873.

(a) the Act has been applied under section 4 to some local area in which that local area is comprised; or

(b) the Local Government has, declared, by a notification in the local Gazette, that the provisions of this Act are unsuited to that local area.

N.-W. P. and Oudh Municipalities Bill, 1883.

Chapter II.—Organization of Municipal Boards—Sections 6-14.

CHAPTER II.

ORGANIZATION OF MUNICIPAL BOARDS.

Constitution of Boards.

Board to consist of elected and appointed members.

6. There shall be established for each municipality a municipal board having authority over that municipality, and consisting of—

(a) so many elected members as may be determined in manner prescribed, representing wards of the municipality or particular classes of the inhabitants; and

(b) such person or persons (if any), not exceeding in number one-fourth of the board, as the Local Government may, subject to the rules made under this Act, from time to time appoint in this behalf.

Magistrate to convene meeting to determine system of election.

7. *(1)* The Magistrate of the district within which any municipality is situate shall, within one month from the date on which this Act has been applied to the municipality under section 4 or section 5, issue notices in writing to the persons mentioned in section 8, inviting them to assemble at a time and place specified in the notices, for the purpose of preparing and submitting within such time as the Local Government may fix in this behalf, proposals for determining the system of representation and election to be established in the municipality.

(2) The Local Government may, from time to time, extend the time fixed under this section to any period not exceeding three months from the issue of the notices.

Persons to be invited to meeting.

8. Notices under section 7 shall be issued to the following persons, namely:—

(a) all Honorary Magistrates having jurisdiction within the limits of the municipality;

(b) when the municipality comprises any local area for which a municipal committee has been appointed under the North-Western Provinces and Oudh Municipalities Act, 1873, the members of that committee; XV of 1873.

(c) when the municipality comprises any local area for which a panchâyat has been appointed under Act XX of 1856, the members of that panchâyat; and

(d) any leading residents of the municipality not included under the foregoing clauses, but who in the opinion of the Magistrate of the district should be allowed to take part in the discussion.

Matters to be considered at the meeting.

9. The persons who assemble in compliance with the notices issued under section 7 shall consider the following matters, and shall, within the time limited under section 7, submit proposals regarding the same to the Magistrate of the district for transmission to the Local Government, namely:—

(a) the division of the municipality into wards;

(b) the number of representatives proper for each ward;

(c) the provision (if any) to be made for the special representation of any classes of the community;

(d) the qualifications of electors and of candidates for election;

(e) the registration of electors;

(f) the nomination of candidates, the time of election and the mode of recording votes; and

(g) any other matters regarding the system of representation and of election which it may seem to the meeting expedient to consider.

Power to Local Government to make rules regarding election.

10. *(1)* The Local Government shall, after taking into consideration the proposals (if any) submitted to the Magistrate of the district under section 9, make rules regulating the matters referred to in that section.

(2) The Local Government may, after the municipal board has come into existence as hereinafter provided, from time to time amend, after consulting the board, the rules made under this section, but no amendment made under this sub-section shall take effect until six months after it has been published in the official Gazette.

(3) Elective members of the board shall be elected in accordance with the rules made under this section and for the time being in force.

Term of office of member of board.

11. *(1)* The term of office of a member of a municipal board shall be fixed, from time to time, by the Local Government by rules made under this Act, but shall not exceed two years.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

Resignation of member of board.

12. A member of a municipal board may resign by notifying in writing his intention to do so to the Local Government, and on such resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Removal of members.

13. The Local Government may, from time to time, remove any member of a municipal board who refuses to act or becomes incapable of acting, or is declared an insolvent, or is convicted of any offence, or subjected by a Criminal Court to any order, implying, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who without sufficient excuse neglects for more than six consecutive months to be present at the meetings of the board.

Filling of casual vacancies.

14. *(1)* When the place of an elected member of a municipal board becomes vacant by the resignation or removal of the member under section 12 or section 13, or by his death, a new member shall be elected in manner prescribed to fill the place.

(2) When the place of an appointed member of a municipal board becomes vacant as aforesaid, the Local Government may, if it thinks fit, but subject to the rules made under section 60, appoint a new member to fill the place.

N.-W. P. and Oudh Municipalities Bill, 1883.

Chapter II.—Organization of Municipal Boards—Sections 15-25.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

15. Every municipal board shall be a body corporate by the name of the municipal board of its municipality, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to the rules made under section 60, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Incorporation of municipal board.

16. A municipal board shall come into existence at such time as the Local Government may by notification in the official Gazette appoint in this behalf.

Time for boards coming into existence.

17. When a municipal board comes into existence under section 16 for a municipality constituted under this Act, and that municipality comprises within its limits a local area which is a municipality under the North-Western Provinces and Oudh Municipalities Act, 1873, the following consequences shall ensue, namely:—

Consequences of establishment of municipal board where municipal committee exists.

XV of 1873.

(a) the said North-Western Provinces and Oudh Municipalities Act shall cease to apply to the local area;

(b) the municipal committee (if any) constituted under that Act for the local area shall cease to exist;

(c) all property vested in that committee shall vest in the municipal board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, that property;

(d) every contract entered into by the committee may be enforced by and against the board in like manner as it might have been enforced by and against the committee if this Act had not been passed.

Chairman and Vice-chairman.

18. A municipal board shall, from time to time, at a special meeting, elect as its chairman one of its own members or some other person, and the member or other person so elected shall, if the election is approved by the Local Government, but not otherwise, become chairman of the board:

Election or appointment of chairman.

Provided that in such municipalities as the Local Government may, from time to time, by notification in the official Gazette, exempt from the operation of this section, the chairman shall, from time to time, be appointed by the Local Government.

19. When a person not already a member of the board, is elected or appointed chairman, he shall notwithstanding any thing in the foregoing sections become a member of the board by virtue of such election, or appointment, and shall continue to be a member so long as he holds office as chairman.

Chairman to become member if not already member.

20. In every municipality the board shall, from time to time, at a special meeting, elect one or two of its members to be its vice-chairman or vice-chairmen.

Appointment of vice-chairman.

21. *(1)* A chairman or vice-chairman elected by the board shall hold office for one year, and on the expiration of that period may be re-elected.

Term of office of chairman and vice-chairman.

(2) A chairman appointed by the Local Government shall continue in office for such term as the Local Government may, from time to time, by rule, prescribe, and on the expiration of that term may be re-appointed.

22. *(1)* If an elected chairman or vice-chairman dies, ceases to be a member of the board, resigns his office of chairman or becomes incapable of acting, the board shall, at a special meeting, elect another of its members to be chairman or vice-chairman.

Casual vacancies in office of chairman or vice-chairman.

(2) If a chairman appointed by the Local Government dies, resigns his office of chairman or becomes incapable of acting, the Local Government shall appoint another chairman.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office and shall then go out of office, but shall be again eligible for election or appointment.

Notification of elections, appointments, &c.

23. All elections and appointments of chairmen and all elections, appointments and removals of members of municipal boards, shall be notified in the local official Gazette.

Notification of appointments, &c.

Joint Committees.

24. *(1)* A municipal board may, from time to time, concur with any other municipal board, or with a district board, or with more than one such board, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee, and in delegating to any such committee any power which might be exercised by either or any of the boards, and in framing and modifying regulations as to the proceedings of any such committee and as to the conduct of correspondence relating to the purpose for which such committee is appointed.

Joint committee of two or more boards.

(2) If any difference of opinion arises between boards acting under this section, the decision thereon of the Commissioner of the division, if the areas under the authority of the boards are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

25. *(1)* A municipal board shall meet for the transaction of business at least once in every month on such day as may, from time to time, be fixed by the rules made under section 32.

Time for holding meetings.

N.-W. P. and Oudh Municipalities Bill, 1883.

Chapter II.—Organization of Municipal Boards—Sections 26-35.

(2) The chairman, or, in his absence, a vice-chairman, may, whenever he thinks fit, and shall, upon a requisition made in writing by not less than one-fifth of the members of the board, convene a meeting at any other time.

26. *(1)* A meeting of a municipal board shall be either ordinary or special.

Ordinary and special meetings.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

27. *(1)* The quorum nesessary for the transaction of business at a special meeting of a municipal board shall be one-half of the whole board.

Quorum.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a municipal board shall be such number or proportion of the members of the board as may, from time to time, be fixed by the rules made under this Act:

Provided that, if at any meeting of the board a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before and transacted at the adjourned meeting whether there is a quorum present thereat or not.

28. *(1)* At every meeting of a municipal board the chairman, if present, shall preside.

Chairman of meeting.

(2) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting and a vice-chairman is present, such vice-chairman, or, when two vice-chairmen are present, the senior of them by date of appointment, shall preside.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

29. *(1)* Except as otherwise provided by this Act, or by any rule made under this Act, all questions which may come before any meeting of a municipal board shall be decided by a majority of the votes of the members present.

Vote of majority decisive.

(2) In case of an equality of votes, the chairman at the meeting shall have a second or casting vote.

30. The Civil Surgeon of the district, the Executive Engineer of the division, and the Inspector of Schools of the circle, shall be entitled to attend any meeting of the board, and to address the board on any matter affecting respectively sanitation, public works and public instruction.

Certain officers entitled to attend and speak.

31. *(1)* Every resolution passed by a municipal board at a meeting shall be recorded in a book kept for the purpose, shall be signed by the chairman of the meeting, and shall be published in some local English or Vernacular newspaper, or in such other manner as the Local Government may, from time to time, direct.

Resolutions to be recorded and published.

(2) A copy of every resolution passed by a municipal board at a meeting shall, within ten days from the date of the meeting, be forwarded to the Magistrate of the district.

32. *(1)* Every municipal board may, from time to time, at a special meeting, make rules consistent with this Act and any rules made under this Act by the Local Government as to—

Power to make rules as to meetings and proceedings.

(a) the time and place of its meetings,

(b) the manner in which notice thereof shall be given,

(c) the quorum necessary for the transaction of business at ordinary meetings,

(d) the conduct of proceedings at meetings, and the adjournment of meetings,

(e) the language of the board,

(f) the division of duties among the members of the board,

(g) the persons by whom receipts may be granted on behalf of the board for money paid under this Act, and

(h) all other similar matters.

(2) Every rule made under this section shall be published in such manner as the Local Government may, from time to time, direct.

Officers and Servants.

33. *(1)* Every municipal board shall, from time to time, at a special meeting, appoint one or more of its members, or, with the sanction of the Commissioner of the division, any other person or persons, to be its secretary or secretaries, and may at a like meeting remove any person so appointed.

Appointment of secretary.

(2) If an officer in the service of the Government, and who is not a member of the board, is appointed secretary, he shall, notwithstanding anything in the foregoing sections, become a member of the board by virtue of such appointment, and shall continue to be a member of the board as long as he holds the office of secretary.

(3) If a secretary is a member of the board, he shall receive no remuneration in respect of his services. If he is not a member of the board, the board may, with the previous sanction of the Commissioner, assign to him any such pay, leave-allowance, gratuity or pension as it thinks fit.

34. Subject to the other provisions of this Act, every municipal board may employ, in addition to its secretary or secretaries, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such pay, leave-allowances, gratuities or pensions as it thinks fit.

Employment of other officers and servants.

Contracts.

35. *(1)* A municipal board may delegate to one or more of its members the power of entering into on its behalf any contract whereof the value or amount does not exceed two hundred rupees.

Authority to contract.

(2) A contract whereof the value or amount exceeds two hundred rupees shall not be executed until it has been sanctioned by the board at a meeting.

N.-W. P. and Oudh Municipalities Bill, 1883.

Chapter III.—Taxation and Municipal Fund—Sections 36-43.

36. *(1)* Every contract made by or on behalf of a municipal board whereof the value or amount exceeds twenty rupees shall be in writing,

Mode of executing contracts.

(2) every such contract, shall be signed by the chairman, or a vice-chairman, and a secretary.

Provided that the board may delegate to one or more of its members the power of executing any contracts which he or they are empowered to enter into under section 35 sub-section (1).

(3) A contract executed otherwise than in conformity with the provisions of this section shall not be binding on the board.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

37. Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, a municipal board may, for the purposes of this Act, impose, with the sanction hereinafter specified in each case, and in manner prescribed by section 38, any of the following taxes, namely :—

Taxes which may be imposed.

(1) with the previous sanction of the Local Government—

(a) a tax on houses, buildings and lands situate within the municipality, not exceeding seven and a half per cent. of the annual value of the houses, buildings and lands;

(b) a tax on persons exercising professions or carrying on trades or dealings in the municipality;

(c) a tax on carriages, horses, mules, elephants, camels, bullocks and asses kept within the municipality;

(d) a tax on carriages, carts and animals entering the municipality, and on boats moored therein;

(e) an octroi on articles brought within the municipality for consumption or use therein; and

(2) with the previous sanction of the Local Government and of the Governor General in Council, any other tax.

38. *(1)* A municipal board may resolve at a special meeting to propose the imposition of any tax for the purposes of this Act.

Procedure in imposing taxes.

(2) When a resolution has been passed under sub-section (1), the board shall publish a notice defining the persons or property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any inhabitant of the municipality objecting to the proposed tax may, within a fortnight from the publication of the notice, submit his objection in writing to the board, and the board shall at a special meeting take his objection into consideration.

(4) If no objection is submitted within the said period of a fortnight under sub-section (3), or if the objections so submitted, having been considered as aforesaid, are deemed insufficient, the board may forward its proposals to the Local Government, together with the objections (if any) which have been submitted as aforesaid.

(5) A Local Government receiving proposals under sub-section (4) may sanction the same, or refuse to sanction them, or return them to the board for further consideration.

(6) When a Local Government sanctions under sub-section (5) any proposals which, under section 37, sub-section (2), require the further sanction of the Governor General in Council, it shall submit those proposals to the Governor General in Council, together with the objections (if any) received through the board; and the Governor General in Council may sanction the proposals, or refuse to sanction the same, or return them to the Local Government for further consideration.

(7) When the proposals of a municipal board have been sanctioned by the Local Government or by the Local Government and the Governor General in Council, as the case may be, the board may, at a special meeting direct, the imposition of the tax in accordance with those proposals.

39. A municipal board by a resolution passed at a special meeting and confirmed by the Local Government, or the Local Government with the previous sanction of the Governor General in Council, may abolish any tax imposed under the foregoing sections.

Power to abolish tax.

40. All taxes leviable in any local area under the North-Western Provinces and Oudh Municipalities Act, 1873, at the time a municipal board having authority over that local area comes into existence under this Act, shall be deemed to have been imposed and assessed under this Act.

Taxes leviable under Act XV of 1873 to be deemed to be taxes under this Act.

XV of 1873.

41. Arrears of any tax imposed under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property belonging to the defaulter within those limits.

Recovery of taxes.

Municipal Fund.

42. There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

Municipal fund constituted.

(a) all sums received by or on behalf of the board under this Act, and

(b) when there has been included within the municipality any municipality constituted under the North-Western Provinces and Oudh Municipal Act, 1873, the balance (if any) standing at the credit of the municipal fund of that municipality at the time the municipal board came into existence.

XV of 1873.

43. *(1)* In places where there is a Government treasury or sub-treasury, the municipal fund shall be kept in the treasury or sub-treasury.

Custody of municipal fund.

N.-W. P. and Oudh Municipalities Bill, 1883.

Chapter IV.—Powers and Duties of Municipal Boards generally—Sections 44-52.

(2) In places where there is no such treasury or sub-treasury, the municipal fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

CHAPTER IV.

POWERS AND DUTIES OF MUNICIPAL BOARDS GENERALLY.

Municipal Police.

44. Every municipal board shall maintain a police establishment for watch and ward, for the prevention and suppression of nuisances and for the enforcement of the rules and orders of the board.

Police establishment.

45. *(1)* Subject to the provisions of section nine of the Cantonments Act, 1880, the establishment maintained under section 44 shall, as the board with the approval of the Local Government may determine, be either a body of watchmen or a part of the general police force under the Local Government within the meaning of section two of Act V of 1861; and it shall consist of such number of officers and men, and the officers and men shall receive such pay, leave, allowances, gratuities and pensions, as the board may, from time to time, after consultation with the Magistrate of the District and the Inspector General of Police, determine.

Constitution of establishment.

III of 1880.

(2) If any difference of opinion arises between the board and the Magistrate of the District or the Inspector General of Police under this section it shall be referred to the Local Government and the decision of the Local Government thereon shall be final.

46. If the establishment maintained under section 44 is a body of watchmen, the watchmen shall be appointed, and shall be liable to dismissal, suspension, reduction or fine under such rules as the Local Government may, from time to time, make in this behalf; and shall perform such duties, and be liable to such penalties, as village-policemen appointed under the North-Western Provinces Village and Road Police Act, 1873, or under the Oudh Laws Act, 1876, as the case may be, perform and are liable to.

Appointment, punishment, powers and duties of municipal watchmen.

XVI of 1873. XVIII of 1876.

47. If the establishment is part of the general police force, the Local Government may, notwithstanding anything contained in Act V of 1861 or in any other Act for the time being in force, define the duties which the officers and men of the establishment may or may not be required to perform.

Duties of municipal police enrolled under Act V of 1861.

48. Section thirty-four of Act V of 1861 shall be in force in every municipality, and every watchman under this Act shall have the powers of a Police-officer under that section.

Section 34 of Act V of 1861 to be in force in every municipality.

Conservancy and General Improvement.

49. Every municipal board, so far as the municipal fund at its disposal will permit, shall, after providing for the maintenance of the police establishment referred to in the foregoing sections,—

Duties of municipal board generally.

(1) keep the public streets, roads, drains, tanks and watercourses clean and in repair;

(2) cause those streets and roads to be watered and lighted;

(3) provide for the establishment and maintenance of schools and dispensaries and of other institutions for the promotion of education or for the benefit of the public health, and control and administer all such institutions within the municipality, except where they may by a special order of the Local Government have been excepted from the operation of this section;

(4) construct and provide for the maintenance and management of poor-houses, markets and other works of public utility; and

(5) generally, do all acts and things calculated to promote the health, comfort, convenience or interests of the inhabitants of the municipality.

Prevention of Nuisances.

50. *(1)* A municipal board may, from time to time, at a special meeting, make rules—

Power of board to make rules regarding nuisances.

(a) declaring that such acts or omissions within the municipality as may in its opinion cause or tend to cause any common injury, danger or annoyance to the public, or to people in general who dwell or occupy property in the vicinity, or injury, obstruction danger or annoyance to persons who may have occasion to use any public right, shall be deemed within the meaning of the Indian Penal Code and for the purposes of this Act to be public nuisances; and

XLV of 1860.

(b) defining the cases, manner and times in and at which officers of the Board may enter upon private property for the detection and abatement of public nuisances.

(2) A rule made under this section shall not come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

51. Subject to any orders which the Local Government may, from time to time, make in this behalf, a municipal board may order any person not to do, or not to omit to do, within the municipality, anything the doing of, or the omission to do, which is a public nuisance.

Power to prohibit commission of public nuisances.

52. *(1)* The Local Government may invest, within the limits of the municipality, a municipal board with the powers of a Magistrate of a district as described in section one hundred and thirty-three of the Code of Criminal Procedure, and with powers to make conditional orders of the nature referred to in that section, in respect of all or any of the acts or omissions which may have been declared to be public nuisances under clause *(a)* of section 50 of this Act.

Power as to conditional orders in respect of nuisances.

X of 1882.

N.-W. P. and Oudh Municipalities Bill, 1883.

Chapter V.—Control—Sections 53-58.

X of 1882. *(2)* Sections one hundred and thirty-three to one hundred and forty-two (both inclusive) of the Code of the Criminal Procedure shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers.

(3) The Local Government may, whenever it thinks fit, withdraw the powers with which it has invested a board under this section.

Delegation of powers as to nuisances.

53. A municipal board may, at a special meeting, delegate to one or more committees of its members any of the powers vested in the board by section 51, or with which the board may have been invested under section 52.

Additional Power to make Rules.

Additional power to make rules.

54. *(1)* A local board may, from time to time, at a special meeting, make rules,—

(a) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads where those conveyances, animals or persons are hired for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;

(b) for securing a proper registration of births, marriages and deaths; and

(c) generally for carrying out the purposes of this Act.

(2) In making any rule under this section, a municipal board may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and when the breach is a continuing one with a further fine of five rupees for every day after the first during which the breach continues.

(3) A rule made under this section shall not come into force until it has been confirmed by the Local Government, and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

(4) Notwithstanding anything contained in the forgoing portion of this section the municipal board of a municipality in which the Hackney Carriage Act, 1879, is in force shall not make rules under sub-section (1) in respect to any vehicles to which that Act applies.

CHAPTER V.

CONTROL.

Control by Commissioner and Magistrate.

55. *(1)* The Commissioner of the division or the Magistrate of the district may—

(a) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any municipal board or joint committee, or any work in progress within those limits under the direction of any such board or committee;

(b) call for and inspect any book or document in the possession or under the control of any such board or committee having authority within those limits;

(c) require any such board or committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the board or committee, as he may think fit to call for; and

(d) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(2) When the Magistrate of the district is a member of a board or joint committee, he shall not exercise, in respect of that board or committee, the powers conferred upon him by sub-section (1).

Power to suspend action under Act.

56. *(1)* The Commissioner of the division or the Magistrate of the district may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of municipal board or joint committee, or prohibit the doing within those limits of any act which is about to be done or is being done in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

(2) When a Commissioner or Magistrate makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order or direct that it continue in force with or without modification permanently or for such period as it thinks fit.

Extraordinary powers of Deputy Commissioner in case of emergency.

57. *(1)* In cases of emergency, the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a municipal board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the board.

(2) If the expense is not so paid, the Magistrate of the district may make an order directing the person having the custody of the balance of the municipal fund to pay the expense or as much thereof as is, from time to time, possible, from that balance in priority to any or all other charges against the same.

(3) The Magistrate of the district shall forthwith report to the Commissioner every case in which he uses the powers conferred upon him by this section.

Powers of Local Government in case of default of board.

58. *(1)* If at any time it appears to the Local Government that a municipal board has made default in performing any duty imposed on it by or under this or any other Act, the Local Government may, by order in writing, fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed, the Local Government may appoint the Magistrate of the district to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Magistrate by the board.

(3) If the expense be not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is from time to time possible from the balance, in priority to any or all other charges against the same.

N.-W. P. and Oudh Municipalities Bill, 1883.

Chapter VI.—Miscellaneous—Sections 59-65.

Power of Local Government to supersede board in case of incompetency, persistent default or abuse of powers.

59. *(1)* If a municipal board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare that board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(2) When a board is so superseded, the following consequences shall ensue:—

(a) All members of the board shall, as from the date of the order, vacate their offices as such members;

(b) All powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as the Local Government, from time to time, appoints in that behalf;

(c) All property vested in the board shall, during the period of supersession, vest in the Local Government.

(3) On the expiration of the period of supersession specified in the order, the board shall be reconstituted, and the persons who vacated their offices under clause *(a)* shall not be deemed disqualified from being members.

Power of Local Government to frame forms and make rules.

60. The Local Government may, from time to time, frame forms for any proceeding of a municipal board for which it considers that a form should be provided, and make rules consistent with this Act—

(a) with respect to the appointment of members of a municipal board under section 6, clause *(b)*;

(b) as to the assessment and collection of taxes imposed under this Act;

(c) as to the authority on which money may be paid from the municipal fund;

(d) as to the conditions on which property vested in the board may be transferred by sale, mortgage, lease, exchange or otherwise;

(e) as to the intermediate office or offices, if any, through which correspondence between boards and the Local Government or officers of that Government shall pass;

(f) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of boards, and as to the authority by whom, and the conditions subject to which, such plans and estimates may be sanctioned;

(g) as to the accounts to be kept by boards, as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(h) as to the preparation of estimates of income and expenditure of boards, and as to the authority by whom, and the conditions subject to which, such estimates may be sanctioned;

(i) as to the returns, statements and reports to be submitted by boards; and,

(j) generally, for the guidance of boards and public officers in all matters connected with the carrying out of this Act.

CHAPTER VI.

MISCELLANEOUS.

Penalty on member, officer or servant of board being interested in contract made with board.

61. If any member, officer or servant of a board is otherwise than with the permission in writing of the Commissioner of the division directly or indirectly interested in any contract made with the board, he shall be deemed to have committed an offence under section one hundred and sixty-eight of the Indian Penal Code: XLV of 1860.

Provided that no person shall, by reason of being a shareholder in, or member of, any incorporated or registered company, be held to be interested in any contract entered into between such company and the board.

Suits against boards and their officers.

62. In respect of every suit instituted against a municipal board, or against any officer or servant of the board in respect of an act purporting to be done by him in his official capacity, the board, officer or servant shall have as nearly as may be all the privileges which the Secretary of State for India in Council or a public officer respectively has under chapter XXVII of the Code of Civil Procedure. X of 1870.

Liability of members for loss, waste or misapplication.

63. Every member of a municipal board shall be liable for the loss, waste or misapplication of any money or other property belonging to the board, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct, and a suit for compensation may be instituted against him by the board or by the Secretary of State for India in Council.

Power to vest property in board.

64. The Local Government may, from time to time, by notification in the official Gazette, direct that any property, moveable or immoveable, which is vested in Her Majesty and is situate in the territories administered by the Local Government, shall vest in any municipal board; and thereupon the property shall vest in that board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, the property.

Acquisition of land under Act X of 1870.

65. Where any land whether within or without the limits of a municipality is required for the purposes of this Act, the Local Government may, at the request of the municipal board,

N.-W. P. and Oudh Municipalities Bill, 1883.

Chapter VII.—Exceptional Provisions—Sections 66-68.

proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the board of the compensation awarded under that Act, the land shall vest in the board.

I of 1870.

66. *(1)* The authority empowered to make rules under section 10, section 50, section 54 or section 60 shall, before making them, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

Procedure for making rules.

(2) Every rule made under any of those sections shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section

CHAPTER VII.

EXCEPTIONAL PROVISIONS.

67. *(1)* If it appears to the Local Government that the circumstances of any municipality are such that the provisions of this Act requiring that a certain proportion of the members of a municipal board be elected are unsuited thereto, the Local Government may, by notification in the official Gazette, except the municipality, wholly or in part, from the operation of those provisions, and thereupon those provisions shall not apply, or shall only apply in part, as the case may be, to the excepted municipality until again applied thereto by a like notification of the Local Government. Provided that no notification shall be issued under this section in respect of a municipality for which a municipal board has come into existence unless its issue has been sanctioned by the Governor General in Council.

Power to except municipalities from operation of provisions of Act regarding election.

(2) While the municipality continues to be excepted, wholly or in part, from the operation of the provisions, mentioned in sub-section (1), the Local Government may appoint such of the members of the municipal board as would otherwise have been elected.

68. *(1)* The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local Gazette, withdraw from the operation of this Act or the North-Western Provinces and Oudh Municipalities Act, 1873, any local area to which that Act may have been applied or extended.

Power to withdraw local area altogether from operation of this Act or Act XV of 1873.

XV of 1873.

(2) When a notification is issued under this section in respect of the whole area subject to the authority of a municipal board or municipal committee, all property which at the time of the issue of the notification is vested in the board or committee shall vest in the Local Government, and be applied by it, in such manner as it thinks fit, for the promotion of the health, comfort and convenience of the inhabitants.

(3) When a notification is issued under this section in respect of a part of the area under the authority of a municipal board or municipal committee, such part of the property of the board or committee as the Commissioner may determine shall vest in the Local Government, and be applied as aforesaid.

STATEMENT OF OBJECTS AND REASONS.

MUNICIPAL Committees in the North-Western Provinces and Oudh are at present constituted and guided in the execution of their functions by Act XV, 1873, the North-Western Provinces and Oudh Municipalities Act of that year.

That Act gives plenary powers to the Local Government to appoint ordinary and *ex officio* members of municipal committees. It leaves to the Local Government to determine absolutely whether in any municipality of the united provinces members shall be elected or not, and if confers upon it the power of appointing *ex officio* members to the extent of one-third of the total number of the committee, a power very generally acted on.

2. The manner of election, where elections are allowed, is under the Act regulated solely by the Local Government without reference to the parties most concerned, and casual vacancies are filled up by direct appointment by the same authority, or are not filled up at all.

3. The Local Government may also appoint the president and vice-presidents of all committees, and may unconditionally cancel, suspend or limit any of the proceedings, bye-laws or rules of the committees and abolish any tax imposed by them.

4. Section 34 of the Act further imposes on a municipality without any restriction the obligation of providing for the maintenance of a police-establishment, the effect of which has frequently been to throw on municipalities a large portion of the charge for police kept up for the prevention and detection of crime and the apprehension of offenders against the general law of the land.

5. These provisions are inconsistent with the proposals for the extension of local self-government enunciated by the Government of the North-Western Provinces and Oudh in its resolution dated 5th December, 1882.

6. The present Bill has been drafted to enable the Local Government to carry these proposals into effect put forward after consultation with the most experienced officers of the provinces, with the members of existing municipal committees, and numerous non-official gentlemen.

7. Except in the provisions necessary to carry out the object above specified and in the arrangement of chapters and sections, the Bill follows closely the present Municipal Act.

8. Chapter I contains the usual preliminary matter, and prescribes the course to be followed when it is intended to introduce the Act into any local area, for the first time, or into existing municipalities.

9. Chapter II deals with the organisation of municipal boards.

These are to consist of members elected in the manner prescribed by the Local Government, and of a certain proportion of nominated members not to exceed one-fourth of the whole.

The principle of nomination has been already accepted in the Central Provinces, and is meant to provide against the danger of classes of the community being overridden by hostile majorities.

10. Before making rules for determining the system of representation and election the Local Government is required by sections 8 and 9 to inform itself of the sense of the community on these subjects.

11. Section 18 leaves the election of their own chairmen to municipal boards, with the exception of such municipalities as the Local Government may, from time to time, by notification, exempt from the operation of this section. In these latter the chairman will be appointed by the Local Government.

This exception is meant to meet cases where an officer of Government must remain chairman, at least for a period, either in order that he may have time to transfer functions and accounts often onerous and complicated to a non-official successor, or for lack of a qualified non-official to deal with special circumstances, or by reason of the expressed wish of the municipal Board itself.

12. Section 24 contains a provision, not in the existing Act, enabling municipal boards to appoint joint committees for any purpose in which they may be jointly interested.

13. Power to appoint officers and servants necessary for the performance of its duties is given to the board by sections 33 and 34, and the appointment of an officer of Government or of an outsider as secretary is made subject to the sanction of the Commissioner. It is obviously impossible to allow boards to appoint to such office Government servants against the wish of Government, and it is necessary to take some guarantee against the appointment of an incapable man as paid secretary; especially with a non-official chairman the office of secretary to the municipal board will be one of great importance.

14. Chapter III, on taxation, varies but little from the existing Act.

15. Chapter IV, on the powers and duties of the boards, groups together all the duties of the boards in what is thought to be the order of their obligation, and simplifies the rules of the existing Act as regards nuisances.

16. Chapter V deals with the subject of control. The provisions are similar to those of the Central Provinces Local Self-government Act, with the exception that the Commissioner may at once suspend, and the Local Government rescind, any act, order or resolution of the board which is manifestly in excess of its powers.

This authority is given to provide for cases which may not be of a nature grave enough to call for the penalty of supersession.

17. Section 60 empowers the Local Government to frame forms and make rules on certain matters therein specified.

18. Chapter VI contains miscellaneous provisions as regards the conduct of litigation, penalties on, and liabilities of, members, acquisition of land, and the like.

19. Chapter VII enables the Local Government to exempt from the provisions of the Act regarding election municipalities to which it considers such provisions to be unsuited, and, with the previous sanction of the Governor General in Council, to withdraw from the operation of this Act, or of the North-Western Provinces and Oudh Municipalities Act of 1873, any local area to which either of those Acts may have been applied.

This latter power is deemed necessary as cases sometimes occur where a municipality has been established in a place which experience proves to be unfit for municipal, institutions, or where change of circumstances may have rendered such institutions unsuitable and it would be improper in such cases to insist on the Act remaining in force for ever. At the same time, the power is one which should be exercised with great caution, as it is a more serious matter to withdraw a privilege once conferred than to withhold it in the first instance; and the Local Government has therefore been debarred from acting on the section unless with the previous sanction of the Governor General in Council.

The 10th May, 1883.

J. W. QUINTON.

D. FITZPATRICK,

Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, MAY 19, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 19th April, 1883, and was referred to a Select Committee on the 3rd May, 1883 :—

No. 9 OF 1883.

A Bill to amend the law relating to certificates granted under Act XXVII of 1860 (An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons).

Preamble.

WHEREAS it is expedient to amend, in manner hereinafter appearing, Act XXVII of 1860 (*An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), and certain provisions of the Court-fees Act, 1870, and the Probate and Administration Act, 1881, relating to certificates granted under the said Act XXVII of 1860; It is hereby enacted as follows :—

VII of 1870.
V of 1881.

Short title.

1. This Act may be called the Succession Certificate Act, 1883;

Commencement.

and it shall come into force on the first day of October, 1883.

Saving as to certificates already granted.

But nothing in this Act shall affect any certificate granted under Act XXVII of 1860 before that day.

Amendment of section 2 of Act XXVII of 1860.

2. In section two of Act XXVII of 1860, after the words "hereinafter mentioned" the words "and comprising that debt" shall be inserted.

Amendment of section 3 of same Act.

3. *(1)* To the second clause of section three of that Act the following shall be added, namely :—" and shall specify, in such form and with such particulars as the Sadr Court may from time to time prescribe, the debts in respect of which he desires the certificate."

(2) To the same section the following shall be added, namely :—"specifying therein the debts in respect of which it is granted."

Amendment of section 4 of same Act.

4. To section four of the same Act the following shall be added, namely :—

"Provided that nothing in this section shall apply to any debt which is not specified in the certificate."

Amendment of section 12 of same Act.

5. In section twelve of the same Act, after the word "payments," the words "of debts specified in the later certificate" shall be inserted.

Amendment of section 14 of same Act.

6. In section fourteen of the same Act, after the word "payments" the words "of debts specified in the certificate" shall be inserted.

Amendment of section 21 of same Act.

7. *(1)* In section twenty-one of the same Act, before the words "Government security," in both places in which they occur, the word "debt" shall be inserted.

(2) To the same section the following shall be added, namely :—

"Provided that, if no court-fee has been paid in respect of the certificate, and a court-fee would, under the law relating to court-fees for the time being in force, be payable in respect of the extended certificate, or if the court-fee already paid in respect of the certificate is less than the court-fee which would under that law be payable in respect of the extended certificate, the certificate shall not be extended until the amount of the court-fee payable in respect of the extended certificate, or (as the case may be) the difference between the court-fee which would be payable in respect of the extended certificate and the court-fee already paid, has been paid into the Court or to the officer."

8. In the note to article 12 of the first schedule annexed to the Court-fees Act, 1870, for the words "such certificate," where they first occur, the words "certificate under Bombay Regulation VIII of 1827" shall be substituted.

Amendment of note to article 12, schedule I, Act VII of 1870.

VII of 1870.

9. In the proviso to section 152 of the Probate and Administration Act, 1881, after the word "payments" the words "of debts specified in such certificate" shall be inserted.

Amendment of proviso to section 152, Act V of 1881.

V of 1881.

STATEMENT OF OBJECTS AND REASONS.

ARTICLE 12, Schedule I, of the Court-fees Act, VII of 1870, provides, among other matters, for the levy of a fee of two per cent. on the amount or value of the property in respect of which a certificate is granted under Act XXVII of 1860. The following note is appended to the article:—

"The person to whom any such certificate is granted, or his representative, shall, after the expiration of twelve months from the date of such certificate, and thereafter whenever the Court granting such certificate requires him so to do, file a statement on oath of all monies recovered or realized by him under such certificate.

"If the monies so recovered or realized exceed the amount of debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same, and order such person to take out a fresh certificate, and pay the fee prescribed by this schedule for such excess.

"In default of filing such statement within the time allowed, the Court may cancel the certificate."

2. In the course of the discussions in the Legislative Council which preceded the passing of the Probate and Administration Act, V of 1881, a proposal was made by Mr. Pitt Kennedy that Act XXVII of 1860 and the Court-fees Act should be amended so as to require, from any one obtaining a certificate under the former Act for the recovery of any portion of the estate of a deceased person, payment of a court-fee at the rate of two per cent. on the entire value of the estate.

3. A circular was thereupon addressed to Local Governments calling for opinions on this proposal.

The replies received show that the weight of authority is altogether against its adoption; but many of them call attention to the fact, already more than once brought to the notice of the Government of India, that the requirements of the note in the Court-fees Act above referred to are as a rule neglected or evaded; that persons taking out certificates do not file the statements required by it, that the Courts have no proper means of compelling them to do so, and that large amounts of debts are thus collected under certificates obtained for trifling sums.

4. Various suggestions have been made for enforcing compliance with the provisions of the note; but it appears to the Government of India that there are objections to any device for securing the fee which involves the imposition on the person obtaining the certificate of a duty to be performed after he has obtained the certificate.

The great mass of the people who take out certificates are so indolent or careless or unintelligent, that there is little hope of getting them to comply with the provisions of such a law; and the consequence is that, if it is not allowed to remain a dead-letter, as the present law has been, public officers will be constantly compelled to inflict penalties on large numbers of persons, many of whom have been guilty of no deliberate wrong.

5. The simple plan, as it seems to the Government of India, is that already adopted without any warrant of law by some of the officers consulted, namely, to require each applicant for a certificate to file with his application a schedule of the debts in respect of which the certificate is required, and to amend Act XXVII of 1860, so as to make the certificate good only for the debts entered in the schedule, at the same time allowing the certificate-holder, if he afterwards finds that he needs a certificate for other debts, to obtain an extension of the certificate on paying the additional duty, and (if the Court requires him to do so) giving additional security.

6. The only objection that has been taken to this arrangement is that taken by the Calcutta High Court in their Registrar's letter No. 54, dated 10th January, 1880, printed in paper No. 20 to the Court-fees Bill. They fear that "improper use" might be made of the schedule "by fraudulent debtors whose debts were not in the knowledge of the applicant at the time [he filed the schedule], or in some way prejudice might arise."

Now, there is little doubt that a fraudulent debtor would take the point referred to, and that he would thereby put the certificate-holder to the trouble of explaining his omission to enter the debt in his original schedule; but there would be no great hardship in this, and there would, on the other hand, be a certain compensating advantage, inasmuch as (as observed in one of the replies to the circular) the fear of this would stimulate applicants for certificates to be careful in compiling their schedules.

7. Assuming that the law is to be amended in the manner proposed, a further question arises as to what debts the applicant for a certificate should be bound to include in his application. Should he be bound to include—

(*a*) all debts known to him to be outstanding, including those which could be realised equally well without a certificate; or

(*b*) only those debts which he chooses to include, because he believes he cannot realise them without a certificate?

The former, it is believed, would be more in accordance with the views of those who framed the existing law; but it appears to the Governor General in Council that it would be sufficient to adopt the second mode of valuation and allow the applicant to take out a certificate in respect of such debts only as he thinks fit. No doubt, a larger revenue might be obtained by insisting on the other mode of valuation; but it is apprehended, having regard to the class of people who take out these certificates, that any system requiring the applicant to give a complete list of debts would, if it was to be thoroughly enforced, necessitate proceedings of an inquisitorial nature for which no sufficient machinery exists and which it would not be worth while to undertake for the sake of the additional revenue to be obtained.

8. The rule which it is now proposed to lay down, while it dispenses with all proceedings of an inquisitorial or penal nature, may reasonably be expected to lead to some increase of the revenue under this head, inasmuch as, the certificate being expressly limited in its operation to the debts specified in it, the necessity of including in it all debts except those due from persons standing in some peculiarly friendly or confidential relation will be brought home to the applicants, and debtors will probably become alive to the risk they run in paying a debt which is omitted from it.

The additional revenue realized will not, as just observed, be as large as if the alternative mode of valuation were adopted, but this is a result which, for the reason already stated, the Government is prepared to accept.

9. The present Bill has been prepared for the purpose of carrying out the above views. The effect of it, if it becomes law, will be that every applicant for a certificate under Act XXVII of 1860 will be required to state in his application the debts in respect of which he desires the certificate. It will be in his option to include what debts he pleases. He will pay duty only in respect of the debts which he elects to include, and the operation of the certificate will be limited to those debts. If he subsequently desires to include other debts, he can have the certificate extended to them on paying the additional duty. The note appended to article 12 of the schedule to the Court-fees Act will not apply to him. For the rest, the amendments made by the Bill in Act XXVII of 1860 and in the Probate and Administration Act, 1881, are of an unimportant nature, and merely such as are necessitated by the above alterations in the substance of the law.

CALCUTTA;
The 5th March, 1883.

E. BARING.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

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 May, 1883:—

No. 10 OF 1883.

THE NORTH-WESTERN PROVINCES AND OUDH LOCAL BOARDS BILL, 1883.

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A Bill to provide for the constitution of Local Boards in the North-Western Provinces and Oudh.

Preamble.

WHEREAS it is expedient to make better provision for the constitution of local bodies in each district in the North-Western Provinces and Oudh to administer the expenditure of that portion of the rates levied on land which is applicable to local purposes in that district, and of the income accruing from certain other sources of revenue which may from time to time be made applicable to the like purposes; It is hereby enacted as follows:—

Short title.

1. *(1)* This Act may be called the North-Western Provinces and Oudh Local Boards Act, 1883.

Local extent.

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh; and

Commencement.

(3) it shall come into force on the first day of September, 1883.

Interpretation-clause.

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

"Prescribed" means prescribed by rules made under section 45.

Constitution of Local Boards and District Boards.

Formation of sub-districts.

3. *(1)* The Local Government shall, by order in writing, for the purposes of this Act, divide each district into sub-districts.

(2) There shall be excluded from the sub-districts formed under this section such portions of the district as are for the time being included in the limits of a military cantonment or of a municipality.

(3) The Local Government may, from time to time, by order in writing, vary any order made under this section.

Establishment of local boards for sub-districts and of district boards for districts.

4. There shall be established for each sub-district a local board having authority over that sub-district, and for each district a district board having authority over the entire district, except such portions thereof as are for the time being included in the limits of a military cantonment or of a municipality.

Constitution of local board.

5. *(1)* The local board for a sub-district shall consist of—

(a) so many persons residing or owning landed property or carrying on trade or business in the sub-district, and elected as next hereinafter provided, as the Local Government may, from time to time, fix in this behalf; and

(b) such person or persons (if any), not exceeding in number one-fourth of the board, as the Local Government may, subject to the rules made under section 45, from time to time appoint in this behalf.

(2) The elective members of a local board shall be elected in manner prescribed by the rules made under section 45, and the persons entitled to vote at the election shall be nominated by the Local Government or determined in such other manner as may be prescribed by the rules: Provided that the persons entitled to vote at the election of any such member shall not be less than twenty-five in number.

Constitution of district boards.

6. The district board for a district shall consist of all persons who for the time being are members of the local boards of the sub-districts comprised in that district:

Provided that the Local Government may, if it thinks fit, by notification in the official Gazette, direct that the district board shall consist of so many members of each local board as it thinks fit, elected in this behalf by the local board in manner

N.-W. P. and Oudh Local Boards Bill, 1883—Sections 7-17.

prescribed, and may by a like notification rescind any such direction with effect from the date on which all the persons holding office as members of the district board at the date of the notification shall, under the provisions next hereinafter contained, have vacated their offices as such members.

Term of office of members of local boards and of certain district boards.

7. *(1)* The term of office of a member of a local board and of a member of a district board elected under the proviso to section 6 shall be fixed, from time to time, by the Local Government by rules made under this Act, but shall not exceed three years.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

Resignation of members of those boards.

8. A member of a local board and a member of a district board elected as aforesaid may resign by notifying in writing his intention to do so to the Local Government; and, on the acceptance by the Local Government of such resignation, the member shall be deemed to have vacated his office as such member.

Removal of members of those boards.

9. The Local Government may, from time to time, remove any member of a local board or of a district board elected as aforesaid who refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any offence, or subjected by a Criminal Court to any order, implying, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who without sufficient excuse neglects for more than six consecutive months to be present at the meetings of the board.

Filling of casual vacancies on those boards.

10. *(1)* When the place of an elected member of a local board or of a member of a district board elected as aforesaid becomes vacant by the resignation or removal of the member under section 8 or section 9, or by his death, a new member shall be elected in manner prescribed to fill the place:

Provided that the Local Government may, subject to the limitation of the proportion of appointed members of a local board prescribed by section 5, clause (b), direct in any such case that the vacancy shall be left unfilled.

(2) When the place of an appointed member of a local board becomes vacant as aforesaid, the Local Government may, if it thinks fit, but subject to the rules made under section 45, appoint a new member to fill the place.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

Incorporation of district board.

11. Every district board shall be a body corporate by the name of the district board of its district, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, to transfer any moveable property, and, with the previous approval in writing of the Commissioner of the Division, any immoveable property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Time for boards coming into existence.

12. The several local boards and district boards under this Act shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Chairmen and Vice-chairmen.

Chairman of local board.

13. *(1)* Every local board shall, from time to time, elect one of its members to be chairman for one year.

(2) If the chairman so elected dies, ceases to be a member of the board, resigns the office of chairman or becomes incapable of acting, the board shall elect another of its members to be chairman for the period during which the person so dying, ceasing to be a member, resigning or becoming incapable would have been entitled to continue in office, and no longer.

(3) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting, the members present shall elect one of their number to be chairman of the meeting.

Chairman of district board.

14. *(1)* Every district board shall, on first coming into existence and thereafter whenever the term of office of its chairman expires under this Act, take into consideration, at a special meeting convened for the purpose within the time prescribed, the appointment of a chairman, and, if the meeting is attended by not less than three-fourths of the members of the board, may, by a majority of the members present,—

(a) determine whether the chairman shall be elected, or his appointment shall be left to be made by the Local Government, and

(b) if it is determined that the chairman shall be elected, elect one of its members to be chairman; and

the Local Government may, if it approves of the person so elected, declare him to be chairman of the board.

(2) If no such meeting is held within the time prescribed, or if three-fourths of the members of the board are not present at the meeting, or where several meetings are convened under this section at any of those meetings, or if no such election takes place, or if the person elected is not approved of by the Local Government, the Local Government shall appoint as chairman such person as it thinks fit.

Vice-chairman of district board.

15. At a special meeting held under section 14, or at another special meeting held for this purpose, the district board shall elect one or two of its members to be its vice-chairman or vice-chairmen.

Term of office of chairman and vice-chairman of district board.

16. The term of office of a chairman or vice-chairman of a district board shall be one year.

Casual vacancies in office of chairman or vice-chairman of district board.

17. *(1)* If a chairman of a district board elected under section 14, sub-section (1), dies, ceases to be a member of the board, resigns his office of chairman or becomes incapable of acting, a special meeting of the

board shall be held within the period prescribed, and a new chairman shall be elected or appointed in manner provided by that section.

(2) If a chairman of a district board appointed under section 14, sub-section (2), dies, resigns or becomes incapable of acting, the Local Government shall appoint another chairman.

(3) If a vice-chairman of a district board dies, ceases to be a member of the board, resigns his office of vice-chairman or becomes incapable of acting, the board shall, at a special meeting held for this purpose, elect one of its members to be vice-chairman in his place.

(4) A chairman or vice-chairman elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office.

Chairman appointed by Local Government to be member of district board.

18. Notwithstanding anything in the foregoing sections, a chairman appointed by the Local Government under section 14, sub-section (2), or section 17, sub-section (1) or sub-section (2), shall, if he is not already a member of the district board, become a member thereof by virtue of such appointment, and continue to be a member thereof while he holds the office of chairman.

Person to preside at meeting of district board.

19. *(1)* At every meeting of a district board the chairman, if present, shall preside.

(2) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting, and a vice-chairman is present, such vice-chairman or, when two vice-chairmen are present, the senior of them by date of appointment, shall preside.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

Chairmen and vice-chairman of local or district board re-eligible.

20. A chairman of a local board, and a chairman or vice-chairman of a district board, shall be again eligible for election or appointment on the expiration of his term of office.

Notification of Elections, &c.

Notification of elections, &c.

21. All elections, appointments and removals of members of local boards and district boards, and all elections and appointments of chairmen of district boards, shall be notified in the local official Gazette.

Duties of District Boards.

Matters to be administered by district boards.

22. The following matters shall, subject to such exceptions and conditions as the Local Government may, from time to time, make and impose, be under the control and administration of the district board within the area subject to its authority:—

(*a*) the construction, repair and maintenance of public roads and other means of communication;

(*b*) the management, maintenance and visiting of schools, hospitals, dispensaries, markets, staging-houses, inspection-houses and other public institutions, and the construction and repair of all buildings connected with these institutions;

(*c*) the construction and repair of public wells, tanks and water-works, and the supply of water from them and from other sources;

(*d*) the establishment and maintenance of relief-works in time of famine or scarcity;

(*e*) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in force, all the functions of the Local Government and the Magistrate of the district under sections four, five, six, seven, twelve, fourteen and seventeen, and clause (*a*) of section eighteen, of that Act; I of 1871.

(*f*) the management of such public ferries as may be entrusted to its charge under section 7A of the Northern India Ferries Act, 1878, as amended by this Act; XVII of 1878.

(*g*) the licensing and regulation of stage-carriages under Act No. XVI of 1861 (*an Act for licensing and regulating stage-carriages*), including the functions of a Magistrate under sections two, three and ten of that Act;

(*h*) the regulation of encamping-grounds and, where the Saráís Act, 1867, is in force, of saráís and paráos, including the functions of the Magistrate of the district under sections three, four, six, seven, ten, eleven and twelve of that Act; XXII of 1867.

(*i*) the maintenance of any building or other property which is vested under this Act in the district board, or may be placed by the Local Government under the management of that board; and

(*j*) any other local works or measures likely to promote the health, comfort or convenience of the public.

Duties of Local Boards and their Relations to District Boards.

Local board to be agent of district board.

23. Every local board shall, in the sub-district under its authority, be the agent of the district board, and, as such agent, shall have such authority and discharge such duties in respect of all or any of the matters specified in section 22 as the district board may, by written authority in that behalf, from time to time, confer or impose upon it.

Control of district board over local boards.

24. The district board may, by a resolution passed by two-thirds of the members present at a meeting, either on complaint made to it or of its own motion, reverse or vary any order or other proceeding of any local board within the district:

Provided that, except for reasons recorded in writing, no such resolution shall be passed until the local board has been allowed an opportunity of showing cause against the same.

Joint Committees.

Joint committee of two or more boards.

25. *(1)* A district board may, from time to time, concur with any other district board, or with the board of any municipality, or with more than one such board, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee, and in delegating to any such committee any power which might be exercised by either or any of the boards, and in framing and modifying regulations as to the proceedings of any such committee, and as to the conduct of correspondence relating to the purpose for which the committee is appointed.

(2) If any difference of opinion arises between boards acting under this section, the decision thereon of the Commissioner of the division if the areas under the authority of the boards are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

Ordinary and special meetings.

26. *(1)* A meeting of a district board or local board shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

Quorum.

27. *(1)* The quorum necessary for the transaction of business at a special meeting of a district board or local board shall, except where otherwise provided by this Act, be one-half of the whole board.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a district board or local board shall be such number or proportion of the members of the board as may, from time to time, be fixed by the rules made under this Act.

Vote of majority decisive.

28. *(1)* Except as otherwise provided by this Act, or by any rule made under this Act, all questions coming before a meeting of a district board or local board shall be decided by a majority of the votes of the members present.

(2) In case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

Certain officers entitled to attend and speak.

29. The Civil Surgeon of the district, the Executive Engineer of the division, and the Inspector of Schools of the circle, shall be entitled to attend any meeting of a district board or local board, and to address the board on any matter affecting respectively sanitation, public works or public instruction.

Resolutions to be recorded.

30. *(1)* Every resolution passed by a district board or local board at a meeting shall be recorded in a book kept for the purpose, and shall be signed by the chairman of the meeting.

(2) A copy of every resolution passed by a local board at a meeting shall, within ten days from the date of the meeting, be forwarded to the district board.

(3) A copy of every resolution passed by a district board at a meeting shall, within ten days from the date of the meeting, be forwarded to the Magistrate of the district.

Power to make rules as to conduct of business.

31. Every district board, and, with the previous sanction of the district board, every local board, may, from time to time, make rules consistent with this Act and with any rules made under this Act by the Local Government as to—

(*a*) the time and place of its meetings;

(*b*) the quorum necessary for the transaction of business at ordinary meetings;

(*c*) the conduct of proceedings at meetings;

(*d*) the language of the board;

(*e*) the appointment, duties and proceedings of committees of the board; and

(*f*) the persons by whom receipts may be granted on behalf of the board for money paid under this Act.

Officers and Servants.

Appointment of secretary.

32. *(1)* Every district board and every local board shall, from time to time, appoint one or more of its members, or, with the sanction of the Commissioner of the division, any other person or persons, to be its secretary or secretaries, and may remove any person so appointed.

(2) If a secretary appointed under sub-section (1) is a member of the board, he shall receive no remuneration in respect of his services. If he is not a member of the board, the district board may, with the previous sanction of the Commissioner of the division, assign to him such pay, leave-allowances, gratuity or pension as it thinks fit.

Employment of other officers and servants.

33. Subject to such general or special orders as the Local Government may, from time to time, make in this behalf, every district board may employ, in addition to its secretary or secretaries, such other officers and servants as may be necessary and proper for the efficient execution of its duties and of the duties of the local boards in the district, and may assign to such officers and servants such pay, leave-allowances, gratuities or pensions as it thinks fit, and as may be approved by the Commissioner of the division.

Vesting of Property by Order of Government.

Power to vest property in district board.

34. The Local Government may, from time to time, by notification in the official Gazette, direct that any property, moveable or immoveable, which is vested in Her Majesty and is situate in the territories administered by the Local Government, shall vest in any district board; and thereupon that property shall vest in that board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, that property.

District Fund.

Constitution of district fund.

35. There shall be formed for each district a fund, to be called the district fund, and there shall be placed to the credit thereof—

(*a*) the balance (if any) of the allotments made for the district under section 11 of the North-Western Provinces Local Rates Act, 1878, or the Oudh Local Rates Act, 1878, which may be available for expenditure in the district on the day on which the district board comes into existence; III of 1878. IV of 1878.

(*b*) all sums which may, from time to time, be allotted by the Local Government to the district fund under section 11 of the North-Western Provinces Local Rates Act, 1878, or of the Oudh Local Rates Act, 1878, as amended by this Act; III of 1878. IV of 1878.

and, subject to such conditions as the Local Government may from time to time impose, the following, namely :—

I of 1871. (*c*) the surplus accruing in the district under section eighteen of the Cattle-trespass Act, 1871;

(*d*) the proceeds of public ferries payable into the district fund under section 7A of the Northern India Ferries Act, 1878, as amended by this Act;

XVII of 1878.

XVI of 1861. (*e*) all fees for licenses realised in the district under the Stage-carriages Act, 1861;

(*f*) receipts from parâos and encamping-grounds under the regulation of the district board;

(*g*) the sale-proceeds of grass on the sides of roads, and on other public ground, under the control and administration of the district board, and of timber fallen or felled thereon;

(*h*) receipts from property vested in the district board;

(*i*) rents and profits accruing from nazúl and other property placed by the Local Government under the management of the district board;

(*j*) other sums assigned to the district fund by the Local Government;

(*k*) sums contributed to the district fund by local bodies or private persons; and

(*l*) all other sums received by or on behalf of the district board in the carrying out of this Act.

36. The district fund shall be vested in the district board, and the balance standing at the credit of the fund shall be kept in the Government treasury of the district.

Vesting and custody of district fund.

37. The district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the several matters specified in sections 22, 32 and 33 within the area subject to the authority of the district board, and, with the sanction of the Local Government, outside of that area, and also to the payment of Inspectors of Schools, normal school teachers, officers of the Public Works Department and subordinate medical officers (including vaccinators) appointed by the Government and employed in the district.

Application of district fund.

Control.

38. *(1)* The Commissioner of the division or the Magistrate of the district may—

Control of Commissioner and Magistrate over boards and joint committees.

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any local board, district board or joint committee, or any work in progress within those limits under the direction of any such board or committee;

(*b*) call for and inspect any document in the possession or under the control of any such board or committee having authority within those limits;

(*c*) require any such board or committee to furnish such statements, accounts, reports and copies of documents, relating to the proceedings or duties of the board or committee, as he may think fit to call for; and

(*d*) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(2) If any difference of opinion arises between officers exercising the powers conferred by sub-section (1), it shall be referred—

(*a*) if it arises between two or more Magistrates in the same division, to the Commissioner; and

(*b*) if it arises between two or more Magistrates in different divisions or between two or more Commissioners, to the Local Government;

and the decision thereon of the Commissioner or of the Local Government, as the case may be, shall be final.

(3) When the Magistrate of the district is a member of a district board or joint committee, he shall not exercise, in respect of that board or committee, the powers conferred upon him by this section.

39. *(1)* A Commissioner may, by order in writing, suspend within his division the execution of any resolution or order of a local board, district board or joint committee, and may prohibit the doing of any act which is about to be done or is being done within his division in pursuance of, or under cover of, this Act, if, in his opinion, such resolution, order or act is in excess of the powers conferred by law, or the execution of such resolution or order, or the doing of such act is likely to lead to a serious breach of the peace or to cause serious injury or annoyance to the public or to any class or body of persons.

Power of Commissioner to suspend action under this Act.

(2) When the Commissioner makes any such order, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order, or direct that it continue in force with or without modification, permanently or for such period, as it thinks fit.

40. *(1)* In cases of emergency the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a district board or local board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the district board.

Extraordinary powers of Magistrate in case of emergency.

(2) If the expense is not so paid, the Magistrate of the district may make an order directing the person in charge of the treasury where the balance of the district fund is kept to pay the expense, or as much thereof as is from time to time possible, from the balance in priority to any or all other charges against the same.

(3) The Magistrate of the district shall forthwith report to the Commissioner every case in

which he uses the powers given to him by this section.

41. *(1)* If at any time it appears to the Local Government that any district board has made default in performing, or has inefficiently performed, any duty imposed on it by this or any other Act for the time being in force, the Local Government may, by order in writing, direct the district board to perform that duty, or to take such measures as the Local Government may direct for the performance thereof, and may fix a time within which the duty shall be performed or the measures shall be taken.

Powers of Local Government in cases of default of local board.

(2) If the order is not obeyed to the satisfaction of the Local Government within the time fixed, the Local Government may appoint the Magistrate of the district to execute it, and may direct that the expense of executing it shall be paid within such time as it may fix to the Magistrate by the district board.

(3) If the expense is not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person in charge of the treasury where the balance of the district fund is kept to pay the expense, or so much thereof as is from time to time possible, from the balance in priority to any or all other charges against the same.

42. *(1)* If a district board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declared the board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

Power to supersede district board in case of incompetency, persistent default or abuse of powers.

(2) When the district board of a district is so superseded, the following consequences shall ensue :—

(*a*) all members of the board and all members of the local boards of the district shall, as from the date of the order, vacate their offices as such members;

(*b*) all powers and duties of the district board may, during the period of supersession, be exercised and performed by such person or persons as the Local Government from time to time appoints in that behalf;

(*c*) all property vested in the district board shall, during the period of supersession, vest in Her Majesty.

(3) On the expiration of the period of supersession specified in the order, the local board and district board shall be re-established, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified for appointment or election.

Suits by and against District Boards.

Privileges of district boards and their officers.

43. In respect of every suit instituted against the district board, or against any officer or servant of the board in respect of an act purporting to be done by him in his official capacity, the board, officer or servant, shall have, as nearly as may be, all the privileges which the Secretary of State for India in Council or a public officer, respectively, has under Chapter XXVII of the Code of Civil Procedure. XIV of 1882.

Liability of Members of Boards.

44. Every member of a local board or district board shall be liable for the loss, waste or misapplication of any money or other property belonging to the district board if such loss, waste or misapplication is a direct consequence of his neglect or misconduct; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the district board or by the Secretary of State for India in Council.

Liability of members for loss, waste or misapplication.

Forms and Rules.

45. The Local Government may, from time to time, frame forms for any proceeding for which it considers that a form should be provided, and make rules consistent with this Act—

Power of Local Government to frame forms and make rules.

(*a*) as to the method and time of election of elective members of local boards, and of members of such boards to be members of district boards;

(*b*) as to the appointment of members of local boards under section 5, clause (*b*);

(*c*) as to the notice to be given of meetings, the business that may be transacted at general and special meetings respectively, and the majority by which any question which may come before a board at a meeting shall be decided;

(*d*) as to the formation of committees and the delegation of powers to such committees;

(*e*) as to the mode of entering into and executing contracts and transfers of property on behalf of district boards, and the authority on which money may be paid from the district fund;

(*f*) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of district boards, and as to the authority by which, and the conditions subject to which, such plans and estimates may be sanctioned;

(*g*) for the guidance of district boards when suits or other proceedings are intended to be, or have been, instituted by or against them in Civil Courts;

(*h*) as to the office or offices through which correspondence of, and with, local boards and district boards shall pass;

(*i*) as to the accounts to be kept, and as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(*j*) as to the preparation of estimates of income and expenditure, and the authority by whom, and the conditions subject to which, such estimates may be sanctioned;

(*k*) as to the returns, statements and reports to be submitted by local boards and district boards respectively; and,

(*l*) generally, for the guidance of local boards, district boards and officers of Govern-

N.-W. P. and Oudh Local Boards Bill, 1883—Sections 46-56.

ment in all matters connected with the carrying out of this Act and for settling their relations to one another.

46. The Local Government shall, before making any rules under section 45, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person concerned with respect to the draft before the date so specified.

Procedure for making rules.

47. Every rule made under section 45 shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by section 46.

Publication of rules.

Miscellaneous.

48. Where any land is required for the purposes of this Act, the Local Government may, at the request of the district board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the district board of the compensation awarded under that Act, the land shall vest in the district board.

Acquisition of land.

49. If any member, officer or servant of a local board, district board or joint committee appointed under this Act is, otherwise than with the permission in writing of the Commissioner of the division, directly or indirectly interested in any contract made with such board or committee, he shall be deemed to have committed an offence under section one hundred and sixty-eight of the Indian Penal Code:

Penalty on member, officer or servant being interested in contracts made with board or committee.

Provided that no person shall by reason of being a shareholder in, or a member of, any incorporated or registered company be held to be interested in any contract entered into between such company and a board or committee.

Exceptional Provisions.

50. If the circumstances of any district or part of a district are, in the opinion of the Local Government, such that all or any of the provisions of this Act are unsuited thereto, the Local Government may, by notification in the official Gazette, except the district or part from the operation of those provisions; and thereupon those provisions shall not apply to the excepted district or part until again applied thereto by a like notification.

Power of Local Government to except local area from operation of Act.

51. When a sub-district is excepted, under section 50, from the provisions of this Act requiring that a certain proportion of the members of a local board shall be elected, the Local Government may itself appoint all such members.

Case of sub-district excepted from provisions regarding election.

52. When a district is excepted, under section 50, from all the provisions of this Act, a committee shall be appointed for the control and administration in that district of the matters mentioned in section 22, or of such of them as the Local Government may, from time to time, specify; and the Local Government shall, *from time to time, prescribe the* manner in which the members of the committee shall be appointed and removed, define the functions and authority of the committee, and place at its disposal, subject to such control as the Local Government thinks fit, the amounts mentioned in clauses (*a*) and (*b*) of section 35, and such of the sources of income mentioned in the *other clauses* of that section as the Local Government thinks fit:

Administrative committee to be appointed for district wholly excepted from Act.

Provided that *not less than one-half of the* members of the committee shall be persons who own or occupy land, or reside, in the district, and are not in the service of Government.

Amendment of the North-Western Provinces Local Rates Act, 1878.

53. For section 11, clause (*c*), of the North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely:—

Section 11, clause (*c*), Act III of 1878, amended.

III of 1878.

"(*c*) Subject to the appropriation directed by clause (*a*), the Lieutenant-Governor shall, from time to time, allot from such fund to the district fund constituted for each district under the North-Western Provinces and Oudh Local Boards Act, 1883, such amounts as he thinks fit:

"Provided that the amounts so allotted in any year to the district fund of any district shall not be less than nine-tenths of the proceeds of the rates assessed under the first clause of section five in such district in such year."

54. Sections 12, 13 and 15 of the said North-Western Provinces Local Rates Act, 1878, are repealed.

Sections 12, 13 and 15 of same repealed.

III of 1878.

55. For section 14 of the said North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely:—

New section substituted for section 14 of same.

III of 1878.

"14. Accounts of the receipts in respect of all rates levied under this Act shall be kept in each district, and shall at all reasonable times be open to the inspection of the district board constituted for the district under the North-Western Provinces and Oudh Local Boards Act, 1883.

Accounts to be kept.

"An abstract of such accounts shall also be published annually in the local Gazette."

Amendment of the Oudh Local Rates Act, 1878.

56. For section 11, clause (*c*), of the Oudh Local Rates Act, 1878, the following shall be substituted, namely:—

Section 11, clause (*c*), of Act IV of 1878, amended.

IV of 1878.

"(*c*) Subject to such appropriation, the Chief Commissioner shall, from time to time, allot from the said fund to the district fund constituted for each district under the North-Western Provinces and Oudh Local Boards Act, 1883, such amounts as he thinks fit:

N.-W. P. and Oudh Local Boards Bill, 1883—Sections 60-61.

"Provided that the amounts so allotted in any year shall not be less than one-half of the proceeds of the rate assessed in such district in such year."

57. Sections 12 and 14 of the said Oudh Local Rates Act, 1878, are repealed.

Sections 12 and 14 of same repealed.

IV of 1878.

58. For section 13 of the said Oudh Local Rates Act, 1878, the following shall be substituted, namely:—

New section substituted for section 13 of same.

IV of 1878.

"13. Accounts of the receipts in respect of all rates levied under this Act shall be kept in each district, and shall at all reasonable times be open to the inspection of the district board constituted for the district under the North-Western Provinces and Oudh Local Boards Act, 1883.

Accounts to be kept.

"An abstract of such accounts shall also be published annually in the local Gazette."

Contracts made by Committees under the North-Western Provinces and Oudh Local Rates Acts.

59. Every contract entered into, whether in its own name or in the name of the Government, by the committee appointed in a district under section 15 of the North-Western Provinces Local Rates Act, 1878, or section 14 of the Oudh Local Rates Act, 1878, may be enforced by and against the local board constituted for that district under this Act, in like manner as it might have been by and against the committee if this Act had not been passed.

Contracts of local rates committees.

III of 1878.

IV of 1878.

Amendment of the Northern India Ferries Act, 1878.

60. After section seven of the Northern India Ferries Act, 1878, the following shall be inserted, namely:—

New section to follow section 7 of Act XVII of 1878.

XVII of 1878.

"7A. The Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh may direct that any public ferry wholly or partly within the area subject to the authority of a district board in any district in the North-Western Provinces or Oudh, as the case may be, be managed by that board, and may further direct that all or any part of the proceeds from such ferry be paid into the district fund of that district;

In North-Western Provinces and Oudh management may be vested in district board; and proceeds paid into district fund.

"and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

61. In section six of the same Act, after the words "section seven," and in section seventeen of the same Act, after the words "section seven" when they first occur, the following shall be inserted, namely:—"and section 7A."

Amendments of sections 6 and 17 of same Act.

STATEMENT OF OBJECTS AND REASONS.

THE existing law respecting the constitution and functions of district committees in the North-Western Provinces and Oudh is contained in Acts III and IV of 1878. Those Acts, while directing the Local Government to make allotments for local purposes to each district from the rates levied under them, yet enable the Government to appropriate for the benefit generally of the North-Western Provinces or Oudh, as the case may be, the balances of such allotments remaining unexpended in each district at the close of the year, and thus prevent all continuity in local financial administration.

2. They also, while establishing committees for the propose of determining how allotments shall be applied, and of supervising and controlling such allotments, leave the appointment of these committees and the definition of their functions and authority altogether in the hands of the Lieutenant-Governor or Chief Commissioner.

3. In accordance with the proposals for the extension of local self-government enunciated by the Government of the North-Western Provinces and Oudh in its resolution of 5th December, 1882, fresh legislation is now necessary in order to constitute local bodies for smaller areas, and to impose upon district boards more extensive duties and confer upon them greater financial and administrative independence.

4. With this object the Bill has been drawn up. It has been drafted on lines laid down by the Local Government after consultation with its most experienced officers and with non-official gentlemen throughout the provinces most competent to give advice on the subject. Its principal provisions are as follows.

5. Sections 3 to 12 provide for the constitution of local bodies in each district.

6. The Local Government is empowered by section 3 to divide every district into sub-districts, excluding military cantonments and municipalities.

7. For each sub-district there will be established a local board, and for each district a district board.

8. The district board will ordinarily consist of the aggregate members of the local boards, but power is reserved to Government to direct that it shall consist only of delegates chosen from the local boards to meet cases where the total number of members of local boards would constitute too large a body for the efficient transaction of business.

9. The qualifications for members of the local boards are contained in section 5, and such members must be elected, except in case of one-fourth of the board, who may be nominated by the Government. This principle of nomination has been already accepted by the Council in the Central Provinces Local Self-government Act. The electoral body may be constituted either by nomination of the electors by the Local Government or according to rules which the Local Government shall make in that behalf.

10. Provisions are next made for the term of office of members of the board, for their resignation, removal, for filling up casual vacancies among them, for the incorporation of the district boards, and for fixing a time for their coming into existence.

11. Sections 13 to 20 deal with the appointment of chairmen and vice-chairmen of district and local boards. Both may elect vice-chairmen. Local boards may elect their own chairman, and district boards must, within a certain time after coming into existence, decide at a special meeting whether they will elect their chairman or leave the appointment to be made by the Local Government.

12. These provisions are mainly in accordance with the views elicited at public meetings held throughout the North-Western Provinces and Oudh, with the recommendations of the provincial committee, and the opinion of His Honour the Lieutenant-Governor that for a time at least, unless there be a strong expression of popular feeling to the contrary, it is expedient that the district officer should be chairman of the district board.

13. The duties of district boards are enumerated in section 22. Among these is the management of ferries made over to them by Government. The Northern India Ferries Act vests the immediate superintendence of every public ferry in the Magistrate or some other officer duly appointed, except where the Local Government makes over the superintendence of a ferry situated within municipal limits to a municipality. Section 60 of the Bill adds a section to the Northern India Ferries Act, giving corresponding powers to make over the management of ferries and their proceeds to district boards.

14. Sections 23 and 24 define the relations between district and local boards, and the control to be exercised by the former. The smaller is to be the agent of the larger body, which may reverse or vary any orders of a local board within the district under certain conditions laid down.

15. Section 25 gives power to district boards to appoint joint committees for any purpose, such as a long line of communication, in which they may be jointly interested.

16. Sections 26 to 30 lay down general rules for the conduct of business, and provide for the views of departmental officers on subjects connected with their departments being brought before the district board by those officers in person, as well as for the record of the resolutions of the board and the communication of them to the Magistrate of the district within 10 days.

17. Sections 32 and 33 enable the district board, subject to general or special orders of the Local Government, to appoint such officers and servants as are necessary for the proper discharge of its duties, and to appoint as secretary one of its members, or, with the sanction of the Commissioner, an outsider.

The limitations on the power of appointment are made, as it is necessary that certain officers of the provincial establishments employed in the departments made over to the board should be taken over; and as much of the routine work will be in the hands of the secretary, it is desirable that, when a salary is attached to that office, there should be some guarantee that an incapable man is not appointed.

18. Section 35 establishes a district fund, which shall be at the disposal of the district board for the discharge of its duties under the Bill.

The principal items will consist of the allotments from local rates prescribed by Acts III and IV of 1878, and of assignments from provincial revenues; but various petty sources of income are also made over, and it is expected that the closer supervision to be hoped for from the local boards will develop them to a considerable extent.

19. The subject of control by the Executive is dealt with in sections 38-42. The powers conferred are almost identical with those in the Central Provinces Local Self-government Act, with the addition that authority has been given to the Commissioner to suspend, and to the Local Government to rescind, any single act, order or resolution of the board that is in excess of its powers.

It is considered advisable that Government should have this power, to be exercised in cases where it might think it undesirable to resort to the heroic remedy of supersession.

20. Section 45 gives power to the Local Government to make forms and rules consistent with the Act. These are much the same as the corresponding powers in the Central Provinces Act.

21. Sections 50, 51 and 52 deal with those exceptional localities to which the whole or some of the provisions of this Act may be deemed unsuitable. In territories so vast, and among a population characterized by such differences in knowledge, habits and modes of thought, as those of the North-Western Provinces and Oudh, such tracts must be met with; and it is not desirable to insist on the residents of them being forced to accept an Act which would prove inoperative if not mischievous.

22. When the provisions as to election only are deemed unsuitable, the Local Government will appoint the members of the local boards; but when the whole Act is unsuited to the district, a district committee shall be appointed in such manner, shall perform such duties, and shall be placed in possession of such funds from the local rates allotments as the Local Government shall prescribe.

The 10th May, 1883.

J. W. QUINTON.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

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 May, 1883:—

No. 11 OF 1883.

THE NORTH-WESTERN PROVINCES AND OUDH MUNICIPALITIES BILL, 1883.

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A Bill to make better provision for the Organization and Administration of Municipalities in the North-Western Provinces and Oudh.

Preamble. WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the North-Western Provinces and Oudh; It is hereby enacted as follows:—

CHAPTER I.
PRELIMINARY.

Short title. **1.** *(1)* This Act may be called the North-Western Provinces and Oudh

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh; and

Local extent.

Commencement. *(3)* it shall come into force on the 1st day of September, 1883.

Interpretation-clause. **2.** In this Act, unless there is something repugnant in the subject or context,—

(a) "Municipality" means a local area to which this Act has been applied under section 4 or section 5.

(b) "Honorary Magistrate" means a Magistrate who holds no salaried office in any department of the Government service.

(c) "Prescribed" means prescribed by rules made by the Local Government under this Act.

Notification of intention to apply Act. **3.** *(1)* The Local Government may, from time to time, by notification in the official Gazette, declare its intention to apply this Act to any town or to any group of towns in the immediate neighbourhood of one another.

(2) Every notification under sub-section (1) shall define the limits of the town or group of towns to which it refers, and may include within those limits any railway-station, village, building or land in the vicinity of any such town:

Provided that it shall not, without the previous consent of the Governor General in Council, so include any military cantonment.

Application of Act. **4.** *(1)* Any inhabitant of a local area in respect of which a notification has been published under section 3 may, if he objects to the application of the Act, submit his objection in writing to the Secretary to the Local Government within six weeks from the publication of the notification, and the Local Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by like notification, apply this Act to the local area.

Special rule as to application of Act to towns to which Act XV of 1873 applies. **5.** The Local Government may, by notification in the official Gazette, apply this Act to any local area comprised in a municipality established under the North-Western Provinces and Oudh Municipalities Act, 1873, and shall, within three months from the date on which this Act comes into force, so apply it to every such local area unless before the expiration of that period—

(a) the Act has been applied under section 4 to some local area in which that local area is comprised; or

(b) the Local Government has declared, by a notification in the local Gazette, that the provisions of this Act are unsuited to that

N.-W. P. and Oudh Municipalities Bill, 1883.
Chapter II.—Organization of Municipal Boards—Sections 6-14.

CHAPTER II.
ORGANIZATION OF MUNICIPAL BOARDS.

Constitution of Boards.

Board to consist of elected and appointed members. **6.** There shall be established for each municipality a municipal board having authority over that municipality, and consisting of—

(a) so many elected members as may be determined in manner prescribed, representing wards of the municipality or particular classes of the inhabitants; and

(b) such person or persons (if any), not exceeding in number one-fourth of the board, as the Local Government may, subject to the rules made under this Act, from time to time appoint in this behalf.

Magistrate to convene meeting to determine system of election. **7.** *(1)* The Magistrate of the district within which any municipality is situate shall, within one month from the date on which this Act has been applied to the municipality under section 4 or section 5, issue notices in writing to the persons mentioned in section 8, inviting them to assemble at a time and place specified in the notices, for the purpose of preparing and submitting, within such time as the Local Government may fix in this behalf, proposals for determining the system of representation and election to be established in the municipality.

(2) The Local Government may, from time to time, extend the time fixed under this section to any period not exceeding three months from the issue of the notices.

Persons to be invited to meeting. **8.** Notices under section 7 shall be issued to the following persons, namely:—

(a) all Honorary Magistrates having jurisdiction within the limits of the municipality;

(b) when the municipality comprises any local area for which a municipal committee has been appointed under the North-Western Provinces and Oudh Municipalities Act, 1873, the members of that committee;

XV of 1873.

(c) when the municipality comprises any local area for which a panchâyat has been appointed under Act XX of 1856, the members of that panchâyat; and

(d) any leading residents of the municipality not included under the foregoing clauses, but who in the opinion of the Magistrate of the district should be allowed to take part in the discussion.

Matters to be considered at the meeting. **9.** The persons who assemble in compliance with the notices issued under section 7 shall consider the following matters, and shall, within the time limited under section 7, submit proposals regarding the same to the Magistrate of the district for transmission to the Local Government, namely:—

(a) the division of the municipality into wards;

(b) the number of representatives proper for each ward;

(c) the provision (if any) to be made for the special representation of any classes of the community;

(d) the qualifications of electors and of candidates for election;

(e) the registration of electors;

(f) the nomination of candidates, the time of election and the mode of recording votes; and

(g) any other matters regarding the system of representation and of election which it may seem to the meeting expedient to consider.

Power to Local Government to make rules regarding election. **10.** *(1)* The Local Government shall, after taking into consideration the proposals (if any) submitted to the Magistrate of the district under section 9, make rules regulating the matters referred to in that section.

(2) The Local Government may, after the municipal board has come into existence as hereinafter provided, from time to time amend, after consulting the board, the rules made under this section, but no amendment made under this sub-section shall take effect until six months after it has been published in the official Gazette.

(3) Elective members of the board shall be elected in accordance with the rules made under this section and for the time being in force.

Terms of office of member of board. **11.** *(1)* The term of office of a member of a municipal board shall be fixed, from time to time, by the Local Government by rules made under this Act, but shall not exceed two years.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

Resignation of member of board. **12.** A member of a municipal board may resign by notifying in writing his intention to do so to the Local Government, and, on such resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Removal of members. **13.** The Local Government may, from time to time, remove any member of a municipal board who refuses to act or becomes incapable of acting, or is declared an insolvent, or is convicted of any offence, or subjected by a Criminal Court to any order, implying, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who without sufficient excuse neglects for more than six consecutive months to be present at the meetings of the board.

Filling of casual vacancies. **14.** *(1)* When the place of an elected member of a municipal board becomes vacant by the resignation or removal of the member under section 12 or section 13, or by his death, a new member shall be elected in manner prescribed to fill the place.

(2) When the place of an appointed member of a municipal board becomes vacant as aforesaid, the Local Government may, if it thinks fit, but subject to the rules made under section 60, appoint a new member to fill the place.

N.-W. P. and Oudh Municipalities Bill, 1883.
Chapter II.—Organization of Municipal Boards—Sections 15-25.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

Incorporation of municipal board.

15. Every municipal board shall be a body corporate by the name of the municipal board of its municipality, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to the rules made under section 60, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Time for boards coming into existence.

16. A municipal board shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Consequences of establishment of municipal board where municipal committee exists.

17. When a municipal board comes into existence under section 16 for a municipality constituted under this Act, and that municipality comprises within its limits a local area which is a municipality under the North-Western Provinces and Oudh Municipalities Act, 1873, the following consequences shall ensue, namely :—

(a) the said North-Western Provinces and Oudh Municipalities Act shall cease to apply to the local area ;

(b) the municipal committee (if any) constituted under that Act for the local area shall cease to exist ;

(c) all property vested in that committee shall vest in the municipal board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, that property ;

(d) every contract entered into by the committee may be enforced by and against the board in like manner as it might have been enforced by and against the committee if this Act had not been passed.

Chairman and Vice-chairman.

Election or appointment of chairman.

18. A municipal board shall, from time to time, at a special meeting, elect as its chairman one of its own members or some other person, and the member or other person so elected shall, if the election is approved by the Local Government, but not otherwise, become chairman of the board :

Provided that in such municipalities as the Local Government may, from time to time, by notification in the official Gazette, exempt from the operation of this section, the chairman shall, from time to time, be appointed by the Local Government.

Chairman to become member if not already member.

19. When a person not already a member of the board is elected or appointed chairman, he shall, notwithstanding anything in the foregoing sections, become a member of the board by virtue of such election or appointment, and shall continue to be a member so long as he holds office as chairman.

Appointment of vice-chairman.

20. In every municipality the board shall, from time to time, at a special meeting, elect one or two of its members to be its vice-chairman or vice-chairmen.

Term of office of chairman and vice-chairman.

21. *(1)* A chairman or vice-chairman elected by the board shall hold office for one year, and on the expiration of that period may be re-elected.

(2) A chairman appointed by the Local Government shall continue in office for such term as the Local Government may, from time to time, by rule, prescribe, and on the expiration of that term may be re-appointed.

Casual vacancies in office of chairman or vice-chairman.

22. *(1)* If an elected chairman or vice-chairman dies, ceases to be a member of the board, resigns his office of chairman or becomes incapable of acting, the board shall, at a special meeting, elect another of its members to be chairman or vice-chairman.

(2) If a chairman appointed by the Local Government dies, resigns his office of chairman or becomes incapable of acting, the Local Government shall appoint another chairman.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

Notification of Elections, Appointments, &c.

Notification of appointments, &c.

23. All elections and appointments of chairmen, and all elections, appointments and removals of members of municipal boards, shall be notified in the local official Gazette.

Joint Committees.

Joint committee of two or more boards.

24. *(1)* A municipal board may, from time to time, concur with any other municipal board, or with a district board, or with more than one such board, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee, and in delegating to any such committee any power which might be exercised by either or any of the boards, and in framing and modifying regulations as to the proceedings of any such committee, and as to the conduct of correspondence relating to the purpose for which such committee is appointed.

(2) If any difference of opinion arises between boards acting under this section, the decision thereon of the Commissioner of the division, if the areas under the authority of the boards are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

Time for holding meetings.

25. *(1)* A municipal board shall meet for the transaction of business at least once in every month on such day as may, from time to time, be fixed by the rules made under section 32.

N.-W. P. and Oudh Municipalities Bill, 1883.
Chapter II.—Organization of Municipal Boards—Sections 26-35.

(2) The chairman, or, in his absence, a vice-chairman, may, whenever he thinks fit, and shall, upon a requisition made in writing by not less than one-fifth of the members of the board, convene a meeting at any other time.

Ordinary and special meetings.

26. *(1)* A meeting of a municipal board shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

Quorum.

27. *(1)* The quorum necessary for the transaction of business at a special meeting of a municipal board shall be one-half of the whole board.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a municipal board shall be such number or proportion of the members of the board as may, from time to time, be fixed by the rules made under this Act :

Provided that, if at any meeting of the board a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting whether there is a quorum present thereat or not.

Chairman of meeting.

28. *(1)* At every meeting of a municipal board the chairman, if present, shall preside.

(2) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting and a vice-chairman is present, such vice-chairman, or, when two vice-chairmen are present, the senior of them by date of appointment, shall preside.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

Vote of majority decisive.

29. *(1)* Except as otherwise provided by this Act, or by any rule made under this Act, all questions which may come before any meeting of a municipal board shall be decided by a majority of the votes of the members present.

(2) In case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

Certain officers entitled to attend and speak.

30. The Civil Surgeon of the district, the Executive Engineer of the division, and the Inspector of Schools of the circle, shall be entitled to attend any meeting of the board, and to address the board on any matter affecting respectively sanitation, public works and public instruction.

Resolutions to be recorded and published.

31. *(1)* Every resolution passed by a municipal board at a meeting shall be recorded in a book kept for the purpose, shall be signed by the chairman of the meeting, and shall be published in some local English or Vernacular newspaper, or in such other manner as the Local Government may, from time to time, direct.

(2) A copy of every resolution passed by a municipal board at a meeting shall, within ten days from the date of the meeting, be forwarded to the Magistrate of the district.

Power to make rules as to meetings and proceedings.

32. *(1)* Every municipal board may, from time to time, at a special meeting, make rules consistent with this Act and any rules made under this Act by the Local Government as to—

(a) the time and place of its meetings ;

(b) the manner in which notice thereof shall be given ;

(c) the quorum necessary for the transaction of business at ordinary meetings ;

(d) the conduct of proceedings at meetings, and the adjournment of meetings ;

(e) the language of the board ;

(f) the division of duties among the members of the board ;

(g) the persons by whom receipts may be granted on behalf of the board for money paid under this Act ; and

(h) all other similar matters.

(2) Every rule made under this section shall be published in such manner as the Local Government may, from time to time, direct.

Officers and Servants.

Appointment of secretary.

33. *(1)* Every municipal board shall, from time to time, at a special meeting, appoint one or more of its members, or, with the sanction of the Commissioner of the division, any other person or persons, to be its secretary or secretaries, and may at a like meeting remove any person so appointed.

(2) If an officer in the service of the Government, and who is not a member of the board, is appointed secretary, he shall, notwithstanding anything in the foregoing sections, become a member of the board by virtue of such appointment, and shall continue to be a member of the board as long as he holds the office of secretary.

(3) If a secretary is a member of the board, he shall receive no remuneration in respect of his services. If he is not a member of the board, the board may, with the previous sanction of the Commissioner, assign to him any such pay, leave-allowance, gratuity or pension as it thinks fit.

Employment of other officers and servants.

34. Subject to the other provisions of this Act, every municipal board may employ, in addition to its secretary or secretaries, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such pay, leave-allowances, gratuities or pensions as it thinks fit.

Contracts.

Authority to contract.

35. *(1)* A municipal board may delegate to one or more of its members the power of entering into, on its behalf, any contract whereof the value or amount does not exceed two hundred rupees.

(2) A contract whereof the value or amount exceeds two hundred rupees shall not be executed until it has been sanctioned by the board at a meeting.

N.-W. P. and Oudh Municipalities Bill, 1883.
Chapter III.—Taxation and Municipal Fund—Sections 36-43.

36. *(1)* Every contract made by or on behalf of a municipal board whereof the value or amount exceeds twenty rupees shall be in writing.

Mode of executing contracts.

(2) Every such contract shall be signed by the chairman, or a vice-chairman, and a secretary:

Provided that the board may delegate to one or more of its members the power of executing any contracts which he or they are empowered to enter into under section 35, sub-section (1).

(3) A contract executed otherwise than in conformity with the provisions of this section shall not be binding on the board.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

37. Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, a municipal board may, for the purposes of this Act, impose, with the sanction hereinafter specified in each case, and in manner prescribed by section 38, any of the following taxes, namely:—

Taxes which may be imposed.

(1) with the previous sanction of the Local Government—

(a) a tax on houses, buildings and lands situate within the municipality, not exceeding seven and a half per cent. of the annual value of the houses, buildings and lands;

(b) a tax on persons exercising professions or carrying on trades or dealings in the municipality;

(c) a tax on carriages, horses, mules, elephants, camels, bullocks and asses kept within the municipality;

(d) a tax on carriages, carts and animals entering the municipality, and on boats moored therein;

(e) an octroi on articles brought within the municipality for consumption or use therein: and,

(2) with the previous sanction of the Local Government and of the Governor General in Council, any other tax.

38. *(1)* A municipal board may resolve at a special meeting to propose the imposition of any tax for the purposes of this Act.

Procedure in imposing taxes.

(2) When a resolution has been passed under sub-section (1), the board shall publish a notice defining the persons or property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(3) Any inhabitant of the municipality objecting to the proposed tax may, within a fortnight from the publication of the notice, submit his objection in writing to the board, and the board shall, at a special meeting, take his objection into consideration.

(4) If no objection is submitted within the said period of a fortnight under sub-section (3), or if the objections so submitted, having been considered as aforesaid, are deemed insufficient, the board may forward its proposals to the Local Government, together with the objections (if any) which have been submitted as aforesaid.

(5) A Local Government receiving proposals under sub-section (4) may sanction the same, or refuse to sanction them, or return them to the board for further consideration.

(6) When a Local Government sanctions under sub-section (5) any proposals which, under section 37, sub-section (2), require the further sanction of the Governor General in Council, it shall submit those proposals to the Governor General in Council, together with the objections (if any) received through the board; and the Governor General in Council may sanction the proposals, or refuse to sanction the same, or return them to the Local Government for further consideration.

(7) When the proposals of a municipal board have been sanctioned by the Local Government, or by the Local Government and the Governor General in Council, as the case may be, the board may, at a special meeting, direct the imposition of the tax in accordance with those proposals.

39. A municipal board, by a resolution passed at a special meeting and confirmed by the Local Government, or the Local Government with the previous sanction of the Governor General in Council, may abolish any tax imposed under the foregoing sections.

Power to abolish tax.

40. All taxes leviable in any local area under the North-Western Provinces and Oudh Municipalities Act, 1873, at the time a municipal board having authority over that local area comes into existence under this Act, shall be deemed to have been imposed and assessed under this Act.

Taxes leviable under Act XV of 1873 to be deemed to be taxes under this Act. XV of 1873.

41. Arrears of any tax imposed under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property belonging to the defaulter within those limits.

Recovery of taxes.

Municipal Fund.

42. There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

Municipal fund constituted.

(a) all sums received by or on behalf of the board under this Act; and,

(b) when there has been included within the municipality any municipality constituted under the North-Western Provinces and Oudh Municipalities Act, 1873, the balance (if any) standing at the credit of the municipal fund of that municipality at the time the municipal board came into existence. XV of 1873

43. *(1)* In places where there is a Government treasury or sub-treasury, the municipal fund shall be kept in the treasury or sub-treasury.

Custody of municipal fund.

N.-W. P. and Oudh Municipalities Bill, 1883.
Chap. IV.—Powers and Duties of Municipal Boards generally—Secs. 44-52.

(2) In places where there is no such treasury or sub-treasury, the municipal fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

CHAPTER IV.

POWERS AND DUTIES OF MUNICIPAL BOARDS GENERALLY.

Municipal Police.

44. Every municipal board shall maintain a police-establishment for watch and ward, for the prevention and suppression of nuisances and for the enforcement of the rules and orders of the board.

Police-establishment.

45. *(1)* Subject to the provisions of section nine of the Cantonments Act, 1880, the establishment maintained under section 44 shall, as the board with the approval of the Local Government may determine, be either a body of watchmen or a part of the general police force under the Local Government within the meaning of section two of Act V of 1861; and it shall consist of such number of officers and men, and the officers and men shall receive such pay, leave-allowances, gratuities and pensions, as the board may, from time to time, after consultation with the Magistrate of the district and the Inspector General of Police, determine.

Constitution of establishment. III of 1880.

(2) If any difference of opinion arises between the board and the Magistrate of the district or the Inspector General of Police under this section, it shall be referred to the Local Government, and the decision of the Local Government thereon shall be final.

46. If the establishment maintained under section 44 is a body of watchmen, the watchmen shall be appointed, and shall be liable to dismissal, suspension, reduction or fine, under such rules as the Local Government may, from time to time, make in this behalf; and shall perform such duties, and be liable to such penalties, as village-policemen appointed under the North-Western Provinces Village and Road Police Act, 1873, or under the Oudh Laws Act, 1876, as the case may be, perform and are liable to.

Appointment, punishment, and duties of municipal watchmen. XVI of 1873. XVIII of 1876.

47. If the establishment is part of the general police force, the Local Government may, notwithstanding anything contained in Act V of 1861 or in any other Act for the time being in force, define the duties which the officers and men of the establishment may or may not be required to perform.

Duties of municipal police enrolled under Act V of 1861.

48. Section thirty-four of Act V of 1861 shall be in force in every municipality, and every watchman under this Act shall have the powers of a Police-officer under that section.

Section 34 of Act V of 1861 to be in force in every municipality.

Conservancy and General Improvement.

49. Every municipal board, so far as the municipal fund at its disposal will permit, shall, after providing for the maintenance of the police-establishment referred to in the foregoing sections,—

Duties of municipal board generally.

(1) keep the public streets, roads, drains, tanks and watercourses clean and in repair;

(2) cause those streets and roads to be watered and lighted;

(3) provide for the establishment and maintenance of schools and dispensaries and of other institutions for the promotion of education or for the benefit of the public health, and control and administer all such institutions within the municipality, except where they may, by a special order of the Local Government, have been excepted from the operation of this section;

(4) construct and provide for the maintenance and management of poor-houses, markets and other works of public utility; and,

(5) generally, do all acts and things calculated to promote the health, comfort, convenience or interests of the inhabitants of the municipality.

Prevention of Nuisances.

50. *(1)* A municipal board may, from time to time, at a special meeting, make rules—

Power of board to make rules regarding nuisances.

(a) declaring that such acts or omissions within the municipality as may in its opinion cause or tend to cause any common injury, danger or annoyance to the public, or to people in general who dwell or occupy property in the vicinity, or injury, obstruction danger or annoyance to persons who may have occasion to use any public right, shall be deemed, within the meaning of the Indian Penal Code and for the purposes of this Act, to be public nuisances; and XLV of 1860.

(b) defining the cases, manner and times in and at which officers of the board may enter upon private property for the detection and abatement of public nuisances.

(2) A rule made under this section shall not come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

51. Subject to any orders which the Local Government may, from time to time, make in this behalf, a municipal board may order any person not to do, or not to omit to do, within the municipality, anything the doing of, or the omission to do, which is a public nuisance.

Power to prohibit commission of public nuisances.

52. *(1)* The Local Government may invest, within the limits of the municipality, a municipal board with the powers of a Magistrate of a district as described in section one hundred and thirty-three of the Code of Criminal Procedure, and with powers to make conditional orders of the nature referred to in that section, in respect of all or any of the acts or omissions which may have been declared to be public nuisances under clause (*a*) of section 50 of this Act.

Power as to conditional orders in respect of nuisances. X of 1882.

N.-W. P. and Oudh Municipalities Bill, 1883.
Chapter V.—Control—Sections 53-58.

(2) Sections one hundred and thirty-three to one hundred and forty-two (both inclusive) of the
1882. Code of the Criminal Procedure shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers.

(3) The Local Government may, whenever it thinks fit, withdraw the powers with which it has invested a board under this section.

53. A municipal board may, at a special meeting, delegate to one or more committees of its members any of the powers vested in the board by section 51, or with which the board may have been invested under section 52.

Delegation of powers as to nuisances.

Additional Power to make Rules.

54. *(1)* A municipal board may, from time to time, at a special meeting, make rules,—

Additional power to make rules.

(a) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads where those conveyances, animals or persons are hired for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;

(b) for securing a proper registration of births, marriages and deaths; and

(c) generally for carrying out the purposes of this Act.

(2) In making any rule under this section, a municipal board may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and when the breach is a continuing one with a further fine of five rupees for every day after the first during which the breach continues.

(3) A rule made under this section shall not come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

(4) Notwithstanding anything contained in the foregoing portion of this section, the municipal board of a municipality in which the Hackney Carriage Act, 1879, is in force shall not make rules under sub-section (1) in respect to any vehicles to which that Act applies.

CHAPTER V.

CONTROL.

55. *(1)* The Commissioner of the division or the Magistrate of the district may—

Control by Commissioner and Magistrate.

(a) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any municipal board or joint committee, or any work in progress within those limits under the direction of any such board or committee;

(b) call for and inspect any book or document in the possession or under the control of any such board or committee having authority within those limits;

(c) require any such board or committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the board or committee, as he may think fit to call for; and

(d) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(2) When the Magistrate of the district is a member of a board or joint committee, he shall not exercise, in respect of that board or committee, the powers conferred upon him by sub-section (1).

56. *(1)* The Commissioner of the division or the Magistrate of the district may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of the municipal board or joint committee, or prohibit the doing with in those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

Power to suspend action under Act.

(2) When a Commissioner or Magistrate makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order or direct that it continue in force with or without modification, permanently or for such period, as it thinks fit.

57. *(1)* In cases of emergency, the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a municipal board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the board.

Extraordinary powers of Magistrate in case of emergency.

(2) If the expense is not so paid, the Magistrate of the district may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or as much thereof as is from time to time possible, from that balance, in priority to any or all other charges against the same.

(3) The Magistrate of the district shall forthwith report to the Commissioner every case in which he uses the powers conferred upon him by this section.

58. *(1)* If at any time it appears to the Local Government that a municipal board has made default in performing any duty imposed on it by or under this or any other Act, the Local Government may, by order in writing, fix a period for the performance of that duty.

Powers of Local Government in case of default of board.

(2) If that duty is not performed within the period so fixed, the Local Government may

N.-W. P. and Oudh Municipalities Bill, 1883.
Chapter VI.—Miscellaneous—Sections 59-65.

appoint the Magistrate of the district to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Magistrate by the board.

(3) If the expense be not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is from time to time possible, from the balance, in priority to any or all other charges against the same.

59. *(1)* If a municipal board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare that board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

Power of Local Government to supersede board in case of incompetency, persistent default or abuse of powers.

(2) When a board is so superseded, the following consequences shall ensue:—

(a) All members of the board shall, as from the date of the order, vacate their offices as such members.

(b) All powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as the Local Government, from time to time, appoints in that behalf.

(c) All property vested in the board shall, during the period of supersession, vest in the Local Government.

(3) On the expiration of the period of supersession specified in the order, the board shall be reconstituted, and the persons who vacated their offices under clause *(a)* shall not be deemed disqualified from being members.

60. The Local Government may, from time to time, frame forms for any proceeding of a municipal board for which it considers that a form should be provided, and make rules consistent with this Act—

Power of Local Government to frame forms and make rules.

(a) with respect to the appointment of members of a municipal board under section 6, clause *(b)*;

(b) as to the assessment and collection of taxes imposed under this Act;

(c) as to the authority on which money may be paid from the municipal fund;

(d) as to the conditions on which property vested in the board may be transferred by sale, mortgage, lease, exchange or otherwise;

(e) as to the intermediate office or offices, if any, through which correspondence between boards and the Local Government or officers of that Government shall pass;

(f) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of boards, and as to the authority by whom, and the conditions subject to which, such plans and estimates may be sanctioned;

(g) as to the accounts to be kept by boards, as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(h) as to the preparation of estimates of income and expenditure of boards, and as to the authority by whom, and the conditions subject to which, such estimates may be sanctioned;

(i) as to the returns, statements and reports to be submitted by boards; and,

(j) generally, for the guidance of boards and public officers in all matters connected with the carrying out of this Act.

CHAPTER VI.

MISCELLANEOUS.

61. If any member, officer or servant of a board is otherwise than with the permission in writing of the Commissioner of the division directly or indirectly interested in any contract made with the board, he shall be deemed to have committed an offence under section one hundred and sixty-eight of the Indian Penal Code:

Penalty on member, officer or servant of board being interested in contract made with board.

XLV of 1860.

Provided that no person shall, by reason of being a shareholder in, or member of, any incorporated or registered company be held to be interested in any contract entered into between such company and the board.

62. In respect of every suit instituted against a municipal board, or against any officer or servant of the board in respect of an act purporting to be done by him in his official capacity, the board, officer or servant shall have as nearly as may be all the privileges which the Secretary of State for India in Council or a public officer respectively has under chapter XXVII of the Code of Civil Procedure.

Suits against boards and their officers.

XIV of 1882.

63. Every member of a municipal board shall be liable for the loss, waste or misapplication of any money or other property belonging to the board, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct, and a suit for compensation may be instituted against him by the board or by the Secretary of State for India in Council.

Liability of members for loss, waste or misapplication.

64. The Local Government may, from time to time, by notification in the official Gazette, direct that any property, moveable or immoveable, which is vested in Her Majesty and is situate in the territories administered by the Local Government, shall vest in any municipal board; and thereupon the property shall vest in that board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, the property.

Power to vest property in board.

65. Where any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the municipal board,

Acquisition of land under Act X of 1870.

N.-W. P. and Oudh Municipalities Bill, 1883.
Chapter VII.—Exceptional Provisions—Sections 66-68.

proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the board of the compensation awarded under that Act, the land shall vest in the board. X of 1870.

66. *(1)* The authority empowered to make rules under section 10, section 50, section 54 or section 60 shall, before making them, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified. Procedure for making rules.

(2) Every rule made under any of those sections shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section.

CHAPTER VII.

EXCEPTIONAL PROVISIONS.

67. *(1)* If it appears to the Local Government that the circumstances of any municipality are such that the provisions of this Act requiring that a certain proportion of the members of a municipal board be elected are unsuited thereto, the Local Government may, by notification in the official Gazette, except the municipality, wholly or in part, from the operation of those provisions; and thereupon those provisions shall not apply, or shall only apply in part, as the case may be, to the excepted municipality until again applied thereto by a like notification of the Local Government. Power to except municipalities from operation of provisions of Act regarding election.

Provided that no notification shall be issued under this section in respect of a municipality for which a municipal board has come into existence unless its issue has been sanctioned by the Governor General in Council.

(2) While the municipality continues to be excepted, wholly or in part, from the operation of the provisions mentioned in sub-section (1), the Local Government may appoint such of the members of the municipal board as would otherwise have been elected.

68. *(1)* The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local Gazette, withdraw from the operation of this Act or the North-Western Provinces and Oudh Municipalities Act, 1873, any local area to which that Act may have been applied or extended. Power to withdraw local area altogether from operation of this Act or Act XV of 1873. XV of 1873.

(2) When a notification is issued under this section in respect of the whole area subject to the authority of a municipal board or municipal committee, all property which at the time of the issue of the notification is vested in the board or committee shall vest in the Local Government, and be applied by it, in such manner as it thinks fit, for the promotion of the health, comfort and convenience of the inhabitants.

(3) When a notification is issued under this section in respect of a part of the area under the authority of a municipal board or municipal committee, such part of the property of the board or committee as the Commissioner may determine shall vest in the Local Government, and be applied as aforesaid.

STATEMENT OF OBJECTS AND REASONS.

MUNICIPAL Committees in the North-Western Provinces and Oudh are at present constituted and guided in the execution of their functions by Act XV, 1873, the North-Western Provinces and Oudh Municipalities Act of that year.

That Act gives plenary powers to the Local Government to appoint ordinary and *ex officio* members of municipal committees. It leaves to the Local Government to determine absolutely whether in any municipality of the united provinces members shall be elected or not, and if confers upon it the power of appointing *ex officio* members to the extent of one-third of the total number of the committee, a power very generally acted on.

2. The manner of election, where elections are allowed, is under the Act regulated solely by the Local Government without reference to the parties most concerned, and casual vacancies are filled up by direct appointment by the same authority, or are not filled up at all.

3. The Local Government may also appoint the president and vice-presidents of all committees, and may unconditionally cancel, suspend or limit any of the proceedings, bye-laws or rules of the committees and abolish any tax imposed by them.

4. Section 34 of the Act further imposes on a municipality without any restriction the obligation of providing for the maintenance of a police-establishment, the effect of which has frequently been to throw on municipalities a large portion of the charge for police kept up for the prevention and detection of crime and the apprehension of offenders against the general law of the land.

5. These provisions are inconsistent with the proposals for the extension of local self-government enunciated by the Government of the North-Western Provinces and Oudh in its resolution dated 5th December, 1882.

6. The present Bill has been drafted to enable the Local Government to carry these proposals into effect, put forward after consultation with the most experienced officers of the provinces, with the members of existing municipal committees and numerous non-official gentlemen.

7. Except in the provisions necessary to carry out the object above specified and in the arrangement of chapters and sections, the Bill follows closely the present Municipal Act.

8. Chapter I contains the usual preliminary matter, and prescribes the course to be followed when it is intended to introduce the Act into any local area for the first time, or into existing municipalities.

9. Chapter II deals with the organisation of municipal boards.

These are to consist of members elected in the manner prescribed by the Local Government, and of a certain proportion of nominated members, not to exceed one-fourth of the whole.

The principle of nomination has been already accepted in the Central Provinces, and is meant to provide against the danger of classes of the community being overridden by hostile majorities.

10. Before making rules for determining the system of representation and election, the Local Government is required by sections 8 and 9 to inform itself of the sense of the community on these subjects.

11. Section 18 leaves the election of their own chairmen to municipal boards, with the exception of such municipalities as the Local Government may, from time to time, by notification, exempt from the operation of this section. In these latter the chairman will be appointed by the Local Government.

This exception is meant to meet cases where an officer of Government must remain chairman, at least for a period, either in order that he may have time to transfer functions and accounts often onerous and complicated to a non-official successor, or for lack of a qualified non-official to deal with special circumstances, or by reason of the expressed wish of the municipal board itself.

12. Section 24 contains a provision, not in the existing Act, enabling municipal boards to appoint joint committees for any purpose in which they may be jointly interested.

13. Power to appoint officers and servants necessary for the performance of its duties is given to the board by sections 33 and 34, and the appointment of an officer of Government or of an outsider as secretary is made subject to the sanction of the Commissioner. It is obviously impossible to allow boards to appoint to such office Government servants against the wish of Government, and it is necessary to take some guarantee against the appointment of an incapable man as paid secretary; especially with a non-official chairman the office of secretary to the municipal board will be one of great importance.

14. Chapter III, on taxation, varies but little from the existing Act.

15. Chapter IV, on the powers and duties of the boards, groups together all the duties of the boards in what is thought to be the order of their obligation, and simplifies the rules of the existing Act as regards nuisances.

16. Chapter V deals with the subject of control. The provisions are similar to those of the Central Provinces Local Self-government Act, with the exception that the Commissioner may at once suspend, and the Local Government rescind, any act, order or resolution of the board which is manifestly in excess of its powers.

This authority is given to provide for cases which may not be of a nature grave enough to call for the penalty of supersession.

17. Section 60 empowers the Local Government to frame forms and make rules on certain matters therein specified.

18. Chapter VI contains miscellaneous provisions as regards the conduct of litigation, penalties on, and liabilities of, members, acquisition of land, and the like.

19. Chapter VII enables the Local Government to exempt from the provisions of the Act regarding election municipalities to which it considers such provisions to be unsuited, and, with the previous sanction of the Governor General in Council, to withdraw from the operation of this Act, or of the North-Western Provinces and Oudh Municipalities Act of 1873, any local area to which either of those Acts may have been applied.

This latter power is deemed necessary, as cases sometimes occur where a municipality has been established in a place which experience proves to be unfit for municipal institutions, or where change of circumstances may have rendered such institutions unsuitable, and it would be improper in such cases to insist on the Act remaining in force for ever. At the same time, the power is one which should be exercised with great caution, as it is a more serious matter to withdraw a privilege once conferred than to withhold it in the first instance; and the Local Government has therefore been debarred from acting on the section unless with the previous sanction of the Governor General in Council.

The 10th May, 1883.

J. W. QUINTON.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, MAY 26, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

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 May, 1883:—

No. 10 of 1883.

THE NORTH-WESTERN PROVINCES AND OUDH LOCAL BOARDS BILL, 1883.

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53. Section 11, clause (*c*), Act III of 1878, amended.
54. Sections 12, 13 and 15 of same repealed.
55. New section substituted for section 14 of same.

Amendment of the Oudh Local Rates Act, 1878.

56. Section 11, clause (*c*), of Act IV of 1878, amended.
57. Sections 12 and 14 of same repealed.
58. New section substituted for section 13 of same.

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60. New section to follow section 7 of Act XVII of 1878.
61. Amendments of sections 6 and 17 of same Act.

A Bill to provide for the constitution of Local Boards in the North-Western Provinces and Oudh.

Preamble.

WHEREAS it is expedient to make better provision for the constitution of local bodies in each district in the North-Western Provinces and Oudh to administer the expenditure of that portion of the rates levied on land which is applicable to local purposes in that district, and of the income accruing from certain other sources of revenue which may from time to time be made applicable to the like purposes; It is hereby enacted as follows:—

Short title.

1. *(1)* This Act may be called the North-Western Provinces and Oudh Local Boards Act, 1883.

Local extent.

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh; and

Commencement.

(3) it shall come into force on the first day of September, 1883.

Interpretation-clause.

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

"Prescribed" means prescribed by rules made under section 45.

Constitution of Local Boards and District Boards.

Formation of sub-districts.

3. *(1)* The Local Government shall, by order in writing, for the purposes of this Act, divide each district into sub-districts.

(2) There shall be excluded from the sub-districts formed under this section such portions of the district as are for the time being included in the limits of a military cantonment or of a municipality.

(3) The Local Government may, from time to time, by order in writing, vary any order made under this section.

Establishment of local boards for sub-districts and of district boards for districts.

4. There shall be established for each sub-district a local board, having authority over that sub-district, and for each district a district board having authority over the entire district, except such portions thereof as are for the time being included in the limits of a military cantonment or of a municipality.

Constitution of local board.

5. *(1)* The local board for a sub-district shall consist of—

(*a*) so many persons residing or owning landed property or carrying on trade or business in the sub-district, and elected as next hereinafter provided, as the Local Government may, from time to time, fix in this behalf; and

(*b*) such person or persons (if any), not exceeding in number one-fourth of the board, as the Local Government may, subject to the rules made under section 45, from time to time appoint in this behalf.

(2) The elective members of a local board shall be elected in manner prescribed by the rules made under section 45, and the persons entitled to vote at the election shall be nominated by the Local Government or determined in such other manner as may be prescribed by the rules: Provided that the persons entitled to vote at the election of any such member shall not be less than twenty-five in number.

Constitution of district boards.

6. The district board for a district shall consist of all persons who for the time being are members of the local boards of the sub-districts comprised in that district:

Provided that the Local Government may, if it thinks fit, by notification in the official Gazette, direct that the district board shall consist of so many members of each local board as it thinks fit, elected in this behalf by the local board in manner

N.-W. P. and Oudh Local Boards Bill, 1883—Sections 7-17.

prescribed, and may by a like notification rescind any such direction with effect from the date on which all the persons holding office as members of the district board at the date of the notification shall, under the provisions next hereinafter contained, have vacated their offices as such members.

Term of office of members of local boards and of certain district boards.

7. *(1)* The term of office of a member of a local board and of a member of a district board elected under the proviso to section 6 shall be fixed, from time to time, by the Local Government by rules made under this Act, but shall not exceed three years.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

Resignation of members of those boards.

8. A member of a local board and a member of a district board elected as aforesaid may resign by notifying in writing his intention to do so to the Local Government; and, on the acceptance by the Local Government of such resignation, the member shall be deemed to have vacated his office as such member.

Removal of members of those boards.

9. The Local Government may, from time to time, remove any member of a local board or of a district board elected as aforesaid who refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any offence, or subjected by a Criminal Court to any order, implying, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who without sufficient excuse neglects for more than six consecutive months to be present at the meetings of the board.

Filling of casual vacancies on those boards.

10. *(1)* When the place of an elected member of a local board or of a member of a district board elected as aforesaid becomes vacant by the resignation or removal of the member under section 8 or section 9, or by his death, a new member shall be elected in manner prescribed to fill the place:

Provided that the Local Government may, subject to the limitation of the proportion of appointed members of a local board prescribed by section 5, clause (*b*), direct in any such case that the vacancy shall be left unfilled.

(2) When the place of an appointed member of a local board becomes vacant as aforesaid, the Local Government may, if it thinks fit, but subject to the rules made under section 45, appoint a new member to fill the place.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

Incorporation of district boards.

11. Every district board shall be a body corporate by the name of the district board of its district, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, to transfer any moveable property, and, with the previous approval in writing of the Commissioner of the Division, any immoveable property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Time for boards coming into existence.

12. The several local boards and district boards under this Act shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Chairmen and Vice-chairmen.

Chairman of local board.

13. *(1)* Every local board shall, from time to time, elect one of its members to be chairman for one year.

(2) If the chairman so elected dies, ceases to be a member of the board, resigns the office of chairman or becomes incapable of acting, the board shall elect another of its members to be chairman for the period during which the person so dying, ceasing to be a member, resigning or becoming incapable would have been entitled to continue in office, and no longer.

(3) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting, the members present shall elect one of their number to be chairman of the meeting.

Chairman of district board.

14. *(1)* Every district board shall, on first coming into existence and thereafter whenever the term of office of its chairman expires under this Act, take into consideration, at a special meeting convened for the purpose within the time prescribed, the appointment of a chairman, and, if the meeting is attended by not less than three-fourths of the members of the board, may, by a majority of the members present,—

(*a*) determine whether the chairman shall be elected, or his appointment shall be left to be made by the Local Government, and

(*b*) if it is determined that the chairman shall be elected, elect one of its members to be chairman; and

the Local Government may, if it approves of the person so elected, declare him to be chairman of the board.

(2) If no such meeting is held within the time prescribed, or if three-fourths of the members of the board are not present at the meeting, or where several meetings are convened under this section at any of those meetings, or if no such election takes place, or if the person elected is not approved of by the Local Government, the Local Government shall appoint as chairman such person as it thinks fit.

Vice-chairman of district board.

15. At a special meeting held under section 14, or at another special meeting held for this purpose, the district board shall elect one or two of its members to be its vice-chairman or vice-chairmen.

Term of office of chairman and vice-chairman of district board.

16. The term of office of a chairman or vice-chairman of a district board shall be one year.

Casual vacancies in office of chairman or vice-chairman of district board.

17. *(1)* If a chairman of a district board elected under section 14, sub-section (1), dies, ceases to be a member of the board, resigns his office of chairman or becomes incapable of acting, a special meeting of the

board shall be held within the period prescribed, and a new chairman shall be elected or appointed in manner provided by that section.

(2) If a chairman of a district board appointed under section 14, sub-section (2), dies, resigns or becomes incapable of acting, the Local Government shall appoint another chairman.

(3) If a vice-chairman of a district board dies, ceases to be a member of the board, resigns his office of vice-chairman or becomes incapable of acting, the board shall, at a special meeting held for this purpose, elect one of its members to be vice-chairman in his place.

(4) A chairman or vice-chairman elected or appointed under this section to filla casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office.

Chairman appointed by Local Government to be member of district board.

18. Notwithstanding anything in the foregoing sections, a chairman appointed by the Local Government under section 14, sub-section (2), or section 17, sub-section (1) or sub-section (2), shall, if he is not already a member of the district board, become a member thereof by virtue of such appointment, and continue to be a member thereof while he holds the office of chairman.

Person to preside at meeting of district board.

19. *(1)* At every meeting of a district board the chairman, if present, shall preside.

(2) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting, and a vice-chairman is present, such vice-chairman or, when two vice-chairmen are present, the senior of them by date of appointment, shall preside.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

Chairmen and vice-chairman of local or district board re-eligible.

20. A chairman of a local board, and a chairman or vice-chairman of a district board, shall be again eligible for election or appointment on the expiration of his term of office.

Notification of Elections, &c.

Notification of elections, &c.

21. All elections, appointments and removals of members of local boards and district boards, and all elections and appointments of chairmen of district boards, shall be notified in the local official Gazette.

Duties of District Boards.

Matters to be administered by district boards.

22. The following matters shall, subject to such exceptions and conditions as the Local Government may, from time to time, make and impose, be under the control and administration of the district board within the area subject to its authority:—

(*a*) the construction, repair and maintenance of public roads and other means of communication;

(*b*) the management, maintenance and visiting of schools, hospitals, dispensaries, markets, staging-houses, inspection-houses and other public institutions, and the construction and repair of all buildings connected with these institutions;

(*c*) the construction and repair of public wells, tanks and water-works, and the supply of water from them and from other sources;

(*d*) the establishment and maintenance of relief-works in time of famine or scarcity;

(*e*) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in force, all the functions of the Local Government and the Magistrate of the district under sections four, five, six, seven, twelve, fourteen and seventeen, and clause (*a*) of section eighteen, of that Act; I of 1871.

(*f*) the management of such public ferries as may be entrusted to its charge under section 7A of the Northern India Ferries Act, 1878, as amended by this Act; XVII of 1878.

(*g*) the licensing and regulation of stage-carriages under Act No. XVI of 1861 (*an Act for licensing and regulating stage-carriages*), including the functions of a Magistrate under sections two, three and ten of that Act;

(*h*) the regulation of encamping-grounds and, where the Saráis Act, 1867, is in force, of saráis and paráos, including the functions of the Magistrate of the district under sections three, four, six, seven, ten, eleven and twelve of that Act; XXII of 1867.

(*i*) the maintenance of any building or other property which is vested under this Act in the district board, or may be placed by the Local Government under the management of that board; and

(*j*) any other local works or measures likely to promote the health, comfort or convenience of the public.

Duties of Local Boards and their Relations to District Boards.

Local board to be agent of district board.

23. Every local board shall, in the sub-district under its authority, be the agent of the district board, and, as such agent, shall have such authority and discharge such duties in respect of all or any of the matters specified in section 22 as the district board may, by written authority in that behalf, from time to time, confer or impose upon it.

Control of district board over local boards.

24. The district board may, by a resolution passed by two-thirds of the members present at a meeting, either on complaint made to it or of its own motion, reverse or vary any order or other proceeding of any local board within the district:

Provided that, except for reasons recorded in writing, no such resolution shall be passed until the local board has been allowed an opportunity of showing cause against the same.

Joint Committees.

Joint committee of two or more boards.

25. *(1)* A district board may, from time to time, concur with any other district board, or with the board of any municipality, or with more than one such board, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee, and in delegating to any such committee any power which might be exercised by either or any of the boards, and in framing and modifying regulations as to the proceedings of any such committee, and as to the conduct of correspondence relating to the purpose for which the committee is appointed.

(2) If any difference of opinion arises between boards acting under this section, the decision thereon of the Commissioner of the division if the areas under the authority of the boards are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

Ordinary and special meetings.

26. *(1)* A meeting of a district board or local board shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

Quorum.

27. *(1)* The quorum necessary for the transaction of business at a special meeting of a district board or local board shall, except where otherwise provided by this Act, be one-half of the whole board.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a district board or local board shall be such number or proportion of the members of the board as may, from time to time, be fixed by the rules made under this Act.

Vote of majority decisive.

28. *(1)* Except as otherwise provided by this Act, or by any rule made under this Act, all questions coming before a meeting of a district board or local board shall be decided by a majority of the votes of the members present.

(2) In case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

Certain officers entitled to attend and speak.

29. The Civil Surgeon of the district, the Executive Engineer of the division, and the Inspector of Schools of the circle, shall be entitled to attend any meeting of a district board or local board, and to address the board on any matter affecting respectively sanitation, public works or public instruction.

Resolutions to be recorded.

30. *(1)* Every resolution passed by a district board or local board at a meeting shall be recorded in a book kept for the purpose, and shall be signed by the chairman of the meeting.

(2) A copy of every resolution passed by a local board at a meeting shall, within ten days from the date of the meeting, be forwarded to the district board.

(3) A copy of every resolution passed by a district board at a meeting shall, within ten days from the date of the meeting, be forwarded to the Magistrate of the district.

Power to make rules as to conduct of business.

31. Every district board, and, with the previous sanction of the district board, every local board, may, from time to time, make rules consistent with this Act and with any rules made under this Act by the Local Government as to—

(*a*) the time and place of its meetings;

(*b*) the quorum necessary for the transaction of business at ordinary meetings;

(*c*) the conduct of proceedings at meetings;

(*d*) the language of the board;

(*e*) the appointment, duties and proceedings of committees of the board; and

(*f*) the persons by whom receipts may be granted on behalf of the board for money paid under this Act.

Officers and Servants.

Appointment of secretary.

32. *(1)* Every district board and every local board shall, from time to time, appoint one or more of its members, or, with the sanction of the Commissioner of the division, any other person or persons, to be its secretary or secretaries, and may remove any person so appointed.

(2) If a secretary appointed under sub-section (1) is a member of the board, he shall receive no remuneration in respect of his services. If he is not a member of the board, the district board may, with the previous sanction of the Commissioner of the division, assign to him such pay, leave-allowances, gratuity or pension as it thinks fit.

Employment of other officers and servants.

33. Subject to such general or special orders as the Local Government may, from time to time, make in this behalf, every district board may employ, in addition to its secretary or secretaries, such other officers and servants as may be necessary and proper for the efficient execution of its duties and of the duties of the local boards in the district, and may assign to such officers and servants such pay, leave-allowances, gratuities or pensions as it thinks fit, and as may be approved by the Commissioner of the division.

Vesting of Property by Order of Government.

Power to vest property in district board.

34. The Local Government may, from time to time, by notification in the official Gazette, direct that any property, moveable or immoveable, which is vested in Her Majesty and is situate in the territories administered by the Local Government, shall vest in any district board; and thereupon that property shall vest in that board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, that property.

District Fund.

Constitution of district fund.

35. There shall be formed for each district a fund, to be called the district fund, and there shall be placed to the credit thereof—

(*a*) the balance (if any) of the allotments made for the district under section 11 of the North-Western Provinces Local Rates Act, 1878, or the Oudh Local Rates Act, 1878, which may be available for expenditure in the district on the day on which the district board comes into existence; III of 1878. IV of 1878.

(*b*) all sums which may, from time to time, be allotted by the Local Government to the district fund under section 11 of the North-Western Provinces Local Rates Act, 1878, or of the Oudh Local Rates Act, 1878, as amended by this Act; III of 1878. IV of 1878.

and, subject to such conditions as the Local Government may from time to time impose, the following, namely:—

1 of 1871. (c) the surplus accruing in the district under section eighteen of the Cattle-trespass Act, 1871;

(d) the proceeds of public ferries payable into the district fund under section 7A of the Northern India Ferries Act, 1878, as amended by this Act;

XVII of 1878.

(e) all fees for licenses realised in the district under the Stage-carriages Act, 1861;

XVI of 1861.

(f) receipts from parâos and encamping-grounds under the regulation of the district board;

(g) the sale-proceeds of grass on the sides of roads, and on other public ground, under the control and administration of the district board, and of timber fallen or felled thereon;

(h) receipts from property vested in the district board;

(i) rents and profits accruing from nazúl and other property placed by the Local Government under the management of the district board;

(j) other sums assigned to the district fund by the Local Government;

(k) sums contributed to the district fund by local bodies or private persons; and

(l) all other sums received by or on behalf of the district board in the carrying out of this Act.

Vesting and custody of district fund.

36. The district fund shall be vested in the district board, and the balance standing at the credit of the fund shall be kept in the Government treasury of the district.

Application of district fund.

37. The district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the several matters specified in sections 22, 32 and 33 within the area subject to the authority of the district board, and, with the sanction of the Local Government, outside of that area, and also to the payment of Inspectors of Schools, normal school teachers, officers of the Public Works Department and subordinate medical officers (including vaccinators) appointed by the Government and employed in the district.

Control.

Control of Commissioner and Magistrate over boards and joint committees.

38. *(1)* The Commissioner of the division or the Magistrate of the district may—

(a) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any local board, district board or joint committee, or any work in progress within those limits under the direction of any such board or committee;

(b) call for and inspect any document in the possession or under the control of any such board or committee having authority within those limits;

(c) require any such board or committee to furnish such statements, accounts, reports and copies of documents, relating to the proceedings or duties of the board or committee, as he may think fit to call for; and

(d) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(2) If any difference of opinion arises between officers exercising the powers conferred by sub-section (1), it shall be referred—

(a) if it arises between two or more Magistrates in the same division, to the Commissioner; and

(b) if it arises between two or more Magistrates in different divisions or between two or more Commissioners, to the Local Government;

and the decision thereon of the Commissioner or of the Local Government, as the case may be, shall be final.

(3) When the Magistrate of the district is a member of a district board or joint committee, he shall not exercise, in respect of that board or committee, the powers conferred upon him by this section.

Power of Commissioner to suspend action under this Act.

39. *(1)* A Commissioner may, by order in writing, suspend within his division the execution of any resolution or order of a local board, district board or joint committee, and may prohibit the doing of any act which is about to be done or is being done within his division in pursuance of, or under cover of, this Act, if, in his opinion, such resolution, order or act is in excess of the powers conferred by law, or the execution of such resolution or order, or the doing of such act is likely to lead to a serious breach of the peace or to cause serious injury or annoyance to the public or to any class or body of persons.

(2) When the Commissioner makes any such order, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order, or direct that it continue in force with or without modification, permanently or for such period, as it thinks fit.

Extraordinary powers of Magistrate in case of emergency.

40. *(1)* In cases of emergency the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a district board or local board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the district board.

(2) If the expense is not so paid, the Magistrate of the district may make an order directing the person in charge of the treasury where the balance of the district fund is kept to pay the expense, or as much thereof as is from time to time possible, from the balance in priority to any or all other charges against the same.

(3) The Magistrate of the district shall forthwith report to the Commissioner every case in

which he uses the powers given to him by this section.

Powers of Local Government in cases of default of local board.

41. *(1)* If at any time it appears to the Local Government that any district board has made default in performing, or has inefficiently performed, any duty imposed on it by this or any other Act for the time being in force, the Local Government may, by order in writing, direct the district board to perform that duty, or to take such measures as the Local Government may direct for the performance thereof, and may fix a time within which the duty shall be performed or the measures shall be taken.

(2) If the order is not obeyed to the satisfaction of the Local Government within the time fixed, the Local Government may appoint the Magistrate of the district to execute it, and may direct that the expense of executing it shall be paid within such time as it may fix to the Magistrate by the district board.

(3) If the expense is not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person in charge of the treasury where the balance of the district fund is kept to pay the expense, or so much thereof as is from time to time possible, from the balance in priority to any or all other charges against the same.

Power to supersede district board in case of incompetency, persistent default or abuse of powers.

42. *(1)* If a district board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declared the board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(2) When the district board of a district is so superseded, the following consequences shall ensue:—

(a) all members of the board and all members of the local boards of the district shall, as from the date of the order, vacate their offices as such members;

(b) all powers and duties of the district board may, during the period of supersession, be exercised and performed by such person or persons as the Local Government from time to time appoints in that behalf;

(c) all property vested in the district board shall, during the period of supersession, vest in Her Majesty.

(3) On the expiration of the period of supersession specified in the order, the local board and district board shall be re-established, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified for appointment or election.

Suits by and against District Boards.

Privileges of district boards and their officers.

43. In respect of every suit instituted against the district board, or against any officer or servant of the board in respect of an act purporting to be done by him in his official capacity, the board, officer or servant, shall have, as nearly as may be, all the privileges which the Secretary of State for India in Council or a public officer, respectively, has under Chapter XXVII of the Code of Civil Procedure. XIV of 1882.

Liability of Members of Boards.

Liability of members for loss, waste or misapplication.

44. Every member of a local board or district board shall be liable for the loss, waste or misapplication of any money or other property belonging to the district board if such loss, waste or misapplication is a direct consequence of his neglect or misconduct; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the district board or by the Secretary of State for India in Council.

Forms and Rules.

Power of Local Government to frame forms and make rules.

45. The Local Government may, from time to time, frame forms for any proceeding for which it considers that a form should be provided, and make rules consistent with this Act—

(a) as to the method and time of election of elective members of local boards, and of members of such boards to be members of district boards;

(b) as to the appointment of members of local boards under section 5, clause (*b*);

(c) as to the notice to be given of meetings, the business that may be transacted at general and special meetings respectively, and the majority by which any question which may come before a board at a meeting shall be decided;

(d) as to the formation of committees and the delegation of powers to such committees;

(e) as to the mode of entering into and executing contracts and transfers of property on behalf of district boards, and the authority on which money may be paid from the district fund;

(f) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of district boards, and as to the authority by which, and the conditions subject to which, such plans and estimates may be sanctioned;

(g) for the guidance of district boards when suits or other proceedings are intended to be, or have been, instituted by or against them in Civil Courts;

(h) as to the office or offices through which correspondence of, and with, local boards and district boards shall pass;

(i) as to the accounts to be kept, and as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(j) as to the preparation of estimates of income and expenditure, and the authority by whom, and the conditions subject to which, such estimates may be sanctioned;

(k) as to the returns, statements and reports to be submitted by local boards and district boards respectively; and,

(l) generally, for the guidance of local boards, district boards and officers of Govern-

N.-W. P. and Oudh Local Boards Bill, 1883—Sections 46-56.

ment in all matters connected with the carrying out of this Act and for settling their relations to one another.

46. The Local Government shall, before making any rules under section 45, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person concerned with respect to the draft before the date so specified.

Procedure for making rules.

47. Every rule made under section 45 shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by section 46.

Publication of rules.

Miscellaneous.

48. Where any land is required for the purposes of this Act, the Local Government may, at the request of the district board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the district board of the compensation awarded under that Act, the land shall vest in the district board.

Acquisition of land.

X of 1870.

49. If any member, officer or servant of a local board, district board or joint committee appointed under this Act is, otherwise than with the permission in writing of the Commissioner of the division, directly or indirectly interested in any contract made with such board or committee, he shall be deemed to have committed an offence under section one hundred and sixty-eight of the Indian Penal Code:

Penalty on member, officer or servant being interested in contracts made with board or committee.

XLV of 1860.

Provided that no person shall by reason of being a shareholder in, or a member of, any incorporated or registered company be held to be interested in any contract entered into between such company and a board or committee.

Exceptional Provisions.

50. If the circumstances of any district or part of a district are, in the opinion of the Local Government, such that all or any of the provisions of this Act are unsuited thereto, the Local Government may, by notification in the official Gazette, except the district or part from the operation of those provisions; and thereupon those provisions shall not apply to the excepted district or part until again applied thereto by a like notification.

Power of Local Government to except local area from operation of Act.

51. When a sub-district is excepted, under section 50, from the provisions of this Act requiring that a certain proportion of the members of a local board shall be elected, the Local Government may itself appoint all such members.

Case of sub-district excepted from provisions regarding election.

52. When a district is excepted, under section 50, from all the provisions of this Act, a committee shall be appointed for the control and administration in that district of the matters mentioned in section 22, or of such of them as the Local Government may, from time to time, specify; and the Local Government shall, from time to time, prescribe the manner in which the members of the committee shall be appointed and removed, define the functions and authority of the committee, and place at its disposal, subject to such control as the Local Government thinks fit, the amounts mentioned in clauses (*a*) and (*b*) of section 35, and such of the sources of income mentioned in the other clauses of that section as the Local Government thinks fit:

Administrative committee to be appointed for district wholly excepted from Act.

Provided that not less than one-half of the members of the committee shall be persons who own or occupy land, or reside, in the district, and are not in the service of Government.

Amendment of the North-Western Provinces Local Rates Act, 1878.

53. For section 11, clause (*c*), of the North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely:— III of 1878.

Section 11, clause (*c*), Act III of 1878, amended.

"(*c*) Subject to the appropriation directed by clause (*a*), the Lieutenant-Governor shall, from time to time, allot from such fund to the district fund constituted for each district under the North-Western Provinces and Oudh Local Boards Act, 1883, such amounts as he thinks fit:

"Provided that the amounts so allotted in any year to the district fund of any district shall not be less than nine-tenths of the proceeds of the rates assessed under the first clause of section five in such district in such year."

54. Sections 12, 13 and 15 of the said North-Western Provinces Local Rates Act, 1878, are repealed. III of 1878.

Sections 12, 13 and 15 of same repealed.

55. For section 14 of the said North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely:— III of 1878.

New section substituted for section 14 of same.

"14. Accounts of the receipts in respect of all rates levied under this Act shall be kept in each district, and shall at all reasonable times be open to the inspection of the district board constituted for the district under the North-Western Provinces and Oudh Local Boards Act, 1883.

Accounts to be kept.

"An abstract of such accounts shall also be published annually in the local Gazette."

Amendment of the Oudh Local Rates Act, 1878.

56. For section 11, clause (*c*), of the Oudh Local Rates Act, 1878, the following shall be substituted, namely:— IV of 1878.

Section 11, clause (*c*), of Act IV of 1878, amended.

"(*c*) Subject to such appropriation, the Chief Commissioner shall, from time to time, allot from the said fund to the district fund constituted for each district under the North-Western Provinces and Oudh Local Boards Act, 1883, such amounts as he thinks fit:

N.-W. P. and Oudh Local Boards Bill, 1883—Sections 60-61.

"Provided that the amounts so allotted in any year shall not be less than one-half of the proceeds of the rate assessed in such district in such year."

57. Sections 12 and 14 of the said Oudh Local Rates Act, 1878, are repealed. IV of 1878.

Sections 12 and 14 of same repealed.

58. For section 13 of the said Oudh Local Rates Act, 1878, the following shall be substituted, namely:— IV of 1878.

New section substituted for section 13 of same.

"13. Accounts of the receipts in respect of all rates levied under this Act shall be kept in each district, and shall at all reasonable times be open to the inspection of the district board constituted for the district under the North-Western Provinces and Oudh Local Boards Act, 1883.

Accounts to be kept.

"An abstract of such accounts shall also be published annually in the local Gazette."

Contracts made by Committees under the North-Western Provinces and Oudh Local Rates Acts.

59. Every contract entered into, whether in its own name or in the name of the Government, by the committee appointed in a district under section 15 of the North-Western Provinces Local Rates Act, 1878, or section 14 of the Oudh Local Rates Act, 1878, may be enforced by and against the local board constituted for that district under this Act, in like manner as it might have been by and against the committee if this Act had not been passed. III of 1878. IV of 1878.

Contracts of local rates committees.

Amendment of the Northern India Ferries Act, 1878.

60. After section seven of the Northern India Ferries Act, 1878, the following shall be inserted, namely:— XVII of 18

New section to follow section 7 of Act XVII of 1878.

"7A. The Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh may direct that any public ferry wholly or partly within the area subject to the authority of a district board in any district in the North-Western Provinces or Oudh, as the case may be, be managed by that board, and may further direct that all or any part of the proceeds from such ferry be paid into the district fund of that district;

In North-Western Provinces and Oudh management may be vested in district board; and proceeds paid into district fund.

"and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

61. In section six of the same Act, after the words "section seven," and in section seventeen of the same Act, after the words "section seven" when they first occur, the following shall be inserted, namely:—"and section 7A."

Amendments of sections 6 and 17 of same Act.

STATEMENT OF OBJECTS AND REASONS.

THE existing law respecting the constitution and functions of district committees in the North-Western Provinces and Oudh is contained in Acts III and IV of 1878. Those Acts, while directing the Local Government to make allotments for local purposes to each district from the rates levied under them, yet enable the Government to appropriate for the benefit generally of the North-Western Provinces or Oudh, as the case may be, the balances of such allotments remaining unexpended in each district at the close of the year, and thus prevent all continuity in local financial administration.

2. They also, while establishing committees for the propose of determining how allotments shall be applied, and of supervising and controlling such allotments, leave the appointment of these committees and the definition of their functions and authority altogether in the hands of the Lieutenant-Governor or Chief Commissioner.

3. In accordance with the proposals for the extension of local self-government enunciated by the Government of the North-Western Provinces and Oudh in its resolution of 5th December, 1882, fresh legislation is now necessary in order to constitute local bodies for smaller areas, and to impose upon district boards more extensive duties and confer upon them greater financial and administrative independence.

4. With this object the Bill has been drawn up. It has been drafted on lines laid down by the Local Government after consultation with its most experienced officers and with non-official gentlemen throughout the provinces most competent to give advice on the subject. Its principal provisions are as follows.

5. Sections 3 to 12 provide for the constitution of local bodies in each district.

6. The Local Government is empowered by section 3 to divide every district into sub-districts, excluding military cantonments and municipalities.

7. For each sub-district there will be established a local board, and for each district a district board.

8. The district board will ordinarily consist of the aggregate members of the local boards, but power is reserved to Government to direct that it shall consist only of delegates chosen from the local boards to meet cases where the total number of members of local boards would constitute too large a body for the efficient transaction of business.

9. The qualifications for members of the local boards are contained in section 5, and such members must be elected, except in case of one-fourth of the board, who may be nominated by the Government. This principle of nomination has been already accepted by the Council in the Central Provinces Local Self-government Act. The electoral body may be constituted either by nomination of the electors by the Local Government or according to rules which the Local Government shall make in that behalf.

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10. Provisions are next made for the term of office of members of the board, for their resignation, removal, for filling up casual vacancies among them, for the incorporation of the district boards, and for fixing a time for their coming into existence.

11. Sections 13 to 20 deal with the appointment of chairmen and vice-chairmen of district and local boards. Both may elect vice-chairmen. Local boards may elect their own chairman, and district boards must, within a certain time after coming into existence, decide at a special meeting whether they will elect their chairman or leave the appointment to be made by the Local Government.

12. These provisions are mainly in accordance with the views elicited at public meetings held throughout the North-Western Provinces and Oudh, with the recommendations of the provincial committee, and the opinion of His Honour the Lieutenant-Governor that for a time at least, unless there be a strong expression of popular feeling to the contrary, it is expedient that the district officer should be chairman of the district board.

13. The duties of district boards are enumerated in section 22. Among these is the management of ferries made over to them by Government. The Northern India Ferries Act vests the immediate superintendence of every public ferry in the Magistrate or some other officer duly appointed, except where the Local Government makes over the superintendence of a ferry situated within municipal limits to a municipality. Section 60 of the Bill adds a section to the Northern India Ferries Act, giving corresponding powers to make over the management of ferries and their proceeds to district boards.

14. Sections 23 and 24 define the relations between district and local boards, and the control to be exercised by the former. The smaller is to be the agent of the larger body, which may reverse or vary any orders of a local board within the district under certain conditions laid down.

15. Section 25 gives power to district boards to appoint joint committees for any purpose, such as a long line of communication, in which they may be jointly interested.

16. Sections 26 to 30 lay down general rules for the conduct of business, and provide for the views of departmental officers on subjects connected with their departments being brought before the district board by those officers in person, as well as for the record of the resolutions of the board and the communication of them to the Magistrate of the district within 10 days.

17. Sections 32 and 33 enable the district board, subject to general or special orders of the Local Government, to appoint such officers and servants as are necessary for the proper discharge of its duties, and to appoint as secretary one of its members, or, with the sanction of the Commissioner, an outsider.

The limitations on the power of appointment are made, as it is necessary that certain officers of the provincial establishments employed in the departments made over to the board should be taken over; and as much of the routine work will be in the hands of the secretary, it is desirable that, when a salary is attached to that office, there should be some guarantee that an incapable man is not appointed.

18. Section 35 establishes a district fund, which shall be at the disposal of the district board for the discharge of its duties under the Bill.

The principal items will consist of the allotments from local rates prescribed by Acts III and IV of 1878, and of assignments from provincial revenues; but various petty sources of income are also made over, and it is expected that the closer supervision to be hoped for from the local boards will develop them to a considerable extent.

19. The subject of control by the Executive is dealt with in sections 38-42. The powers conferred are almost identical with those in the Central Provinces Local Self-government Act, with the addition that authority has been given to the Commissioner to suspend, and to the Local Government to rescind, any single act, order or resolution of the board that is in excess of its powers.

It is considered advisable that Government should have this power, to be exercised in cases where it might think it undesirable to resort to the heroic remedy of supersession.

20. Section 45 gives power to the Local Government to make forms and rules consistent with the Act. These are much the same as the corresponding powers in the Central Provinces Act.

21. Sections 50, 51 and 52 deal with those exceptional localities to which the whole or some of the provisions of this Act may be deemed unsuitable. In territories so vast, and among a population characterized by such differences in knowledge, habits and modes of thought, as those of the North-Western Provinces and Oudh, such tracts must be met with; and it is not desirable to insist on the residents of them being forced to accept an Act which would prove inoperative if not mischievous.

22. When the provisions as to election only are deemed unsuitable, the Local Government will appoint the members of the local boards; but when the whole Act is unsuited to the district, a district committee shall be appointed in such manner, shall perform such duties, and shall be placed in possession of such funds from the local rates allotments as the Local Government shall prescribe.

The 10th May, 1883.

J. W. QUINTON,

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

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 May, 1883:—

No. 11 OF 1883.

THE NORTH-WESTERN PROVINCES AND OUDH MUNICIPALITIES BILL, 1883.

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A Bill to make better provision for the Organization and Administration of Municipalities in the North-Western Provinces and Oudh.

Preamble. WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the North-Western Provinces and Oudh; It is hereby enacted as follows:—

CHAPTER I.
PRELIMINARY.

Short title. **1.** *(1)* This Act may be called the North-Western Provinces and Oudh Municipalities Act, 1883.

Local extent. *(2)* It extends to the territories for the time being administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh; and

Commencement. *(3)* it shall come into force on the 1st day of September, 1883.

Interpretation-clause. **2.** In this Act, unless there is something repugnant in the subject or context,—

(a) "Municipality" means a local area to which this Act has been applied under section 4 or section 5.

(b) "Honorary Magistrate" means a Magistrate who holds no salaried office in any department of the Government service.

(c) "Prescribed" means prescribed by rules made by the Local Government under this Act.

Notification of intention to apply Act. **3.** *(1)* The Local Government may, from time to time, by notification in the official Gazette, declare its intention to apply this Act to any town or to any group of towns in the immediate neighbourhood of one another.

(2) Every notification under sub-section (1) shall define the limits of the town or group of towns to which it refers, and may include within those limits any railway-station, village, building or land in the vicinity of any such town:

Provided that it shall not, without the previous consent of the Governor General in Council, so include any military cantonment.

Application of Act. **4.** *(1)* Any inhabitant of a local area in respect of which a notification has been published under section 3 may, if he objects to the application of the Act, submit his objection in writing to the Secretary to the Local Government within six weeks from the publication of the notification, and the Local Government shall take his objection into consideration. XV of 1873.

(2) When six weeks from the publication of the notification have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by like notification, apply this Act to the local area.

Special rule as to application of Act to towns to which Act XV of 1873 applies. **5.** The Local Government may, by notification in the official Gazette, apply this Act to any local area comprised in a municipality established under the North-Western Provinces and Oudh Municipalities Act, 1873, and shall, within three months from the date on which this Act comes into force, so apply it to every such local area unless before the expiration of that period—

(a) the Act has been applied under section 4 to some local area in which that local area is comprised; or

(b) the Local Government has declared, by a notification in the local Gazette, that the provisions of this Act are unsuited to that local area.

N.-W. P. and Oudh Municipalities Bill, 1883.
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CHAPTER II.
ORGANIZATION OF MUNICIPAL BOARDS.
Constitution of Boards.

Board to consist of elected and appointed members. **6.** There shall be established for each municipality a municipal board having authority over that municipality, and consisting of—

(a) so many elected members as may be determined in manner prescribed, representing wards of the municipality or particular classes of the inhabitants; and

(b) such person or persons (if any), not exceeding in number one-fourth of the board, as the Local Government may, subject to the rules made under this Act, from time to time appoint in this behalf.

Magistrate to convene meeting to determine system of election. **7.** *(1)* The Magistrate of the district within which any municipality is situate shall, within one month from the date on which this Act has been applied to the municipality under section 4 or section 5, issue notices in writing to the persons mentioned in section 8, inviting them to assemble at a time and place specified in the notices, for the purpose of preparing and submitting, within such time as the Local Government may fix in this behalf, proposals for determining the system of representation and election to be established in the municipality.

(2) The Local Government may, from time to time, extend the time fixed under this section to any period not exceeding three months from the issue of the notices.

Persons to be invited to meeting. **8.** Notices under section 7 shall be issued to the following persons, namely:—

(a) all Honorary Magistrates having jurisdiction within the limits of the municipality;

(b) when the municipality comprises any local area for which a municipal committee has been appointed under the North-Western Provinces and Oudh Municipalities Act, 1873, the members of that committee; XV of 1873.

(c) when the municipality comprises any local area for which a panchâyat has been appointed under Act XX of 1856, the members of that panchâyat; and

(d) any leading residents of the municipality not included under the foregoing clauses, but who in the opinion of the Magistrate of the district should be allowed to take part in the discussion.

Matters to be considered at the meeting. **9.** The persons who assemble in compliance with the notices issued under section 7 shall consider the following matters, and shall, within the time limited under section 7, submit proposals regarding the same to the Magistrate of the district for transmission to the Local Government, namely:—

(a) the division of the municipality into wards;

(b) the number of representatives proper for each ward;

(c) the provision (if any) to be made for the special representation of any classes of the community;

(d) the qualifications of electors and of candidates for election;

(e) the registration of electors;

(f) the nomination of candidates, the time of election and the mode of recording votes; and

(g) any other matters regarding the system of representation and of election which it may seem to the meeting expedient to consider.

Power to Local Government to make rules regarding election. **10.** *(1)* The Local Government shall, after taking into consideration the proposals (if any) submitted to the Magistrate of the district under section 9, make rules regulating the matters referred to in that section.

(2) The Local Government may, after the municipal board has come into existence as hereinafter provided, from time to time, amend, after consulting the board, the rules made under this section, but no amendment made under this sub-section shall take effect until six months after it has been published in the official Gazette.

(3) Elective members of the board shall be elected in accordance with the rules made under this section and for the time being in force.

Terms of office of member of board. **11.** *(1)* The term of office of a member of a municipal board shall be fixed, from time to time, by the Local Government by rules made under this Act, but shall not exceed two years.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

Resignation of member of board. **12.** A member of a municipal board may resign by notifying in writing his intention to do so to the Local Government, and, on such resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Removal of members. **13.** The Local Government may, from time to time, remove any member of a municipal board who refuses to act or becomes incapable of acting, or is declared an insolvent, or is convicted of any offence, or subjected by a Criminal Court to any order, implying, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who without sufficient excuse neglects for more than six consecutive months to be present at the meetings of the board.

Filling of casual vacancies. **14.** *(1)* When the place of an elected member of a municipal board becomes vacant by the resignation or removal of the member under section 12 or section 13, or by his death, a new member shall be elected in manner prescribed to fill the place.

(2) When the place of an appointed member of a municipal board becomes vacant as aforesaid, the Local Government may, if it thinks fit, but subject to the rules made under section 60, appoint a new member to fill the place.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

15. Every municipal board shall be a body corporate by the name of the municipal board of its municipality, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to the rules made under section 60, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Incorporation of municipal board.

16. A municipal board shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Time for boards coming into existence.

17. When a municipal board comes into existence under section 16 for a municipality constituted under this Act, and that municipality comprises within its limits a local area which is a municipality under the North-Western Provinces and Oudh Municipalities Act, 1873, the following consequences shall ensue, namely :—

Consequences of establishment of municipal board where municipal committee exists.

(a) the said North-Western Provinces and Oudh Municipalities Act shall cease to apply to the local area ;

(b) the municipal committee (if any) constituted under that Act for the local area shall cease to exist ;

(c) all property vested in that committee shall vest in the municipal board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, that property ;

(d) every contract entered into by the committee may be enforced by and against the board in like manner as it might have been enforced by and against the committee if this Act had not been passed.

Chairman and Vice-chairman.

18. A municipal board shall, from time to time, at a special meeting, elect as its chairman one of its own members or some other person, and the member or other person so elected shall, if the election is approved by the Local Government, but not otherwise, become chairman of the board :

Election or appointment of chairman.

Provided that in such municipalities as the Local Government may, from time to time, by notification in the official Gazette, exempt from the operation of this section, the chairman shall, from time to time, be appointed by the Local Government.

19. When a person not already a member of the board is elected or appointed chairman, he shall, notwithstanding anything in the foregoing sections, become a member of the board by virtue of such election or appointment, and shall continue to be a member so long as he holds office as chairman.

Chairman to become member if not already member.

20. In every municipality the board shall, from time to time, at a special meeting, elect one or two of its members to be its vice-chairman or vice-chairmen.

Appointment of vice-chairman.

21. *(1)* A chairman or vice-chairman elected by the board shall hold office for one year, and on the expiration of that period may be re-elected.

Term of office of chairman and vice-chairman.

(2) A chairman appointed by the Local Government shall continue in office for such term as the Local Government may, from time to time, by rule, prescribe, and on the expiration of that term may be re-appointed.

22. *(1)* If an elected chairman or vice-chairman dies, ceases to be a member of the board, resigns his office of chairman or becomes incapable of acting, the board shall, at a special meeting, elect another of its members to be chairman or vice-chairman.

Casual vacancies in office of chairman or vice-chairman.

(2) If a chairman appointed by the Local Government dies, resigns his office of chairman or becomes incapable of acting, the Local Government shall appoint another chairman.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

Notification of Elections, Appointments, &c.

23. All elections and appointments of chairmen, and all elections, appointments and removals of members of municipal boards, shall be notified in the local official Gazette.

Notification of appointments, &c.

Joint Committees.

24. *(1)* A municipal board may, from time to time, concur with any other municipal board, or with a district board, or with more than one such board, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee, and in delegating to any such committee any power which might be exercised by either or any of the boards, and in framing and modifying regulations as to the proceedings of any such committee, and as to the conduct of correspondence relating to the purpose for which such committee is appointed.

Joint committee of two or more boards.

(2) If any difference of opinion arises between boards acting under this section, the decision thereon of the Commissioner of the division, if the areas under the authority of the boards are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

25. *(1)* A municipal board shall meet for the transaction of business at least once in every month on such day as may, from time to time, be fixed by the rules made under section 32.

Time for holding meetings.

(2) The chairman, or, in his absence, a vice-chairman, may, whenever he thinks fit, and shall, upon a requisition made in writing by not less than one-fifth of the members of the board, convene a meeting at any other time.

26. *(1)* A meeting of a municipal board shall be either ordinary or special.

Ordinary and special meetings.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

27. *(1)* The quorum nesessary for the transaction of business at a special meeting of a municipal board shall be one-half of the whole board.

Quorum.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a municipal board shall be such number or proportion of the members of the board as may, from time to time, be fixed by the rules made under this Act :

Provided that, if at any meeting of the board a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting whether there is a quorum present thereat or not.

28. *(1)* At every meeting of a municipal board the chairman, if present, shall preside.

Chairman of meeting.

(2) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting and a vice-chairman is present, such vice-chairman, or, when two vice-chairmen are present, the senior of them by date of appointment, shall preside.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

29. *(1)* Except as otherwise provided by this Act, or by any rule made under this Act, all questions which may come before any meeting of a municipal board shall be decided by a majority of the votes of the members present.

Vote of majority decisive.

(2) In case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

30. The Civil Surgeon of the district, the Executive Engineer of the division, and the Inspector of Schools of the circle, shall be entitled to attend any meeting of the board, and to address the board on any matter affecting respectively sanitation, public works and public instruction.

Certain officers entitled to attend and speak.

31. *(1)* Every resolution passed by a municipal board at a meeting shall be recorded in a book kept for the purpose, shall be signed by the chairman of the meeting, and shall be published in some local English or Vernacular newspaper, or in such other manner as the Local Government may, from time to time, direct.

Resolutions to be recorded and published.

(2) A copy of every resolution passed by a municipal board at a meeting shall, within ten days from the date of the meeting, be forwarded to the Magistrate of the district.

32. *(1)* Every municipal board may, from time to time, at a special meeting, make rules consistent with this Act and any rules made under this Act by the Local Government as to—

Power to make rules as to meetings and proceedings.

(a) the time and place of its meetings ;

(b) the manner in which notice thereof shall be given ;

(c) the quorum necessary for the transaction of business at ordinary meetings ;

(d) the conduct of proceedings at meetings, and the adjournment of meetings ;

(e) the language of the board ;

(f) the division of duties among the members of the board ;

(g) the persons by whom receipts may be granted on behalf of the board for money paid under this Act ; and

(h) all other similar matters.

(2) Every rule made under this section shall be published in such manner as the Local Government may, from time to time, direct.

Officers and Servants.

33. *(1)* Every municipal board shall, from time to time, at a special meeting, appoint one or more of its members, or, with the sanction of the Commissioner of the division, any other person or persons, to be its secretary or secretaries, and may at a like meeting remove any person so appointed.

Appointment of secretary.

(2) If an officer in the service of the Government, and who is not a member of the board, is appointed secretary, he shall, notwithstanding anything in the foregoing sections, become a member of the board by virtue of such appointment, and shall continue to be a member of the board as long as he holds the office of secretary.

(3) If a secretary is a member of the board, he shall receive no remuneration in respect of his services. If he is not a member of the board, the board may, with the previous sanction of the Commissioner, assign to him any such pay, leave-allowance, gratuity or pension as it thinks fit.

34. Subject to the other provisions of this Act, every municipal board may employ, in addition to its secretary or secretaries, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such pay, leave-allowances, gratuities or pensions as it thinks fit.

Employment of other officers and servants.

Contracts.

35. *(1)* A municipal board may delegate to one or more of its members the power of entering into, on its behalf, any contract whereof the value or amount does not exceed two hundred rupees.

Authority to contract.

(2) A contract whereof the value or amount exceeds two hundred rupees shall not be executed until it has been sanctioned by the board at a meeting.

36. *(1)* Every contract made by or on behalf of a municipal board whereof the value or amount exceeds twenty rupees shall be in writing.

Mode of executing contracts.

(2) Every such contract shall be signed by the chairman, or a vice-chairman, and a secretary:

Provided that the board may delegate to one or more of its members the power of executing any contracts which he or they are empowered to enter into under section 35, sub-section (1).

(3) A contract executed otherwise than in conformity with the provisions of this section shall not be binding on the board.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

37. Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, a municipal board may, for the purposes of this Act, impose, with the sanction hereinafter specified in each case, and in manner prescribed by section 38, any of the following taxes, namely:—

Taxes which may be imposed.

(1) with the previous sanction of the Local Government—

(a) a tax on houses, buildings and lands situate within the municipality, not exceeding seven and a half per cent. of the annual value of the houses, buildings and lands;

(b) a tax on persons exercising professions or carrying on trades or dealings in the municipality;

(c) a tax on carriages, horses, mules, elephants, camels, bullocks and asses kept within the municipality;

(d) a tax on carriages, carts and animals entering the municipality, and on boats moored therein;

(e) an octroi on articles brought within the municipality for consumption or use therein: and,

(2) with the previous sanction of the Local Government and of the Governor General in Council, any other tax.

38. *(1)* A municipal board may resolve at a special meeting to propose the imposition of any tax for the purposes of this Act.

Procedure in imposing taxes.

(2) When a resolution has been passed under sub-section (1), the board shall publish a notice defining the persons or property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(3) Any inhabitant of the municipality objecting to the proposed tax may, within a fortnight from the publication of the notice, submit his objection in writing to the board, and the board shall, at a special meeting, take his objection into consideration.

(4) If no objection is submitted within the said period of a fortnight under sub-section (3), or if the objections so submitted, having been considered as aforesaid, are deemed insufficient, the board may forward its proposals to the Local Government, together with the objections (if any) which have been submitted as aforesaid.

(5) A Local Government receiving proposals under sub-section (4) may sanction the same, or refuse to sanction them, or return them to the board for further consideration.

(6) When a Local Government sanctions under sub-section (5) any proposals which, under section 37, sub-section (2), require the further sanction of the Governor General in Council, it shall submit those proposals to the Governor General in Council, together with the objections (if any) received through the board; and the Governor General in Council may sanction the proposals, or refuse to sanction the same, or return them to the Local Government for further consideration.

(7) When the proposals of a municipal board have been sanctioned by the Local Government, or by the Local Government and the Governor General in Council, as the case may be, the board may, at a special meeting, direct the imposition of the tax in accordance with those proposals.

39. A municipal board, by a resolution passed at a special meeting and confirmed by the Local Government, or the Local Government with the previous sanction of the Governor General in Council, may abolish any tax imposed under the foregoing sections.

Power to abolish tax.

40. All taxes leviable in any local area under the North-Western Provinces and Oudh Municipalities Act, 1873, at the time a municipal board having authority over that local area comes into existence under this Act, shall be deemed to have been imposed and assessed under this Act.

Taxes leviable under Act XV of 1873 to be deemed to be taxes under this Act.

XV of 1873.

41. Arrears of any tax imposed under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property belonging to the defaulter within those limits.

Recovery of taxes.

Municipal Fund.

42. There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

Municipal fund constituted.

(a) all sums received by or on behalf of the board under this Act; and,

(b) when there has been included within the municipality any municipality constituted under the North-Western Provinces and Oudh Municipalities Act, 1873, the balance (if any) standing at the credit of the municipal fund of that municipality at the time the municipal board came into existence.

XV of 1873.

43. *(1)* In places where there is a Government treasury or sub-treasury, the municipal fund shall be kept in the treasury or sub-treasury.

Custody of municipal fund.

(2) In places where there is no such treasury or sub-treasury, the municipal fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

CHAPTER IV.

POWERS AND DUTIES OF MUNICIPAL BOARDS GENERALLY.

Municipal Police.

44. Every municipal board shall maintain a police-establishment for watch and ward, for the prevention and suppression of nuisances and for the enforcement of the rules and orders of the board.

Police-establishment.

45. *(1)* Subject to the provisions of section nine of the Cantonments Act, 1880, the establishment maintained under section 44 shall, as the board with the approval of the Local Government may determine, be either a body of watchmen or a part of the general police force under the Local Government within the meaning of section two of Act V of 1861; and it shall consist of such number of officers and men, and the officers and men shall receive such pay, leave-allowances, gratuities and pensions, as the board may, from time to time, after consultation with the Magistrate of the district and the Inspector General of Police, determine.

III of 1880.

Constitution of establishment.

(2) If any difference of opinion arises between the board and the Magistrate of the district or the Inspector General of Police under this section, it shall be referred to the Local Government, and the decision of the Local Government thereon shall be final.

46. If the establishment maintained under section 44 is a body of watchmen, the watchmen shall be appointed, and shall be liable to dismissal, suspension, reduction ot fine, under such rules as the Local Governmenr may, from time to time, make in this behalf; and shall perform such duties, and be liable to such penalties, as village-policemen appointed under the North-Western Provinces Village and Road Police Act, 1873, or under the Oudh Laws Act, 1876, as the case may be, perform and are liable to.

Appointment, punishment, and duties of municipal watchmen.

XVI of 1873. XVIII of 1876.

47. If the establishment is part of the general police force, the Local Government may, notwithstanding anything contained in Act V of 1861 or in any other Act for the time being in force, define the duties which the officers and men of the establishment may or may not be required to perform.

Duties of municipal police enrolled under Act V of 1861.

48. Section thirty-four of Act V of 1861 shall be in force in every municipality, and every watchman under this Act shall have the powers of a Police-officer under that section.

Section 34 of Act V of 1861 to be in force in every municipality.

Conservancy and General Improvement.

49. Every municipal board, so far as the municipal fund at its disposal will permit, shall, after providing for the maintenance of the police-establishment referred to in the foregoing sections,—

Duties of municipal board generally.

(1) keep the public streets, roads, drains, tanks and watercourses clean and in repair;

(2) cause those streets and roads to be watered and lighted;

(3) provide for the establishment and maintenance of schools and dispensaries and of other institutions for the promotion of education or for the benefit of the public health, and control and administer all such institutions within the municipality, except where they may, by a special order of the Local Government, have been excepted from the operation of this section;

(4) construct and provide for the maintenance and management of poor-houses, markets and other works of public utility; and,

(5) generally, do all acts and things calculated to promote the health, comfort, convenience or interests of the inhabitants of the municipality.

Prevention of Nuisances.

50. *(1)* A municipal board may, from time to time, at a special meeting, make rules—

Power of board to make rules regarding nuisances.

(a) declaring that such acts or omissions within the municipality as may in its opinion cause or tend to cause any common injury, danger or annoyance to the public, or to people in general who dwell or occupy property in the vicinity, or injury, obstruction danger or annoyance to persons who may have occasion to use any public right, shall be deemed, within the meaning of the Indian Penal Code and for the purposes of this Act, to be public nuisances; and

XLV of 1860.

(b) defining the cases, manner and times in and at which officers of the board may enter upon private property for the detection and abatement of public nuisances.

(2) A rule made under this section shall not come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

51. Subject to any orders which the Local Government may, from time to time, make in this behalf, a municipal board may order any person not to do, or not to omit to do, within the municipality, anything the doing of, or the omission to do, which is a public nuisance.

Power to prohibit commission of public nuisances.

52. *(1)* The Local Government may invest, within the limits of the municipality, a municipal board with the powers of a Magistrate of a district as described in section one hundred and thirty-three of the Code of Criminal Procedure, and with powers to make conditional orders of the nature referred to in that section, in respect of all or any of the acts or omissions which may have been declared to be public nuisances under clause (*a*) of section 50 of this Act.

Power as to conditional orders in respect of nuisances.

X of 1882.

N.-W. P. and Oudh Municipalities Bill, 1883.
Chapter V.—Control—Sections 53-58.

(2) Sections one hundred and thirty-three to one hundred and forty-two (both inclusive) of the Code of the Criminal Procedure shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers. X of 1882.

(3) The Local Government may, whenever it thinks fit, withdraw the powers with which it has invested a board under this section.

Delegation of powers as to nuisances.

53. A municipal board may, at a special meeting, delegate to one or more committees of its members any of the powers vested in the board by section 51, or with which the board may have been invested under section 52.

Additional Power to make Rules.

Additional power to make rules.

54. *(1)* A municipal board may, from time to time, at a special meeting, make rules,—

(a) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads where those conveyances, animals or persons are hired for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;

(b) for securing a proper registration of births, marriages and deaths; and

(c) generally for carrying out the purposes of this Act.

(2) In making any rule under this section, a municipal board may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and when the breach is a continuing one with a further fine of five rupees for every day after the first during which the breach continues.

(3) A rule made under this section shall not come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

(4) Notwithstanding anything contained in the foregoing portion of this section, the municipal board of a municipality in which the Hackney Carriage Act, 1879, is in force shall not make rules under sub-section (1) in respect to any vehicles to which that Act applies. IX of 1879.

CHAPTER V.

CONTROL.

Control by Commissioner and Magistrate.

55. *(1)* The Commissioner of the division or the Magistrate of the district may—

(a) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any municipal board or joint committee, or any work in progress within those limits under the direction of any such board or committee;

(b) call for and inspect any book or document in the possession or under the control of any such board or committee having authority within those limits;

(c) require any such board or committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the board or committee, as he may think fit to call for; and

(d) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(2) When the Magistrate of the district is a member of a board or joint committee, he shall not exercise, in respect of that board or committee, the powers conferred upon him by sub-section (1).

Power to suspend action under Act.

56. *(1)* The Commissioner of the division or the Magistrate of the district may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of the municipal board or joint committee, or prohibit the doing with in those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

(2) When a Commissioner or Magistrate makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order or direct that it continue in force with or without modification, permanently or for such period, as it thinks fit.

Extraordinary powers of Magistrate in case of emergency.

57. *(1)* In cases of emergency, the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a municipal board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the board.

(2) If the expense is not so paid, the Magistrate of the district may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or as much thereof as is from time to time possible, from that balance, in priority to any or all other charges against the same.

(3) The Magistrate of the district shall forthwith report to the Commissioner every case in which he uses the powers conferred upon him by this section.

Powers of Local Government in case of default of board.

58. *(1)* If at any time it appears to the Local Government that a municipal board has made default in performing any duty imposed on it by or under this or any other Act, the Local Government may, by order in writing, fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed, the Local Government may

N.-W. P. and Oudh Municipalities Bill, 1883.
Chapter VI.—Miscellaneous—Sections 59-65.

appoint the Magistrate of the district to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Magistrate by the board.

(3) If the expense be not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is from time to time possible, from the balance, in priority to any or all other charges against the same.

Power of Local Government to supersede board in case of incompetency, persistent default or abuse of powers.

59. *(1)* If a municipal board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare that board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(2) When a board is so superseded, the following consequences shall ensue:—

(a) All members of the board shall, as from the date of the order, vacate their offices as such members.

(b) All powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as the Local Government, from time to time, appoints in that behalf.

(c) All property vested in the board shall, during the period of supersession, vest in the Local Government.

(3) On the expiration of the period of supersession specified in the order, the board shall be reconstituted, and the persons who vacated their offices under clause *(a)* shall not be deemed disqualified from being members.

Power of Local Government to frame forms and make rules.

60. The Local Government may, from time to time, frame forms for any proceeding of a municipal board for which it considers that a form should be provided, and make rules consistent with this Act—

(a) with respect to the appointment of members of a municipal board under section 6, clause *(b)*;

(b) as to the assessment and collection of taxes imposed under this Act;

(c) as to the authority on which money may be paid from the municipal fund;

(d) as to the conditions on which property vested in the board may be transferred by sale, mortgage, lease, exchange or otherwise;

(e) as to the intermediate office or offices, if any, through which correspondence between boards and the Local Government or officers of that Government shall pass;

(f) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of boards, and as to the authority by whom, and the conditions subject to which, such plans and estimates may be sanctioned;

(g) as to the accounts to be kept by boards, as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(h) as to the preparation of estimates of income and expenditure of boards, and as to the authority by whom, and the conditions subject to which, such estimates may be sanctioned;

(i) as to the returns, statements and reports to be submitted by boards; and,

(j) generally, for the guidance of boards and public officers in all matters connected with the carrying out of this Act.

CHAPTER VI.

MISCELLANEOUS.

Penalty on member, officer or servant of board being interested in contract made with board.

61. If any member, officer or servant of a board is otherwise than with the permission in writing of the Commissioner of the division directly or indirectly interested in any contract made with the board, he shall be deemed to have committed an offence under section one hundred and sixty-eight of the Indian Penal Code: XLV of 1860.

Provided that no person shall, by reason of being a shareholder in, or member of, any incorporated or registered company be held to be interested in any contract entered into between such company and the board.

Suits against boards and their officers.

62. In respect of every suit instituted against a municipal board, or against any officer or servant of the board in respect of an act purporting to be done by him in his official capacity, the board, officer or servant shall have as nearly as may be all the privileges which the Secretary of State for India in Council or a public officer respectively has under chapter XXVII of the Code of Civil Procedure. XIV of 1882.

Liability of members for loss, waste or misapplication.

63. Every member of a municipal board shall be liable for the loss, waste or misapplication of any money or other property belonging to the board, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct, and a suit for compensation may be instituted against him by the board or by the Secretary of State for India in Council.

Power to vest property in board.

64. The Local Government may, from time to time, by notification in the official Gazette, direct that any property, moveable or immoveable, which is vested in Her Majesty and is situate in the territories administered by the Local Government, shall vest in any municipal board; and thereupon the property shall vest in that board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, the property.

Acquisition of land under Act X of 1870.

65. Where any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the municipal board,

N.-W. P. and Oudh Municipalities Bill, 1883.
Chapter VII.—Exceptional Provisions—Sections 66-68.

proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the board of the compensation awarded under that Act, the land shall vest in the board.

X of 1870.

66. *(1)* The authority empowered to make rules under section 10, section 50, section 54 or section 60 shall, before making them, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

Procedure for making rules.

(2) Every rule made under any of those sections shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section.

CHAPTER VII.

EXCEPTIONAL PROVISIONS.

67. *(1)* If it appears to the Local Government that the circumstances of any municipality are such that the provisions of this Act requiring that a certain proportion of the members of a municipal board be elected are unsuited thereto, the Local Government may, by notification in the official Gazette, except the municipality, wholly or in part, from the operation of those provisions; and thereupon those provisions shall not apply, or shall only apply in part, as the case may be, to the excepted municipality until again applied thereto by a like notification of the Local Government.

Power to except municipalities from operation of provisions of Act regarding election.

Provided that no notification shall be issued under this section in respect of a municipality for which a municipal board has come into existence unless its issue has been sanctioned by the Governor General in Council.

(2) While the municipality continues to be excepted, wholly or in part, from the operation of the provisions mentioned in sub-section (1), the Local Government may appoint such of the members of the municipal board as would otherwise have been elected.

68. *(1)* The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local Gazette, withdraw from the operation of this Act or the North-Western Provinces and Oudh Municipalities Act, 1873, any local area to which that Act may have been applied or extended.

Power to withdraw local area altogether from operation of this Act or Act XV of 1873.

XV of 1873.

(2) When a notification is issued under this section in respect of the whole area subject to the authority of a municipal board or municipal committee, all property which at the time of the issue of the notification is vested in the board or committee shall vest in the Local Government, and be applied by it, in such manner as it thinks fit, for the promotion of the health, comfort and convenience of the inhabitants.

(3) When a notification is issued under this section in respect of a part of the area under the authority of a municipal board or municipal committee, such part of the property of the board or committee as the Commissioner may determine shall vest in the Local Government, and be applied as aforesaid.

STATEMENT OF OBJECTS AND REASONS.

MUNICIPAL Committees in the North-Western Provinces and Oudh are at present constituted and guided in the execution of their functions by Act XV, 1873, the North-Western Provinces and Oudh Municipalities Act of that year.

That Act gives plenary powers to the Local Government to appoint ordinary and *ex officio* members of municipal committees. It leaves to the Local Government to determine absolutely whether in any municipality of the united provinces members shall be elected or not, and if confers upon it the power of appointing *ex officio* members to the extent of one-third of the total number of the committee, a power very generally acted on.

2. The manner of election, where elections are allowed, is under the Act regulated solely by the Local Government without reference to the parties most concerned, and casual vacancies are filled up by direct appointment by the same authority, or are not filled up at all.

3. The Local Government may also appoint the president and vice-presidents of all committees, and may unconditionally cancel, suspend or limit any of the proceedings, bye-laws or rules of the committees and abolish any tax imposed by them.

4. Section 34 of the Act further imposes on a municipality without any restriction the obligation of providing for the maintenance of a police-establishment, the effect of which has frequently been to throw on municipalities a large portion of the charge for police kept up for the prevention and detection of crime and the apprehension of offenders against the general law of the land.

5. These provisions are inconsistent with the proposals for the extension of local self-government enunciated by the Government of the North-Western Provinces and Oudh in its resolution dated 5th December, 1882.

6. The present Bill has been drafted to enable the Local Government to carry these proposals into effect, put forward after consultation with the most experienced officers of the provinces, with the members of existing municipal committees and numerous non-official gentlemen.

7. Except in the provisions necessary to carry out the object above specified and in the arrangement of chapters and sections, the Bill follows closely the present Municipal Act.

8. Chapter I contains the usual preliminary matter, and prescribes the course to be followed when it is intended to introduce the Act into any local area for the first time, or into existing municipalities.

9. Chapter II deals with the organisation of municipal boards.

These are to consist of members elected in the manner prescribed by the Local Government, and of a certain proportion of nominated members, not to exceed one-fourth of the whole.

The principle of nomination has been already accepted in the Central Provinces, and is meant to provide against the danger of classes of the community being overridden by hostile majorities.

10. Before making rules for determining the system of representation and election, the Local Government is required by sections 8 and 9 to inform itself of the sense of the community on these subjects.

11. Section 18 leaves the election of their own chairmen to municipal boards, with the exception of such municipalities as the Local Government may, from time to time, by notification, exempt from the operation of this section. In these latter the chairman will be appointed by the Local Government.

This exception is meant to meet cases where an officer of Government must remain chairman, at least for a period, either in order that he may have time to transfer functions and accounts often onerous and complicated to a non-official successor, or for lack of a qualified non-official to deal with special circumstances, or by reason of the expressed wish of the municipal board itself.

12. Section 24 contains a provision, not in the existing Act, enabling municipal boards to appoint joint committees for any purpose in which they may be jointly interested.

13. Power to appoint officers and servants necessary for the performance of its duties is given to the board by sections 33 and 34, and the appointment of an officer of Government or of an outsider as secretary is made subject to the sanction of the Commissioner. It is obviously impossible to allow boards to appoint to such office Government servants against the wish of Government, and it is necessary to take some guarantee against the appointment of an incapable man as paid secretary; especially with a non-official chairman the office of secretary to the municipal board will be one of great importance.

14. Chapter III, on taxation, varies but little from the existing Act.

15. Chapter IV, on the powers and duties of the boards, groups together all the duties of the boards in what is thought to be the order of their obligation, and simplifies the rules of the existing Act as regards nuisances.

16. Chapter V deals with the subject of control. The provisions are similar to those of the Central Provinces Local Self-government Act, with the exception that the Commissioner may at once suspend, and the Local Government rescind, any act, order or resolution of the board which is manifestly in excess of its powers.

This authority is given to provide for cases which may not be of a nature grave enough to call for the penalty of supersession.

17. Section 60 empowers the Local Government to frame forms and make rules on certain matters therein specified.

18. Chapter VI contains miscellaneous provisions as regards the conduct of litigation, penalties on, and liabilities of, members, acquisition of land, and the like.

19. Chapter VII enables the Local Government to exempt from the provisions of the Act regarding election municipalities to which it considers such provisions to be unsuited, and, with the previous sanction of the Governor General in Council, to withdraw from the operation of this Act, or of the North-Western Provinces and Oudh Municipalities Act of 1873, any local area to which either of those Acts may have been applied.

This latter power is deemed necessary, as cases sometimes occur where a municipality has been established in a place which experience proves to be unfit for municipal institutions, or where change of circumstances may have rendered such institutions unsuitable, and it would be improper in such cases to insist on the Act remaining in force for ever. At the same time, the power is one which should be exercised with great caution, as it is a more serious matter to withdraw a privilege once conferred than to withhold it in the first instance; and the Local Government has therefore been debarred from acting on the section unless with the previous sanction of the Governor General in Council.

The 10th May, 1883.

J. W. QUINTON.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 2, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th May, 1883:—

No. 12 of 1883.

THE PANJÁB LOCAL SELF-GOVERNMENT BILL, 1883.

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A Bill to make better provision for Local Self-government in the Panjáb.

WHEREAS it is expedient to amend the law in force in the territories administered by the Lieutenant-Governor of the Panjáb for the levy of rates on land; and

Preamble.

Whereas it is proposed to provide for the better constitution of district committees and for the establishment of local boards, and to define and regulate the powers to be exercised by such committees and boards;

It is hereby enacted as follows:—

Preliminary.

Short title.

1. *(1)* This Act may be called the Panjáb Local Self-government Act, 1883.

Extent.

(2) It shall extend only to the territories for the time being administered by the Lieutenant-Governor of the Panjáb.

Commencement.

(3) It shall come into force in such districts, or parts of districts, and on such dates, as the Local Government, by notification, from time to time, directs.

Interpretation-clause.

2. In this Act—

"Land" means land assessed to the land-revenue, and includes land whereof the land-revenue has been wholly, or in part, released, compounded for, redeemed or assigned. [Act V of 1873, section 3.]

"Land."

"Land-revenue" includes trini or grazing dues levied for grazing on Government lands under section 48 of the Panjáb Laws Act, 1872.

"Land-revenue."

"Landholder" means any person responsible for the payment of the land-revenue, if any, assessed on land. It also includes a person holding land the land-revenue of which has been wholly, or in part, released, compounded for, redeemed or assigned. IV of 1872.

"Landholder."

"Annual value." "Annual value" means—

(1) double the land-revenue for the time being assessed on any land, whether such assessment be leviable or not; and

(2) when the land-revenue has been permanently assessed, or has been wholly or in part compounded for or redeemed, double the amount which, but for such permanent assessment, composition or redemption would have been leviable:

[New.]

Proviso.

Provided that, in all cases when the improvement of the land due to canal irrigation has been excluded from account in assessing the land-revenue, and a rate has been imposed in respect of such improvement under the name of owner's rate or of water-advantage rate or of revenue, then such rate or revenue shall be added to the land-revenue for the purpose of computing the annual value.

"Year." "Year" means the year commencing on the first day of April.

"Prescribed day." "Prescribed day" means such day as the Local Government may, from time to time, prescribe.

"Notification." "Notification" means a notification published by the authority of the Local Government in the official Gazette.

"Notified." "Notified" means notified in the official Gazette.

"Committee." "Committee" means a district committee constituted under this Act.

"Board." "Board" means a local board constituted under this Act.

"Deputy Commissioner." "Deputy Commissioner" means the Deputy Commissioner of a district, and any officer specially appointed by the Local Government to perform the functions of a Deputy Commissioner under this Act.

Constitution of Committees and Boards.

[Act V of 1878, section 11.]

Constitution of committees and boards.

3. *(1)* Subject to the provisions of this Act, the Local Government, by notification, may, from time to time, constitute a committee for each district, and a board or boards within the limits of any district, and shall define, and **may from time to time alter, the areas over which such committees and boards shall have jurisdiction.**

[Act I of 1883, section 4.]

(2) Such portions of districts as are for the time being included in the limits of a military cantonment or of a municipality shall be excluded from such areas except as regards liability to assessment for the tax hereinafter called the local rate.

[New.]

Time for committees and boards coming into existence.

4. From the date on which any committee or board is constituted under section 3 of this Act, the Panjáb Local Rates Act, 1878, shall be repealed throughout the area under the jurisdiction of such committee or board. But all rates imposed, sums credited

of 1878.

Repeal of Act V of 1878.

to the Local Government, committees appointed, and notifications published under the said Act, shall be deemed to have been respectively imposed, credited, appointed and published under this Act.

And all assignments or allotments made under the said Act for expenditure by district committees shall be deemed to be contributions made by Government under this Act to district or board funds.

[New.]

Classification of committees and boards.

5. *(1)* The Local Government may, from time to time, by notification, declare that any committee or board shall be deemed to be a committee or board of the first or second class.

(2) A committee or board so classed shall thereupon within its area exercise the powers, and perform the duties, conferred upon or assigned to committees or boards of the first or second class respectively by this Act, or by the Local Government under this Act.

[Act V of 1878, section 11.]

Number, appointment and election of members.

6. No committee or board shall consist of less than six members.

Such members may be appointed either *ex officio*, or by nomination, or by election, or some by one and some by any other of such methods, as the Local Government, from time to time, directs; and shall hold office for such time as the Local Government may, by rule, direct:

Proviso.

Provided that—

(1) when the Local Government has directed that all or any of such members shall be appointed by election, they shall not thereafter be appointed by any other method unless—

(*a*) the electors fail to return a sufficient number of members; or

(*b*) a sufficient number of candidates fail to appear; or

(*c*) a majority of electors by vote declare that they so desire; or

(*d*) by order of the Local Government, subject to the sanction of the Governor General in Council, for any other good and sufficient reason affecting the public interests:

(2) except with the approval of the Governor General in Council, or unless salaried officers of Government be appointed by election, not less than two-thirds of the members of every committee or board shall be persons other than salaried officers of Government: and

[Act V of 1878, section 11.]

(3) not less than one-half of the members of such committee or board shall be landholders in the district.

[Act IV of 1873, section 6.]

Powers of the Local Government as to removal of members and filling vacancies.

7. *(1)* The Local Government may, from time to time, remove any member of any committee or board appointed *ex officio* or by nomination.

(2) The Local Government may remove any member appointed by election—

(*a*) if such member is, in the opinion of the Local Government, unfit to be a member of such committee or board on the ground that he is or has been convicted of an offence punishable with imprisonment or required to give security for good behaviour under the provisions of the Code of Criminal Procedure; X of 1882.

Panjáb Local Self-government Bill, 1883.
(Incorporation and Vesting of Property; Powers and Duties of Committees and Boards—Sections 8-11.)

(*b*) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace and order or, when he is a salaried officer of Government, inconsistent with the proper discharge of his official functions;

(*c*) if for six calendar months he absents himself from the meetings of the committee or board without such cause as shall appear to the Local Government to be reasonable.

(*3*) Except as above provided, members appointed by election shall not be removed by the Local Government.

(*4*) The Local Government may, from time to time, add to the number of any committee or board, and, subject to the provisions of section 6, fill up vacancies among the members, or cause such vacancies to be filled up by election.

Chairman.

8. (*1*) Subject to any rules made from time to time in this behalf by the Local Government, a chairman shall be appointed either *ex officio*, or by nomination, or by election, for every committee and board, and shall hold office for such term as the Local Government directs.

(*2*) The Local Government shall, from time to time, determine, as regards each committee and board, or as regards any class or classes of committees or boards, whether the chairman shall be appointed *ex officio*, or by nomination, or by election.

Incorporation and Vesting of Property.

[Act I of 1883, section 8.]

Incorporation of committees or boards.

9. The Local Government shall have power to declare, by notification, that any committee or board shall be a body corporate by the name of its district or locality, or by such other name as it may select, and that the committee or board shall, subject to the provisions of this Act, have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, in trust for the purposes of this Act; and, subject to this Act and to any rules made by the Local Government, from time to time, in this behalf, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of its constitution:

Proviso.

Provided that no committee or board shall transfer immoveable property or money invested in the public funds without the sanction, in each case, of the Local Government.

[Act I of 1883, section 22.]

Power to vest property in committees and boards.

10. The Local Government may, from time to time, by notification, direct that any property, moveable or immoveable, which is vested in the Secretary of State for India in Council and is situate in the Panjáb, shall vest in any committee or board which has consented to accept such property in trust for the purposes of this Act; and thereupon that property shall vest in such committee or board in trust as aforesaid, subject to all debts, liabilities and obligations (if any) affecting that property, and subject to the right of resumption by Government on payment of compensation for improvements effected by the committee or board or loss of income derived therefrom.

Powers and Duties of Committees and Boards.

[Act I of section

Matters to be administered by committees and boards.

11. The Local Government may, by notification, from time to time, empower any committee or board to undertake, in whole or in part, the control and administration of all or any of the following matters within the areas of their respective jurisdictions:—

(*a*) all property vesting in such committee or board under sections 9 and 10 of this Act;

(*b*) the construction, repair and maintenance of roads and other means of communication;

(*c*) the maintenance, visiting and management of schools, hospitals, dispensaries, markets, rest-houses, saráis and other public institutions, and the construction and repair of all buildings connected with these institutions;

(*d*) the training of teachers and the establishment of scholarships;

(*e*) the supply, storage and preservation from pollution of water for drinking and cooking purposes, the construction and repair of embankments, and the supply, storage and control of water for agricultural purposes;

(*f*) the preservation of the soil on the ridges and slopes, and in the valleys, of hilly tracts and in submontane tracts, the prevention of landslips and of the formation of ravines and torrents, and the protection of land from erosion, or the deposit thereon of sand, gravel or stones, the reclamation of lands injured by torrents and sand deposits, and the drainage and reclamation of swamps; [Act VII of 1878, section 35.]

(*g*) the planting and preservation of trees;

(*h*) the construction, repair and maintenance of famine preventive works, and the establishment and maintenance of relief-works, relief-houses and relief-hospitals, and other measures in the time of famine or scarcity;

(*i*) cattle and commercial fairs, agricultural shows and industrial exhibitions;

(*j*) any other local works or measures likely to promote the health, comfort or convenience of the public, or the agricultural and industrial prosperity of the country;

(*k*) the establishment and management of pounds, including, where the Cattle-trespass Act of 1871 is in operation, all the functions of the Local Government and the Magistrate of the district under sections 4, 5, 6 and 7 and clause (*a*) of section 18 of that Act; I of 1871.

(*l*) the management of such public ferries as may be entrusted to their charge under section 7A of the Northern India Ferries Act of 1878, as amended by sections 75 and 76 of this Act; XVII 1878.

(*m*) any other matters which the Local Government, with the previous sanction of the Governor General in Council, may declare to be fit and proper matters to be taken under the control and administration of committees and boards:

given by the Central Provinces Local Self-government Act; but section 49 enables Government to annul or modify any proceeding of a committee or board not warranted by the Act, or by the rules framed under it.

29. Sections 58 to 63 enable committees and boards to make rules for the conduct of business, and give first-class committees and boards powers, similar to those possessed by municipal committees under Act IV of 1873, to make regulations for carrying out any of the purposes of the Act, subject to the confirmation of the Local Government. Similar powers may be conferred by the Local Government upon committees or boards of the second class.

30. Sections 64 to 66 make similar provisions as to suits by and against committees and boards to those contained in the Panjáb Municipal Act, IV of 1873; but section 66 has been so framed as to make it clear that the suits for which a special limitation is provided are only suits for damages or compensation for wrongful acts done, or purporting to be done, under the Act.

31. Section 67 enables the Governor General in Council to make rules or special orders for the regulation of the new taxes which may be imposed under section 18, and gives large powers to the Local Government to make rules for the various purposes which the Act leaves to be regulated by such rules.

32. Section 1 enables the Local Government to apply the Act gradually in different parts of the province, as suitable arrangements can be made; and the large powers given to the Local Government of regulating various matters by rules will facilitate the adaptation of the provisions of the Act to the circumstances of the different parts of the province where some progress in the direction of local self-government is practicable. Section 74 has been added, but for the present tentatively, and with a view to further consideration, to enable the Local Government to exempt, by notification, any district or part of a district, or any committee or board, from the operation of the less essential provisions of the Act, should these be found unsuited to local requirements, and to substitute such rules as may be found suitable.

33. In the interpretation-clause (section 2), the definition of land-revenue has been added, and that of annual value amended, to provide for some of the points in regard to which Act V of 1878 has been found defective. The local rate has, in practice, been charged upon the grazing dues levied in the Southern Panjáb, upon the owner's rate assessed on lands irrigated from permanent canals, and upon the similar rates levied on lands irrigated from inundation canals; but it is desirable that this practice should be expressly authorized by law.

The 23rd May, 1883.

D. G. BARKLEY.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th May, 1883:—

No. 13 OF 1883.

A Bill to give power to reduce port-dues in the port of Bombay.

WHEREAS the rate of port-dues leviable under the Indian Ports Act, 1875, on vessels entering the port of Bombay cannot, consistently with the entry in the third column of the first schedule of that Act in respect of the said port, be fixed at less than two annas per ton, and whereas, having regard to the present receipts and charges on account of that port, the rate of two annas per ton is unnecessarily high, and it is not expedient that a limit should be placed to the reduction of port-dues in the said port; It is hereby enacted as follows:—

XII of 1875.

In the Indian Ports Act, 1875, first schedule, in the entry in the third column in respect of the port of Bombay, the words "and not less than two annas per ton" shall be repealed.

XII of 1875.

STATEMENT OF OBJECTS AND REASONS.

PORT-DUES are at present levied at Bombay at two annas per ton, which is the lowest rate permitted by the Indian Ports Act, 1875. The Trustees of the port have proposed that the rate be reduced to 1½ annas, and their reasons for the proposed reduction are given in the following extract of a memorandum by the Chairman of the Trust, attached to the budget estimate of the Port Trust for 1883-84.

"For the ensuing year, the receipts from port-dues and harbour-revenue at existing rates are put down at Rs. 2,69,100 and the expenditure on port account at Rs. 1,34,000, to which must be added the expenditure on new beacons, clearing rocks and the like, Rs. 44,250, or Rs. 1,78,250, in all. The accounts of past years also show that the receipts from this branch of the Trust's revenue have uniformly been in excess of the expenditure. Port-dues are at present charged at the minimum rate allowed by law, namely, two annas per ton. The receipts from this source alone are estimated at Rs. 2,05,000 for the year, and it is recommended that the rate be reduced by 25 per cent., or to 1½ annas per ton. This will benefit the shipping to the extent of Rs. 51,250 per annum. In order to enable this reduction to be made, the Indian Ports Act will have to be amended, but to this it is not expected that Government will raise any objection."

2. The Government of Bombay approve of the proposed reduction, and desire that the necessary amendment of the Indian Ports Act, 1875, may be made by striking out the words "and not less than two annas per ton" in the third column of Schedule I of the Act. If this be done, they observe Bombay will be in the same position as Calcutta, in not being tied down to a minimum rate of port-dues.

3. There seems to be no doubt as to the expediency of the course proposed, and the present Bill has been prepared with a view to its being adopted.

The 30th May, 1883.

E. BARING.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 16, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th May, 1883:—

No. 12 OF 1883.

THE PANJÁB LOCAL SELF-GOVERNMENT BILL, 1883.

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A Bill to make better provision for Local Self-government in the Panjáb.

Preamble.

WHEREAS it is expedient to amend the law in force in the territories administered by the Lieutenant-Governor of the Panjáb for the levy of rates on land; and

Whereas it is proposed to provide for the better constitution of district committees and for the establishment of local boards, and to define and regulate the powers to be exercised by such committees and boards;

It is hereby enacted as follows:—

Preliminary.

Short title.

1. *(1)* This Act may be called the Panjáb Local Self-government Act, 1883.

Extent.

(2) It shall extend only to the territories for the time being administered by the Lieutenant-Governor of the Panjáb.

Commencement.

(3) It shall come into force in such districts, or parts of districts, and on such dates, as the Local Government, by notification, from time to time, directs.

Interpretation-clause.

2. In this Act—

"Land-revenue."

"Land" means land assessed to the land-revenue, and includes land whereof the land-revenue has been wholly, or in part, released, compounded for, redeemed or assigned. [Act V of 1878, section 3.]

"Land-revenue" includes trini or grazing dues levied for grazing on Government lands under section 48 of the Panjáb Laws Act, 1872. IV of 1872.

"Landholder."

"Landholder" means any person responsible for the payment of the land-revenue, if any, assessed on

Panjáb Local Self-government Bill, 1883.
(Taxation—Sections 12-22.)

Proviso.

Provided that, when any committee or board is empowered under this section to undertake the control and administration of any of the aforesaid matters, the Local Government shall provide such committee or board with such funds or sources of income as the Local Government and the committee or board shall deem sufficient to maintain such control and administration in its existing state of efficiency.

Power of committees and boards to contract.

12. Subject to the provisions of this Act and of any rules made by the Local Government, from time to time, in this behalf, every committee and board shall have power to contract and do all other things necessary for the purposes of their constitution.

Taxation.

[Act V of 1878, section 4.]

The local rate.

13. All land shall be liable to the payment of a rate, to be called the local rate, not exceeding one anna for every rupee of its annual value, and not less than so many pies for every such rupee as the Local Government, from time to time, directs. Such local rate shall be independent of and in addition to, land-revenue.

[New.]

Committees may be empowered to fix the rate.

14. *(1)* Within the limits aforesaid, and subject to such rules as may be framed by the Local Government, any committee duly empowered by notification may determine the proportion which shall be borne by the rate to the annual value of land situated within the local jurisdiction of such committee.

Local Government to determine the rate in certain cases.

(2) Where no committee shall have been empowered to determine the proportion which the rate shall bear to the annual value of land, such proportion shall be determined by the Local Government.

[New.]

Road, school and post cesses to merge in the rate.

15. From such date after the passing of this Act as may be notified in respect to each district or portion of a district by the Local Government, all authorized rates and cesses for the maintenance of roads, schools and district-posts shall merge in and become part of the local rate, and no rate or cess other than the local rate shall be thereafter leviable for such maintenance.

[Act V of 1878, section 4.]

Local rate by whom payable.

16. When the proportion which the local rate, if any, shall bear to the annual value has been determined by any committee under section 14, clause (1), or by the Local Government under section 14, clause (2), the local rate shall be paid by the landholder:

Proviso.

Provided—

(1) that wherever the landholder pays the land-revenue in kind to any assignee of revenue or any village-headman, such assignee of revenue or village-headman shall be responsible for the payment of the local rate instead of the landholder, and no demand shall be made by any such assignee or village-headman on such landholder in respect of the payment of any such rate; and

(2) that the Government, where it has hitherto paid the local rate on trini, shall continue to pay it during the currency, in each case, of any existing trini lease.

Power to recover a share of the rate from tenant.

17. Whenever a local rate is charged on a landholder in respect of lands held by a tenant with a right of occupancy holding at a favourable rent, such landholder may realize from such tenant a share of the said rate, bearing the same proportion to the whole rate as the excess of the annual value over the rent paid by such tenant bears to half the annual value. [Act V of 1878, section 5.]

Other powers of taxation conferred on committees and boards.

18. Subject to any general rules or special orders which the Government or General in Council may, from time to time, make in this behalf, any committee duly empowered under section 14 to determine the proportion which the local rate shall bear to the annual value may impose such taxes as may be approved by the Local Government:

Provided that—

(1) no such taxes shall be imposed in respect of any property subject to the local rate,

(2) no such taxes shall be imposed except—

(*a*) to enable the committee to make a reduction in the local rate; or

(*b*) when the funds and sources of income placed at the disposal of the committee and boards of a district by and under this Act are insufficient to provide for the matters under the control and administration of such committee and boards; and

(3) in the imposition of such taxes, the provisions of the Panjáb Municipal Act for the time being in force touching public notice, definition of persons and property to be taxed, objections to rates, procedure thereon, and the sanction of the Local Government, shall, as far as possible, apply. IV of 1[illegible]

Recovery of rates.

19. All rates and taxes imposed under this Act, and all arrears of such rates and taxes, may be recovered as if they were arrears of land-revenue. [Act V of 1878, section 14.] [Act IV of 1873, section 9.]

Levy of fees.

20. With the previous sanction of the Local Government, or of such officer as the Local Government may authorize in this behalf, any committee or board may fix and levy school-fees and fees for the use of, or benefits derived from, any of the [illegible] specified in section 11, clauses (*c*), (*e*) and (*f*), fees at cattle and commercial fairs, agricultural shows and industrial exhibitions held within their jurisdiction and under their control. [New.]

Local rate or tax how to be assessed and collected.

21. The Local Government may, by [illegible] fication, from time to time, prescribe the persons by whom the local rate or any tax imposed under this Act shall be assessed, collected, and direct in what manner such persons shall be remunerated.

Appeals.

22. In matters connected with the assessment and collection of any rate or tax levied under this Act, an appeal shall lie from the order of any person authorized [illegible]

Panjáb Local Self-government Bill, 1883.
(Finance—Sections 23-33.)

under this Act to make assessments to such person as the Local Government appoints: Provided that such appeal shall be presented within 30 days from the date of such order. The order of such person on such appeal shall be final.

[New.] **23.** The Local Government, or any committee duly empowered in this behalf by the Local Government, may prescribe by what instalments and at what times any rate or tax leviable under this Act shall be payable. The order prescribing such instalments or times shall, when approved by the Local Government and duly notified, be binding on the persons liable to the rate or tax:

Instalments of rates and taxes.

Proviso. Provided that the local rate leviable under section 13 shall be payable with the land-revenue.

[Act V of 1878, section 15 (d), (e).] **24.** *(1)* The Local Government may, by notification, from time to time, exempt, wholly or in part, any portions of the territories under the administration of the Lieutenant-Governor from the operation of so much of this Act as relates to taxation, or remit or reduce any rate or tax imposed under this Act, or exempt any land or person from liability to pay the whole or any part of any rate or tax under this Act, and cancel such remission, reduction or exemption.

Powers of the Local Government to exempt from taxation;

(2) When measurements are necessary for the assessment of the local rate or of any tax imposed under this Act, the Local Government may, by notification, from time to time, direct such measurements to be made.

and to direct measurements.

[Act V of 1878, section 14.] **25.** Suits for the recovery from co-sharers, tenants or others of any sum on account of any rate or tax imposed under this Act, and suits on account of illegal exaction of such rate or tax, or for settlement of accounts connected therewith, shall, unless the Local Government shall otherwise direct, be cognizable by the Courts which for the time being have cognizance of suits for rent due on land.

Suits relating to rates and taxes under this Act cognizable by Courts having cognizance of suits for rent.

Finance.

[Act V of 1878, sections 7 and 9.] **26.** After deducting the expenses of collection, four-fifths of the net proceeds of all rates and taxes imposed under this Act shall be carried to the credit of the committee of the district within which they are levied. The remaining one-fifth shall be carried to the credit of the Local Government, and may—

Portion of rates and taxes to be credited to the Local Government and committees respectively.

(1) be allotted for expenditure by any committee or board, or

(2) be applied as the Local Government, from time to time, directs (*a*) for the benefit of the territories to which this Act extends, or (*b*) for the benefit of any district or districts or portions thereof, to provide for any of the matters upon which committees or boards may expend the funds at their disposal under this Act.

[New.] **27.** Subject to the provisions of this Act and to the sanction of the Deputy Commissioner, and in accordance with any rules made, from time to time, in this behalf by the Local Government, the committee shall determine in what proportion the rates and taxes levied in the district under this Act shall be retained by itself, or credited to the boards within the limits of the district, respectively.

Power of the committee to allot proceeds of rates and taxes as between itself and boards.

[New.] **28.** All fees levied under section 20 of this Act shall be credited to the committee or board by whose authority they are levied.

Crediting of fees levied.

[Act I of 1883, section 23.] **29.** The funds at the disposal of committees shall be called district funds, and shall consist of—

District funds.

(*a*) the proceeds of rates, taxes and fees credited to them under sections 26 and 28;

(*b*) all sums allotted to them from time to time by the Local Government under section 26, clause (1);

(*c*) all rents and profits accruing from public properties vested in the committee under this Act;

(*d*) all sums contributed to such funds by Government, committees, boards or private persons;

(*e*) all sums received by any committee or board in the discharge of functions exercised by them under this Act;

(*f*) all sums which the Local Government may, from time to time, declare to be assets of district funds.

30. The funds at the disposal of boards shall be called board funds, and shall consist—

Board funds.

(1) of all sums allotted to boards by the Local Government or by committees from any district funds; and

(2) of all fees, rents, profits and sums received by boards in the discharge of functions exercised by them under this Act otherwise than as the agents of committees.

[Act I of 1883, section 12.] **31.** Except as otherwise provided in this Act, no board shall incur expenses or undertake liabilities to any amount exceeding the limit imposed by the committee of the district in which the board has authority. But, subject to such limit, every board shall be entitled to retain and apply to the purposes of this Act any balance of board funds remaining at its credit at the close of any financial year.

Right of boards to unspent balances and limits on their expenditure.

32. The balances standing at the credit of all district and board funds shall be kept in the Government treasury, unless the Local Government shall in any case otherwise specially permit.

Custody of district and board funds.

[Act I of 1883, section 23, clause (3).] **33.** Subject to such rules as the Local Government may, from time to time, in this behalf prescribe, district and board funds shall be at the disposal of committees and boards, respectively, and may be applied by them within the area of their jurisdiction, and (with the sanction of the Commissioner in the case of committees, and the sanction of the Deputy Commissioners in the case of boards) outside that area, to payment, in whole or in part, of the charges and expenses incidental to the several matters specified in sections 11, 46, 47 and 48;

Application of district and board funds.

Panjáb Local Self-government Bill, 1883.
(Finance—Sections 34-39.)

and also in the case of committees to the following purposes:—

(*a*) the maintenance of the district-post;

(*b*) the provision of grants-in-aid to educational and medical institutions;

(*c*) the expenses attending the audit of the accounts of district and board funds;

(*d*) the payment of such portion of the cost of the Provincial Departments for Education, Sanitation, Vaccination, Medical Relief and Public Works as may be held by the Local Government to be equitably debitable to committees in consequence of services rendered to such committees by such Departments.

[Act V of 1878, section 17.] **34.** In the case of works or undertakings which benefit more districts than one, when the committees cannot agree, the Commissioner, or when the districts are in different divisions and the Commissioners of such divisions cannot agree, the Local Government, may determine what proportion of the expenses of the work or undertaking shall be borne by each of the district funds constituted within the districts benefited thereby; and such proportion shall be payable out of the several district funds accordingly.

Works or undertakings benefiting several districts.

[New.] **35.** In the case of works or undertakings of public benefit to persons residing within the jurisdictions of more boards than one in any district, when the boards cannot agree, powers similar to those conferred by section 34 may be exercised by the committee, subject to the sanction of the Deputy Commissioner.

Works or undertakings benefiting residents within the jurisdictions of several boards.

[Act I of 1883, section 17.] **36.** A committee or board may, from time to time, arrange with any other committee or committees or board or boards, or with any municipal committee or committees, for appointing, out of their respective bodies, joint committees for any purpose in which they are jointly interested, and for delegating to any such joint committee any power which might be exercised by either or any of the committees or boards concerned, and for framing or modifying regulations as to the proceedings of any such joint committee.

Joint committees of two or more committees or boards.

[Act I of 1883, section 24.] **37.** *(1)* Every committee shall appoint a finance committee consisting of not less than three of its members.

Annual estimates of income and expenditure of committees.

(2) Every committee shall, on or before a prescribed day in each year, hold a meeting at which the finance committee shall submit to the committee an estimate of the income and expenditure of the committee for the next financial year, in such form as the Local Government may, from time to time, by rule, prescribe.

(3) The committee shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The committee shall, on or before a prescribed day, cause copies of the estimate, as provisionally approved by it, to be sent to the Deputy Commissioner.

(5) The Deputy Commissioner shall, on or before a prescribed day, signify in writing to the committee his approval or disapproval of the estimate. When he disapproves of the estimate, he shall state the nature of his objection, whether with reference to any proposed expenditure on salaries, works or otherwise, which appears to him to be unnecessary or excessive, or with reference to any particular or particulars which appear to him to be erroneous, defective or improper. The committee shall then consider the matter, and either modify the estimate, so as to remove the objection, or refer it through the Deputy Commissioner to the Commissioner of the division. If the Commissioner concurs in the objection, he shall make such modification in the estimate as may, in his judgment, be necessary to remove the objection in whole or in part. If he does not concur in the objection, he shall pass the estimate, and his orders shall be final and binding on the committee.

(6) When the Deputy Commissioner has signified his approval of an estimate, or the committee has modified an estimate so as to remove the Deputy Commissioner's objections, or when the Commissioner has passed orders as provided in clause (5), no expenditure which is not provided for in the estimate as approved or modified shall be incurred during the year to which the estimate relates without the previous sanction of the Deputy Commissioner.

[Act I of 1883, section 23, clause (4).] *(7)* The Local Government may, by notification, from time to time, declare the provisions of this section applicable to any board of the first class, and may, in like manner, cancel such declaration. While any such declaration is in force, the procedure of such board shall be regulated accordingly. In the absence of any notification under this clause, such procedure shall be regulated, in regard to the matters mentioned in this section, as the Local Government may, from time to time, by rule, direct.

[Act I of 1883, section 25.] **38.** Accounts of the receipts and expenditure of every committee and every board to which section 37 has been made applicable shall be made up to the last day of every financial year in such form as the Local Government, from time to time, prescribes, and shall be examined and audited as soon as may be after the end of each financial year by such persons as the Local Government, from time to time, appoints in this behalf, and may further be examined and audited periodically within the year in such manner as the Local Government, from time to time, may direct.

Annual accounts and annual and periodical audit.

[Act I of 1883, section 11.] **39.** Every board to which the provisions of section 37 have not been made applicable shall submit annually to the committee of its district, on or before such date as the committee may appoint in this behalf, a statement of the requirements, and an estimate of the probable receipts and expenditure, of the board for the coming financial year, and shall submit, as often as the committee may require, accounts of its receipts and expenditure. The committee shall signify in writing to the board its approval or disapproval of the estimate so submitted, and powers similar to those conferred on the Deputy Commissioner and Commissioner by section 37, clauses (5) and (6), shall be exercised, in regard to such estimate, by the committee and the Deputy Commissioner respectively:

Annual estimates and accounts of certain boards.

Panjáb Local Self-government Bill, 1883.
(Relations between Committees, Boards and Municipal Committees; Officers and Servants—Sections 40-47.)

Provided that, during the currency of any financial year, the Deputy Commissioner may sanction transfers of provision within the estimate finally approved, when inconvenience or undue delay would be caused by a previous reference to the committee.

The committee shall make arrangements, subject to the approval of the Deputy Commissioner, for the examination and audit of accounts submitted to it under this section, and may arrange for the publication of such accounts.

[Act I of 1883, section 37, clause (4).]

40. The funds at the disposal of boards to which section 37 has been made applicable shall, for such time as the declaration mentioned in clause (7) of that section is in force, be treated for the purposes of this Act as a separate district fund; and for such time the provisions of section 31 (so far as they relate to the imposition of a limit on expenditure and the acceptance of liabilities) and of section 39 shall not apply to such boards.

Exemption of certain boards from section 37 and certain provisions of section 31.

[Act I of section

41. Every committee and board shall cause a copy of every estimate provisionally or finally approved and of every annual account to be kept at its office; and any person paying rates or taxes under this Act may, at all reasonable times, inspect any such estimate or account without payment of any fee.

Inspection of estimates and accounts.

[Act I of section

42. A statement of every annual account of a committee or board to which section 37 has been made applicable, showing the income of the district or board fund under each head of receipt, the charges for establishment, the works undertaken, the sums expended on each work and the balance, if any, of the fund remaining unspent, shall be prepared by the committee or board in such form as the Local Government, from time to time, prescribes; and an abstract of the same shall be published annually in the English and Vernacular official Gazettes, or in such other manner as the Local Government may, from time to time, direct.

Publication of abstract of accounts.

Relations between Committees, Boards and Municipal Committees.

43. *(1)* Subject to the provisions of this Act and of the rules framed thereunder, a committee shall have power to control the finances of the boards within its district to which section 37 has not been made applicable, and, in the case of all boards within its district, to deal with questions affecting—

Relations of boards to committees.

(*a*) the common interests of the district as a whole;

(*b*) the joint or conflicting interests of any two or more boards constituted within its district.

(2) The decisions of committees upon such questions shall be binding upon, and executed by, the boards concerned, subject to appeal to the Deputy Commissioner, or, when the Deputy Commissioner is a member of the committee, to the Commissioner.

[Act I of section (1).]

44. Subject to the provisions of the last preceding section, a committee may direct any board constituted within its district to act as its agent in the management of any matters placed under the direct control and administration of the committee by notification under section 11. Such direction shall be obeyed by the board to which it is addressed.

Boards may be employed as agents of committees.

[New.]

45. If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more committees or boards, or between any municipal committee and any committee or board, the matter shall be referred for the decision—

Disputes.

(*a*) of the Deputy Commissioner if the committees, boards and municipalities are in the same district;

(*b*) of the Commissioner if the committees, boards or municipalities are in different districts; and

(*c*) of the Local Government if the committees, boards or municipalities are in different divisions and the Commissioners of such divisions are unable to agree as to the decision of the case.

Officers and Servants.

[Act I of 1883, section 12.]

46. *(1)* Subject to the provisions hereinbefore contained and to any rules which may, from time to time, be framed, altered or amended by the Local Government, with respect to the employment, payment, suspension and removal of officers and servants, every first class committee and every first class board may employ and pay such officers and servants as may be necessary and proper for the efficient execution of its duties. Subject to any such rules and to the provisions of this Act, the like powers may be exercised by committees and boards of the second class.

Employment of officers and servants.

(2) In the case of second class committees and second class boards, if at any time, in the opinion of the Deputy Commissioner,—

(*a*) the number of persons employed by the committee or board under this section, or the remuneration assigned by the committee or board to those persons, or to any particular person, is excessive, or

(*b*) any such person is unfit for his employment,

the committee or board shall, on the requirement of the Deputy Commissioner, reduce the number, or remuneration, of such persons, or, as the case may be, dismiss the unfit person:

Provided that any such committee or board may appeal against any such requirement to the Commissioner of the division, whose decision shall be final.

[Act I of 1883, section 21.]

47. In the case of Government officials, any committee or board may—

Pensions of Government officials serving committees and boards.

(1) if the services of such officials are wholly lent to it, contribute to their pensions, gratuities and leave-allowances in accordance with the rules for the time being in force; and

(2) if such officials devote only a part of their time to the performance of duties in behalf of the committee or board, contribute to their pensions, gratuities and leave-allowances in such proportion as may be determined by the Government.

Panjáb Local Self-government Bill, 1883.
(Control—Sections 48-54.)

[New.]

48. In the case of servants, not being Government officials referred to in section 47, any committee or board may—

Pensions of servants of committees and boards.

(1) grant leave-allowances and, in the case of servants appointed before the passing of this Act and not entitled to pension, and of servants drawing less than ten rupees a month, gratuities to such servants; and

(2) if empowered in this behalf by the Local Government—

(*a*) subscribe in behalf of such servants for pensions, gratuities and leave-allowances under the rules of the Government Leave and Pension Code for the time being in force;

(*b*) purchase from the Government or otherwise annuities for such servants on their retirement:

Provided that such pensions, gratuities, leave-allowances and annuities shall in no case exceed the sum to which, under the Government Leave and Pension Code for the time being in force, such servants would be entitled if the service had been service under Government.

Control.

[Panjáb University Act, section 19.]

49. It shall be the duty of the Local Government, and of all Commissioners and Deputy Commissioners acting under its orders, to require that the proceedings of committees and boards shall be in conformity with this Act and with the rules for the time being in force under the same; and the Local Government may exercise all powers necessary for giving effect to its requisitions in this behalf, and may, among other things, by order in writing, annul or modify any such proceeding which is not in conformity with this Act and the said rules.

Duty of Local Government towards, and powers over, committees and boards.

[Act I of 1883, section 28.]

50. *(1)* For the purposes of section 49, the Commissioner of the division and the Deputy Commissioner of the district may within their jurisdiction exercise such powers as shall, from time to time, be conferred upon them by rules made in this behalf by the Local Government, and may (among other things)—

Commissioner's and Deputy Commissioner's power of supervision.

(*a*) enter on, inspect and survey, or cause to be entered on, inspected or surveyed, any immoveable property occupied by committees or boards, or any work in progress under their direction;

(*b*) by order in writing call for and inspect any document in the possession or under the control of committees or boards for the purposes of this Act; and

(*c*) by order in writing, require committees or boards to furnish statements, accounts and reports.

(2) Every committee and board shall promptly comply with requisitions made under this and the last preceding section, and shall regularly submit copies of all its proceedings to the Deputy Commissioner, and shall further duly submit such periodical reports to the Deputy Commissioner or other authority as the Local Government may, from time to time, direct.

[Act I of 1883, section 29.]

51. When, in the opinion of the Deputy Commissioner, the execution of any order or resolution of a committee, board or joint committee, or the doing of any act which is about to be done or is being done, in pursuance of or under cover of this Act, is likely to cause injury or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace, he may, by order in writing, suspend the execution or prohibit the doing thereof within his district.

Power of Deputy Commissioner to suspend execution of orders, &c., of committees, boards or joint committees.

[Act I of 1883, section 30.]

52. *(1)* In cases of emergency the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a committee or board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the committee or board.

Powers of Deputy Commissioner in cases of emergency.

(2) If the expense and remuneration are not so paid, the Deputy Commissioner may issue a warrant directing the person having the custody of the balance of the district or board fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

[Act I of 1883, section 31.]

53. *(1)* When the Commissioner, after due enquiry, is satisfied that a committee or board of the first class has made default in performing any duty imposed on it by or under this Act, he may, by an order in writing, fix a period for the performance of that duty.

Power to provide for performance of duties in default of any committee or board.

(2) If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the committee or board.

(3) If the expense and remuneration are not so paid, the Commissioner may issue a warrant directing the person having the custody of the balance of the district or board fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

(4) The powers conferred upon the Commissioner by this section in respect to first class committees and boards shall, in respect to committees or boards of the second class, vest in the Deputy Commissioner.

[New.]

54. When a Deputy Commissioner makes any order under sections 51, 52 and 53, clause (*b*), he shall forthwith forward to the Local Government through the Commissioner a copy thereof with a statement of the reasons for making it; and when the Commissioner makes any order under section 53, he shall forthwith forward to the Local Government a copy thereof with a statement of the reasons for making it.

Action of Deputy Commissioner and Commissioner to be immediately reported.

5 G

Panjáb Local Self-government Bill, 1883.
(Conduct of Business, Rules and Regulations; Suits by and against Committees and Boards—Sections 55-65.)

[Act I of 1888, section 32, clause (1).]

55. When the Local Government is satisfied that a committee or board has persistently made default in performance of the duties imposed on it by or under this Act, or otherwise by law, or has exceeded or abused its powers, or that there is any other good and sufficient reason affecting the public interests for superseding such committee or board, the Local Government may, by notification, in which the reasons for so doing shall be stated, declare the committee or board to be superseded:

Power to supersede committees or boards in case of default or abuse of powers.

Provided that, except in the case of civil commotion or great public emergency, such notification shall not be issued in regard to a committee without the previous approval of the Governor General in Council.

[Act I of 1888, section 32, clause (2).]

56. When a committee or board is superseded under section 55, the following consequences shall ensue:—

Consequences of supersession.

(*a*) The corporation, if any, constituted under section 9 of this Act shall cease to exist, and all property vested in the committee or board under this Act shall vest in the Secretary of State for India in Council.

(*b*) All members of the committee or board shall, from the date of the order, vacate their offices as such members.

(*c*) All powers and duties of the committee or board may be exercised and performed by such person or persons as the Local Government, from time to time, appoints in that behalf.

57. When any board is superseded, the Local Government may reconstitute the board or may transfer its functions to the committee of the district or any other board, altering the definition of local area. When any committee is superseded, the Local Government shall, as soon as in its judgment conveniently may be, reconstitute the committee.

Transfer of functions of superseded boards and constitution of new committees or boards.

Conduct of Business, Rules and Regulations.

[Act IV of 1873, section 20, and Act I of 1888, section 20.]

58. *(1)* Every committee and board may, from time to time, make rules as to—

Power to make rules as to business and affairs.

(*a*) the time and place of its meeting;

(*b*) the conduct of its business;

(*c*) the division of duties amongst members;

(*d*) the duties, salaries, appointment, suspension and removal of the officers and servants of the committee or board; and

(*e*) other similar matters:

(2) Provided that every rule made under this section must be consistent with this Act and with any rules made by the Local Government under this Act.

Proviso.

[Act IV of 1873, section 14.]

59. *(1)* Every first class committee and every first class board may make regulations for carrying out all or any of the purposes of this Act. The Local Government may, from time to time, confer the power of making regulations under this section upon any committee or board of the second class.

Power to make regulations.

(2) No regulation, and no alteration or repeal of, or addition to, a regulation, shall have effect until it has been confirmed by the Local Government.

[Act IV of 1873, section 15.]

60. All regulations made under this Act, and all rules made under section 58, and all alterations and repeals of, and additions to, such regulations and rules, shall, before coming into force, be published for such length of time and in such manner as the Local Government, from time to time, directs.

Regulations and rules to be published.

[Act IV of 1873, section 21.]

61. Whoever infringes any regulation made and confirmed as directed in this Act shall be liable to a fine not exceeding fifty rupees, and, in the case of a continuing infringement, to a further fine not exceeding five rupees for every day after notice from the committing of such infringement.

Penalty for infringement of regulations or non-payment of fine.

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

[Act IV of 1873, section 22.]

62. Prosecutions under this Act for infringement of regulations may be instituted by any committee or board, or by any person authorized by such committee or board in this behalf, before any Magistrate not being himself a member of such committee or board.

Prosecutions.

[Act IV of 1873, section 23.] X of 1882.

63. Fines imposed under this Act may be recovered in manner provided by the Code of Criminal Procedure for the time being in force.

Recovery of fines.

Suits by and against Committees and Boards.

[Act IV of 1873, section 18.]

64. *(1)* Every committee and board shall sue and be sued in the name of its chairman.

Suits by and against committees and boards.

(2) Every contract made on behalf of any committee or board in respect of any sum or property exceeding one hundred rupees in amount or value shall be in writing, and shall be signed by the chairman or vice-chairman (if any) and at least two other members of the committee or board. No contract, unless so executed, shall be binding on the committee or board in whose behalf it is made.

Contracts of committees and boards.

[Act IV of 1873, section 18.]

65. No member of a committee or board shall be personally liable for any contract made or expense incurred by or in behalf of the committee or board; but the funds from time to time in the hands of the committee or board shall be liable for, and chargeable with, contracts duly made as aforesaid.

Liability of members of committees and boards.

Every member of a committee or board shall be personally liable for any misapplication of money entrusted to the committee or board to which he has been a party, or which happens through, or is facilitated by, his neglect of his duty;

Panjáb Local Self-government Bill, 1883.
(Rules; Supplementary and Temporary Provisions—Sections 66-70.)

And he shall be liable to be sued for the same in such Court as the Local Government directs as for money due to the Secretary of State for India in Council.

[Act IV of 1873, section 19.]

66. No suit for damages or compensation for wrongful acts shall be brought against a committee or board, or any of its officers or persons acting under its direction, for anything done or purporting to be done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the committee or board, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Bar of certain suits in absence of one month's notice of cause of suit.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within six months next after the accrual of the right to sue, and not afterwards.

And if any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Rules.

67. So far as may be consistent with the provisions of this Act—

Power of the Local Government to make rules.

(1) the Governor General in Council may, from time to time, make and alter general rules or special orders for the regulation of taxation under section 18;

(2) the Local Government may, for any committee or board, or any class of committees or boards, from time to time, make and alter rules for—

(*a*) the classification of committees and boards under section 5, clause (2);

(*b*) the mode and time of appointment or election of members of boards and committees, the term of office, remuneration and allowances (if any), and the qualifications and disqualifications of such members, and the qualifications and disqualifications of voters under section 6, and generally for regulating all elections under this Act;

(*c*) the appointment of a chairman under section 8;

(*d*) regulating powers of committees and boards incorporated under section 9 to transfer property;

(*e*) regulating the powers of committees and boards to contract and do other things necessary for the purposes of their constitution;

(*f*) the determination by committees of the amount of the local rate under section 14;

(*g*) the confirmation of assessments and the remuneration of persons employed to collect rates and taxes under section 21;

(*h*) the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district under section 27;

(*i*) the application of district and board funds under section 33;

(*j*) the form of estimate of income and expenditure under section 37, clause (2);

(*k*) the financial procedure of first class boards under section 37, clause (7);

(*l*) the form of annual accounts and the manner of periodical audit under section 38;

(*m*) the publication of abstracts of accounts under section 42;

(*n*) the employment, payment, suspension and removal of officers and servants under section 46;

(*o*) the powers of supervision to be exercised by Commissioners and Deputy Commissioners under section 50;

(*p*) the publication of rules and regulations under section 60;

(*q*) the conduct of proceedings of committees and boards, including the fixing of a quorum, the nomination or election of a vice-chairman, the formation of sub-committees, and the delegation of powers to such sub-committees; [Act I of 1883, section 34, clause (*e*).]

(*r*) the appointment and payment of auditors of the accounts of committees and boards; and

(*s*) generally for determining the relations between committees and boards, and for the guidance of committees, boards and Government officers in all matters connected with the administration of this Act.

All such rules and alterations of rules shall be duly notified, and no rules or alteration of rules under clause (2) (*b*) shall come into operation until three months after they have been so notified.

[Act I of 1888, section 35.]

68. The Local Government shall, before making any rules under section 67, publish, in such manner as it may deem sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

Procedure for making rules under section 67.

Supplementary and Temporary Provisions.

[Act I of 1894, section 37.]

69. Where any land is required for the purposes of this Act, the Local Government may, on the request of a committee or board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on the payment by the committee or board of the compensation awarded under that Act, the land shall vest in the Secretary of State for India in Council, or, if the committee or board is incorporated under section 9, in such committee or board.

Acquisition of land.

X of 1870.

[Act I of 1894, section 31.]

70. *(1)* All rates for the maintenance of roads, schools or the district-post, for the payment of which provision has been made in any settlement-record previous to the passing of this Act, or which have been habitually levied by Government, shall be deemed to have been and to be legally imposed, and to have been and to be legally recoverable as if they were arrears of land-revenue payable directly to Government and due on the land in respect of which they are payable.

Confirmation and recovery of existing rates.

Panjáb Local Self-government Bill, 1883.
(Amendment of the Northern India Ferries Act of 1878—Sections 71-76.)

(2) Notwithstanding anything herein contained, this section shall come into force from the date of the passing of this Act throughout the territories administered by the Lieutenant-Governor of the Panjáb.

[Act I of 1883, section 38.]

Penalty on member, officer or servant being interested in contracts made with a committee, board or joint committee.

71. If any member, officer or servant of a committee, board or joint committee appointed under this Act is directly or indirectly interested in any contract made with that committee, board or joint committee, he shall be deemed to have committed an offence under the Indian Penal Code, section 168.

XLV of 1860.

[New.]

Saving of rights of existing officers and servants.

72. Nothing in, or done under, this Act shall prejudicially affect the rights of any officer or servant appointed before the passing of this Act as to tenure of office, salary or pension.

[Act I of 1883, section 41.]

General powers of Local Government and Commissioners.

73. In all matters connected with this Act the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

Power of the Local Government to make exemptions.

74. The Local Government may, by notification, exempt any district or part of a district, or any committee or board, from the operation of any of the provisions of this Act, except sections 1, 2, 3, 6, 7, 11, 26, 49, 50, 51, 52, 53, 54, 55, 56, 57, 67, 68, 69, 70, 72 and 73, and may in like manner cancel such exemption. While such exemption is in force, the Local Government may make rules to provide, in respect to such district, part of a district, committee or board for the matters dealt with in this enactment:

Proviso.

Provided that the Local Government shall have no power, except as therein authorised, to impose any local rate or tax.

Amendment of the Northern India Ferries Act of 1878.

[Act I of 1883, section 43.] XVII of 1878.

Amendment of the Northern India Ferries Act.

75. After section 7 of the Northern India Ferries Act of 1878, the following shall be inserted, namely:—

"7A. The Local Government may direct that any public ferry, wholly or partly within the area subject to the jurisdiction of a committee or board in any district in the territories under the administration of the Lieutenant-Governor, be managed by that committee or board, and may further direct that all or any part of the proceeds from such ferry be paid into the district or board funds; and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

Management of ferries may be vested in committees and boards.

[Act I of 1883, section 44.]

Further amendment.

76. In section 6 of the same Act, after the words "section seven," and in section 17 of the same Act, after the words "section seven" where they first occur, the following shall be inserted, namely:—"and section 7A."

STATEMENT OF OBJECTS AND REASONS.

THE present law regulating the constitution and functions of district committees and providing for local (other than municipal) taxation in the Panjáb is contained in Act V of 1878. In addition, however, to the local rate levied on land under that Act, which falls at 8 pies on the rupee of the annual value, which, for the purposes of the Act, is assumed to be double the land-revenue, other cesses are levied under the name of road, school and district-post cesses, calculated at a percentage upon the land-revenue, which usually amounts to 2½ per cent. more. The levy of these cesses was provided for at the time of the settlement of the land-revenue of each district as a part of the settlement-arrangements, and in a few districts they are levied at a rate somewhat different from that prevailing in other parts of the province. The general result, however, is that the rates and cesses fall at 10⅜ pies on the rupee of assumed annual value, or at 10⅜ per cent. on the land-revenue.

2. The main object of the present Bill is to give effect to the proposals for the extension of local self-government explained by the Panjáb Government in its Resolution No. 1777, dated 7th September, 1882, by conferring upon district committees greater financial and administrative independence, constituting local bodies for smaller areas than districts, providing for the mode of appointing members of district committees and local boards, and increasing the number and extent of the services transferred to local management and control.

3. At the same time, it has been thought advisable to consolidate the road, school and district-post cesses with the local rate hitherto assessed under Act V of 1878, and, as that Act has been found defective in other respects, to repeal it and re-enact its provisions with such alterations as experience has shown to be necessary. These matters have already formed the subject of correspondence between the Panjáb Government and the Government of India.

4. In many of its provisions the Bill is an enabling rather than an enacting measure. While prescribing certain general principles in regard to the constitution of district committees and local boards, it leaves much to be provided for by rules to be framed from time to time by the Local Government. Different parts of the province vary so much in their stages of development as to render uniformity of system impossible. To provide for the varying requirements of different localities, it is necessary to confer upon the Local Government large powers of regulating details by rules.

5. The principal provisions of the Bill are as follows.

6. Sections 3 to 8 provide for the constitution of committees and boards.

7. Section 3 empowers the Local Government to constitute a committee for each district, excluding the area of military cantonments and municipalities, and to constitute boards for sub-divisions of districts.

8. Section 4 provides for the repeal of Act V of 1878 throughout the areas placed under the jurisdiction of committees or boards appointed under section 3.

9. Section 5 provides for the classification of committees and boards by the Local Government, and for the powers to be exercised by them.

10. Section 6 provides for the appointment of the members of committees and boards. They may be appointed *ex officio*, or by nomination, or by election, or some by one and some by another of such methods, the Local Government being empowered to regulate details. Provision is made that not less than one-half of the members shall be landholders in the district, while two-thirds shall ordinarily be non-officials. It is anticipated that in most parts of the province the majority of the members will be appointed by election, but it is impossible to prescribe this by law, owing to the variety of the circumstances of different localities. Where appointment by election has once been introduced, the circumstances under which this mode of appointment may afterwards be departed from are defined so far as possible. Similarly, in section 7, which provides for the removal of members by the Local Government and for filling up casual vacancies, special provision is made for the case of members appointed by election.

11. Section 8 enables the Local Government to provide for the appointment of the chairman of each committee or board. The appointment may be either *ex officio*, or by nomination, or by election, as, with reference to existing circumstances, Government may, from time to time, determine.

12. Sections 9 and 10 provide for the incorporation of committees and boards when the Local Government may think fit, for the vesting of property in them, and for the controlling of transfers by them of immoveable property or money invested in the public funds.

13. Sections 11 and 12 specify the powers and duties which may be conferred upon or entrusted to committees and boards, and provide that they must be supplied with adequate funds to maintain the services they are called upon to undertake in their existing state of efficiency. The list of matters which may be made over to them contained in section 11 is long, but it must not be supposed that all such matters will necessarily be made over to the committee and boards appointed in each district. The variety of local circumstances and the capacity of the committee and boards to perform the duty will have to be taken into consideration; and it will, therefore, be necessary for Government to decide in each case what services shall be made over either to the committee or to the several boards in each district. Sections 75 and 76 amend the Northern India Ferries Act in order to enable the Local Government to make over the management of ferries and their proceeds to committees and boards, when it may seem desirable to do so under section 11.

14. Sections 13 to 25 deal with the subject of local taxation. In part they replace the corresponding provisions of Act V of 1878, but section 13 departs from that Act in fixing the maximum local rate at one anna instead of eight pies per rupee of the annual value, in order to consolidate the road, school and district-post cesses with the local rate. One anna per rupee of the assumed annual value corresponds with 12½ per cent. on the annual revenue, which is 1⅜ per cent. in excess of the present rate of taxation; but it is not intended that there should be any general increase in the local taxation now levied. The maximum rate has been fixed at one anna instead of 10⅜ pies, partly for the sake of simplicity, and partly because in some tracts, where the land-revenue is small and lightly assessed, it may be found advantageous to have the power, without resort to further legislation, to increase the rate in order to provide for purposes clearly for the benefit of the neighbourhood.

15. Section 14 enables the Local Government to empower committees to fix the proportion to be borne by the rate to the annual value, or itself to determine such proportion.

16. Section 18 is the chief new proposal in this part of the Bill. It enables district committees, if empowered under section 14 to determine the incidence of the rate, to impose other taxes approved by the Local Government, subject to the proviso that no such tax shall be imposed on property which is liable to the local rate. This may be done either in order to lower the local rate, or to provide for the improvement of the services placed under the control of the district committee. This power is subjected to the same checks as the power of

municipal committees to impose new taxes, and must also be exercised subject to any general rules or special orders which the Governor General in Council may make on this behalf. It will be observed that here again no general increase in local taxation is aimed at. As already explained, the proviso to section 11 requires the Local Government, when the control of new services is made over to committees or boards, to supply them with such funds or sources of income as are sufficient to maintain such service in its existing state of efficiency. This section may be used to tax classes which at present bear no share in the local burdens, while they benefit largely from the expenditure from district funds. But it can only be used to enable the committee either to reduce the taxation on land subject to local rates, or to make better provision than before for objects of a local character the administration of which has already been entrusted to them.

17. Section 20 makes provision for empowering committees or boards to fix school-fees and other fees charged for the use of, or advantages derived from, institutions and works under the control of the committee or board. These fees are not of the nature of taxes, but are payments by persons availing themselves of services rendered.

18. Section 23 provides for fixing the time at which rates or taxes assessed under the Act shall be payable.

19. Sections 26 to 42 regulate the finance of district and board funds.

20. The deduction of one-fifth made from the net proceeds of rates and taxes and to be credited to the Local Government, which is provided for by section 26, practically corresponds with the deduction of one-fourth from the local rate of eight pies per rupee of annual value now made under Act V of 1878 for the purpose of increasing the funds available to meet famine charges. It so far differs that, under the section now proposed, the contribution to the provincial finances will increase or diminish in any district as local taxation is increased or reduced in amount. Under present financial arrangements, the annual provision for famine expenditure is treated as an Imperial charge, and it is therefore no longer necessary expressly to reserve the additional local rate imposed under Act V of 1878 for the purpose of meeting such expenditure; and under the new financial contract with the Local Government, the additional local rate has been treated as one of the branches of revenue placed at the disposal of the Local Government for provincial purposes. Though no longer specifically appropriated to famine expenditure, it thus sets free an equivalent sum in the Imperial Budget, which would otherwise have had to be allotted for provincial expenditure, and which is now included in the amount set apart for famine charges. It is now provided that it shall be applied by the Local Government, either in aid of district and board funds or otherwise, to purposes similar to those for which committees or boards may expend their own share of the rates and taxes.

21. Section 27 provides for the distribution of the proceeds of rates and taxes in any district between the committee and the several boards of the district; while section 28 places fees at the disposal of the committee or board by whose authority they are levied.

22. Sections 29 and 30 establish district and board funds, and state the sources of income to be included in each; and section 33 regulates the application of such funds. Section 31 gives the committee the power to place limits on the expenditure of boards within the district, but leaves unspent balances of board funds at the disposal of the board.

23. Sections 34 to 36 provide for cases in which co-operation between different committees or boards is necessary.

24. Sections 37 to 42 provide for the system of account, and the last clause of section 37 empowers Government to raise a first-class board to the status of a committee, in which case the funds at the disposal of the board will be treated as a separate district fund (section 40), and certain of the provisions of the Act regulating the relations between committees and boards in matters of account will cease to apply.

25. Sections 43 to 45 regulate the relations between committees and boards not raised to the status of a committee, enable committees to make use of boards as their agents in regard to matters under the direct control of the committee, and provide for the decision of disputes between committees, boards and municipal committees.

26. Section 46 provides for the employment of officers and servants by committees and boards, subject to such rules as may be made for the purpose by the Local Government, and gives certain powers to the Deputy Commissioner to control improper appointments by second class committees or boards, subject to an appeal to the Commissioner of the division.

27. Section 47 provides for contributions by committees or boards for the pensions, gratuities and leave-allowances of Government officials whose services are wholly or partially placed at their disposal, and section 48 for pensions, gratuities or leave-allowances to other servants. Special provision is made for gratuities on retirement in the case of servants appointed before the passing of the Act, as it was not clearly understood in 1871 that officials retaining service under the committees ceased to be servants of Government and lost their claims to pension; and when this was discovered, it was found that existing financial rules did not admit of their subscribing under the Pension Code to retain their claims to pension from Government.

Such servants, therefore, stand on a different footing from servants hereafter appointed, whose pay will necessarily be calculated with reference to the absence of any right to pension, unless they are permitted to subscribe for pension on first appointment, and the committee or board employing them undertakes to pay the necessary subscriptions.

28. Sections 49 to 57 provide for the control to be exercised over committees and boards by Government or its officers. The powers conferred are in most cases similar to those given by the Central Provinces Local Self-government Act; but section 49 enables Government to annul or modify any proceeding of a committee or board not warranted by the Act, or by the rules framed under it.

29. Sections 58 to 63 enable committees and boards to make rules for the conduct of business, and give first-class committees and boards powers, similar to those possessed by municipal committees under Act IV of 1873, to make regulations for carrying out any of the purposes of the Act, subject to the confirmation of the Local Government. Similar powers may be conferred by the Local Government upon committees or boards of the second class.

30. Sections 64 to 66 make similar provisions as to suits by and against committees and boards to those contained in the Panjáb Municipal Act, IV of 1873; but section 66 has been so framed as to make it clear that the suits for which a special limitation is provided are only suits for damages or compensation for wrongful acts done, or purporting to be done, under the Act.

31. Section 67 enables the Governor General in Council to make rules or special orders for the regulation of the new taxes which may be imposed under section 18, and gives large powers to the Local Government to make rules for the various purposes which the Act leaves to be regulated by such rules.

32. Section 1 enables the Local Government to apply the Act gradually in different parts of the province, as suitable arrangements can be made; and the large powers given to the Local Government of regulating various matters by rules will facilitate the adaptation of the provisions of the Act to the circumstances of the different parts of the province where some progress in the direction of local self-government is practicable. Section 74 has been added, but for the present tentatively, and with a view to further consideration, to enable the Local Government to exempt, by notification, any district or part of a district, or any committee or board, from the operation of the less essential provisions of the Act, should these be found unsuited to local requirements, and to substitute such rules as may be found suitable.

33. In the interpretation-clause (section 2), the definition of land-revenue has been added, and that of annual value amended, to provide for some of the points in regard to which Act V of 1878 has been found defective. The local rate has, in practice, been charged upon the grazing dues levied in the Southern Panjáb, upon the owner's rate assessed on lands irrigated from permanent canals, and upon the similar rates levied on lands irrigated from inundation canals; but it is desirable that this practice should be expressly authorized by law.

The 23rd May, 1883.

D. G. BARKLEY.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th May, 1883:—

No. 13 OF 1883.

A Bill to give power to reduce port-dues in the port of Bombay.

WHEREAS the rate of port-dues leviable under the Indian Ports Act, 1875, on vessels entering the port of Bombay cannot, consistently with the entry in the third column of the first schedule of that Act in respect of the said port, be fixed at less than two annas per ton, and whereas, having regard to the present receipts and charges on account of that port, the rate of two annas per ton is unnecessarily high, and it is not expedient that a limit should be placed to the reduction of port-dues in the said port; It is hereby enacted as follows:—

In the Indian Ports Act, 1875, first schedule, in the entry in the third column in respect of the port of Bombay, the words "and not less than two annas per ton" shall be repealed. XII of 1875.

STATEMENT OF OBJECTS AND REASONS.

PORT-DUES are at present levied at Bombay at two annas per ton, which is the lowest rate permitted by the Indian Ports Act, 1875. The Trustees of the port have proposed that the rate be reduced to 1½ annas, and their reasons for the proposed reduction are given in the following extract of a memorandum by the Chairman of the Trust, attached to the budget estimate of the Port Trust for 1883-84.

"For the ensuing year, the receipts from port-dues and harbour-revenue at existing rates are put down at Rs. 2,69,100 and the expenditure on port account at Rs. 1,34,000, to which must be added the expenditure on new beacons, clearing rocks and the like, Rs. 44,250, or Rs. 1,78,250, in all. The accounts of past years also show that the receipts from this branch of the Trust's revenue have uniformly been in excess of the expenditure. Port-dues are at present charged at the minimum rate allowed by law, namely, two annas per ton. The receipts from this source alone are estimated at Rs. 2,05,000 for the year, and it is recommended that the rate be reduced by 25 per cent., or to 1½ annas per ton. This will benefit the shipping to the extent of Rs. 51,250 per annum. In order to enable this reduction to be made, the Indian Ports Act will have to be amended, but to this it is not expected that Government will raise any objection."

2. The Government of Bombay approve of the proposed reduction, and desire that the necessary amendment of the Indian Ports Act, 1875, may be made by striking out the words "and not less than two annas per ton" in the third column of Schedule I of the Act. If this be done, they observe Bombay will be in the same position as Calcutta, in not being tied down to a minimum rate of port-dues.

3. There seems to be no doubt as to the expediency of the course proposed, and the present Bill has been prepared with a view to its being adopted.

The 30th May, 1883.

E. BARING.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 9, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 30th May, 1883:—

No. 12 of 1883.

THE PANJÁB LOCAL SELF-GOVERNMENT BILL, 1883.

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A Bill to make better provision for Local Self-government in the Panjáb.

WHEREAS it is expedient to amend the law in force in the territories administered by the Lieutenant-Governor of the Panjáb for the levy of rates on land; and

Preamble.

Whereas it is proposed to provide for the better constitution of district committees and for the establishment of local boards, and to define and regulate the powers to be exercised by such committees and boards;

It is hereby enacted as follows:—

Preliminary.

Short title.

1. *(1)* This Act may be called the Panjáb Local Self-government Act, 1883.

Extent.

(2) It shall extend only to the territories for the time being administered by the Lieutenant-Governor of the Panjáb.

Commencement.

(3) It shall come into force in such districts, or parts of districts, and on such dates, as the Local Government, by notification, from time to time, directs.

Interpretation-clause.

2. In this Act—

"Land." [Act V of 1878, s. 3.]

"Land" means land assessed to the land-revenue, and includes land whereof the land-revenue has been wholly, or in part, released, compounded for, redeemed or assigned.

"Land-revenue."

"Land-revenue" includes trini or grazing dues levied for grazing on Government lands under section 48 of the Panjáb Laws Act, 1872.

"Landholder." [IV of

"Landholder" means any person responsible for the payment of the land-revenue, if any, assessed on

Panjáb Local Self-government Bill, 1883.
(Constitution of Committees and Boards—Sections 3-7.)

land. It also includes a person holding land the land-revenue of which has been wholly, or in part, released, compounded for, redeemed or assigned.

"Annual value."

"Annual value" means—

(1) double the land-revenue for the time being assessed on any land, whether such assessment be leviable or not; and

(2) when the land-revenue has been permanently assessed, or has been wholly or in part compounded for or redeemed, double the amount which, but for such permanent assessment, composition or redemption would have been leviable:

[New.]

Proviso.

Provided that, in all cases when the improvement of the land due to canal irrigation has been excluded from account in assessing the land-revenue, and a rate has been imposed in respect of such improvement under the name of owner's rate or of water-advantage rate or of revenue, then such rate or revenue shall be added to the land-revenue for the purpose of computing the annual value.

"Year."

"Year" means the year commencing on the first day of April.

"Prescribed day."

"Prescribed day" means such day as the Local Government may, from time to time, prescribe.

"Notification."

"Notification" means a notification published by the authority of the Local Government in the official Gazette.

"Notified."

"Notified" means notified in the official Gazette.

"Committee."

"Committee" means a district committee constituted under this Act.

"Board."

"Board" means a local board constituted under this Act.

"Deputy Commissioner."

"Deputy Commissioner" means the Deputy Commissioner of a district, and any officer specially appointed by the Local Government to perform the functions of a Deputy Commissioner under this Act.

Constitution of Committees and Boards.

[Act V of 1878, section 3.]

Constitution of committees and boards.

3. *(1)* Subject to the provisions of this Act, the Local Government, by notification, may, from time to time, constitute a committee for each district, and a board or boards within the limits of any district, and shall define, and may from time to time alter, the areas over which such committees and boards shall have jurisdiction.

[Act I of 1883, section

(2) Such portions of districts as are for the time being included in the limits of a military cantonment or of a municipality shall be excluded from such areas except as regards liability to assessment for the tax hereinafter called the local rate.

[New.]

Time for committees and boards coming into existence.

4. From the date on which any committee or board is constituted under section 3 of this Act, the Panjáb Local Rates Act, 1878, shall be repealed throughout the area under the jurisdiction of such committee or board. But all

Repeal of Act V of 1878.

rates imposed [illegible] credited to the Local Government, committees appointed, and notifications published under the said Act, shall be deemed to have been respectively imposed, credited, appointed and published under this Act.

And all assignments or allotments made under the said Act for expenditure by district committees shall be deemed to be contributions made by Government under this Act to district or board funds.

[New.]

Classification of committees and boards.

5. *(1)* The Local Government may, from time to time, by notification, declare that any committee or board shall be deemed to be a committee or board of the first or second class.

(2) A committee or board so classed shall thereupon within its area exercise the powers, and perform the duties, conferred upon or assigned to committees or boards of the first or second class respectively by this Act, or by the Local Government under this Act.

[Act XV of 1878, s. 1.]

Number, appointment and election of members.

6. No committee or board shall consist of less than six members.

Such members may be appointed either *ex officio*, or by nomination, or by election, or some by one and some by any other of such methods, as the Local Government, from time to time, directs; and shall hold office for such time as the Local Government may, by rule, direct:

Proviso.

Provided that—

(1) when the Local Government has directed that all or any of such members shall be appointed by election, they shall not thereafter be appointed by any other method unless—

(*a*) the electors fail to return a sufficient number of members; or

(*b*) a sufficient number of candidates fail to appear; or

(*c*) a majority of electors by vote declare that they so desire; or

(*d*) by order of the Local Government, subject to the sanction of the Governor General in Council, for any other good and sufficient reason affecting the public interests:

(2) except with the approval of the Governor General in Council, or unless salaried officers of Government be appointed by election, not less than two-thirds of the members of every committee or board shall be persons other than salaried officers of Government: and

[Act XV of 1878, s. 1.]

(3) not less than one-half of the members of such committee or board shall be landholders in the district.

[Act XV of 1878, s. 6.]

Powers of the Local Government as to removal of members and filling vacancies.

7. *(1)* The Local Government may, from time to time, remove any member of any committee or board appointed *ex officio* or by nomination.

(2) The Local Government may remove any member appointed by election—

(*a*) if such member is, in the opinion of the Local Government, unfit to be a member of such committee or board on the ground that he is or has been convicted of an offence punishable with imprisonment or required to give security for good behaviour under the provisions of the Code of Criminal Procedure;

Panjáb Local Self-government Bill, 1883.
(Incorporation and Vesting of Property; Powers and Duties of Committees and Boards—Sections 8-11.)

(*b*) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace and order or, when he is a salaried officer of Government, inconsistent with the proper discharge of his official functions;

(*c*) if for six calendar months he absents himself from the meetings of the committee or board without such cause as shall appear to the Local Government to be reasonable.

(3) Except as above provided, members appointed by election shall not be removed by the Local Government.

(4) The Local Government may, from time to time, add to the number of any committee or board, and, subject to the provisions of section 6, fill up vacancies among the members, or cause such vacancies to be filled up by election.

Chairman.

8. *(1)* Subject to any rules made from time to time in this behalf by the Local Government, a chairman shall be appointed either *ex officio*, or by nomination, or by election, for every committee and board, and shall hold office for such term as the Local Government directs.

(2) The Local Government shall, from time to time, determine, as regards each committee and board, or as regards any class or classes of committees or boards, whether the chairman shall be appointed *ex officio*, or by nomination, or by election.

Incorporation and Vesting of Property.

Incorporation of committees or boards.

9. The Local Government shall have power to declare, by notification, that any committee or board shall be a body corporate by the name of its district or locality, or by such other name as it may select, and that the committee or board shall, subject to the provisions of this Act, have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, in trust for the purposes of this Act; and, subject to this Act and to any rules made by the Local Government, from time to time, in this behalf, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of its constitution:

Proviso.

Provided that no committee or board shall transfer immoveable property or money invested in the public funds without the sanction, in each case, of the Local Government.

Power to vest property in committees and boards.

10. The Local Government may, from time to time, by notification, direct that any property, moveable or immoveable, which is vested in the Secretary of State for India in Council and is situate in the Panjáb, shall vest in any committee or board which has consented to accept such property in trust for the purposes of this Act; and thereupon that property shall vest in such committee or board in trust as aforesaid, subject to all debts, liabilities and obligations (if any) affecting that property, and subject to the right of resumption by Government on payment of compensation for improvements effected by the committee

Powers and Duties of Committees and Boards.

Matters to be administered by committees and boards.

11. The Local Government may, by notification, [Act I of 1868, section 9.] from time to time, empower any committee or board to undertake, in whole or in part, the control and administration of all or any of the following matters within the areas of their respective jurisdictions:—

(*a*) all property vesting in such committee or board under sections 9 and 10 of this Act;

(*b*) the construction, repair and maintenance of roads and other means of communication;

(*c*) the maintenance, visiting and management of schools, hospitals, dispensaries, markets, rest-houses, saráís and other public institutions, and the construction and repair of all buildings connected with these institutions;

(*d*) the training of teachers and the establishment of scholarships;

(*e*) the supply, storage and preservation from pollution of water for drinking and cooking purposes, the construction and repair of embankments, and the supply, storage and control of water for agricultural purposes;

(*f*) the preservation of the soil on the ridges and slopes, and in the valleys, of hilly tracts and in submontane tracts, the prevention of landslips and of the formation of ravines and torrents, and the protection of land from erosion, or the deposit thereon of sand, gravel or stones, the reclamation of lands injured by torrents and sand deposits, and the drainage and reclamation of swamps; [Act VII of 1878, section 35.]

(*g*) the planting and preservation of trees;

(*h*) the construction, repair and maintenance of famine preventive works, and the establishment and maintenance of relief-works, relief-houses and relief-hospitals, and other measures in the time of famine or scarcity;

(*i*) cattle and commercial fairs, agricultural shows and industrial exhibitions;

(*j*) any other local works or measures likely to promote the health, comfort or convenience of the public, or the agricultural and industrial prosperity of the country;

(*k*) the establishment and management of pounds, including, where the Cattle-trespass Act of 1871 is in operation, all the functions of the Local Government and the Magistrate of the district under sections 4, 5, 6 and 7 and clause (*a*) of section 18 of that Act; I of 1871.

(*l*) the management of such public ferries as may be entrusted to their charge under section 7A of the Northern India Ferries Act of 1878, as amended by sections 75 and 76 of this Act; XVII of 1878.

(*m*) any other matters which the Local Government, with the previous sanction of the Governor General in Council, may declare to be [illegible] and proper matters to be taken

Panjáb Local Self-government Bill, 1883.
(Taxation—Sections 12-22.)

Proviso.

Provided that, when any committee or board is empowered under this section to undertake the control and administration of any of the aforesaid matters, the Local Government shall provide such committee or board with such funds or sources of income as the Local Government and the committee or board shall deem sufficient to maintain such control and administration in its existing state of efficiency.

Power of committees and boards to contract.

12. Subject to the provisions of this Act and of any rules made by the Local Government, from time to time, in this behalf, every committee and board shall have power to contract and do all other things necessary for the purposes of their constitution.

Taxation.

[Act V of 1878, section 4.]

The local rate.

13. All land shall be liable to the payment of a rate, to be called the local rate, not exceeding one anna for every rupee of its annual value, and not less than so many pies for every such rupee as the Local Government, from time to time, directs. Such local rate shall be independent of and in addition to, land-revenue.

[New.]

Committees may be empowered to fix the rate.

14. *(1)* Within the limits aforesaid, and subject to such rules as may be framed by the Local Government, any committee duly empowered by notification may determine the proportion which shall be borne by the rate to the annual value of land situated within the local jurisdiction of such committee.

Local Government to determine the rate in certain cases.

(2) Where no committee shall have been empowered to determine the proportion which the rate shall bear to the annual value of land, such proportion shall be determined by the Local Government.

[New.]

Road, school and post cesses to merge in the rate.

15. From such date after the passing of this Act as may be notified in respect to each district or portion of a district by the Local Government, all authorized rates and cesses for the maintenance of roads, schools and district-posts shall merge in and become part of the local rate, and no rate or cess other than the local rate shall be thereafter leviable for such maintenance.

[Act V of 1878, section 4.]

Local rate by whom payable.

16. When the proportion which the local rate, if any, shall bear to the annual value has been determined by any committee under section 14, clause (1), or by the Local Government under section 14, clause (2), the local rate shall be paid by the landholder:

Proviso.

Provided—

(1) that wherever the landholder pays the land-revenue in kind to any assignee of revenue or any village-headman, such assignee of revenue or village-headman shall be responsible for the payment of the local rate instead of the landholder, and no demand shall be made by any such assignee or village-headman on such landholder in respect of the payment of any such rate; and

(2) that the Government, where it has hitherto paid the local rate on trini, shall continue to pay it during the currency, in each case, of any existing trini lease.

[Act V of 1878, section 5.]

Power to recover a share of the rate from tenant.

17. Whenever a local rate is charged on a landholder in respect of lands held by a tenant with a right of occupancy holding at a favourable rent, such landholder may realize from such tenant a share of the said rate, bearing the same proportion to the whole rate as the excess of the annual value over the rent paid by such tenant bears to half the annual value.

Other powers of taxation conferred on committees and boards.

18. Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, any committee duly empowered under section 14 to determine the proportion which the local rate shall bear to the annual value may impose such taxes as may be approved by the Local Government:

Provided that—

(1) no such taxes shall be imposed in respect of any property subject to the local rate,

(2) no such taxes shall be imposed except—

(*a*) to enable the committee to make a reduction in the local rate; or

(*b*) when the funds and sources of income placed at the disposal of the committee and boards of a district by and under this Act are insufficient to provide for the matters under the control and administration of such committee and boards; and

(3) in the imposition of such taxes, the provisions of the Panjáb Municipal Act for the time being in force touching public notice, definition of persons and property to be taxed, objections to rates, procedure thereon, and the sanction of the Local Government, shall, as far as possible, apply.

IV of 1873

[Act V of 1878, section 14.] [Act IV of 1873, section 9.] [New.]

Recovery of rates.

19. All rates and taxes imposed under this Act, and all arrears of such rates and taxes, may be recovered as if they were arrears of land-revenue.

Levy of fees.

20. With the previous sanction of the Local Government, or of such officer as the Local Government may authorize in this behalf, any committee or board may fix and levy school-fees and fees for the use of, or benefits derived from, any of the works specified in section 11, clauses (*c*), (*e*) and (*f*), and fees at cattle and commercial fairs, agricultural shows and industrial exhibitions held within their jurisdiction and under their control.

[Act V of 1878, section 15 (*a*).]

Local rate or tax how to be assessed and collected.

21. The Local Government may, by notification, from time to time, prescribe the persons by whom the local rate or any tax imposed under this Act shall be assessed and collected, and direct in what manner such persons shall be remunerated.

[Act V of 1878, section 13.]

Appeals.

22. In matters connected with the assessment and collection of any rate or tax leviable under this Act, an appeal shall lie from the order of any person authorized

under this Act to make assessments to such person as the Local Government appoints: Provided that such appeal shall be presented within 30 days from the date of such order. The order of such person on such appeal shall be final.

[New.] **23.** The Local Government, or any committee duly empowered in this behalf by the Local Government, may prescribe by what instalments and at what times any rate or tax leviable under this Act shall be payable. The order prescribing such instalments or times shall, when approved by the Local Government and duly notified, be binding on the persons liable to the rate or tax:

Instalments of rates and taxes.

Provided that the local rate leviable under section 13 shall be payable with the land-revenue.

Proviso.

[Act V of 1878, section 15 (*d*), (*e*).] **24.** *(1)* The Local Government may, by notification, from time to time, exempt, wholly or in part, any portions of the territories under the administration of the Lieutenant-Governor from the operation of so much of this Act as relates to taxation, or remit or reduce any rate or tax imposed under this Act, or exempt any land or person from liability to pay the whole or any part of any rate or tax under this Act, and cancel such remission, reduction or exemption.

Powers of the Local Government to exempt from taxation;

(2) When measurements are necessary for the assessment of the local rate or of any tax imposed under this Act, the Local Government may, by notification, from time to time, direct such measurements to be made.

and to direct measurements.

[Act V of 1878, section 2.] **25.** Suits for the recovery from co-sharers, tenants or others of any sum on account of any rate or tax imposed under this Act, and suits on account of illegal exaction of such rate or tax, or for settlement of accounts connected therewith, shall, unless the Local Government otherwise direct, be cognizable by the Courts which for the time being have cognizance of suits for rent due on land.

Suits relating to rates and taxes under this Act cognizable by Courts having cognizance of suits for rent.

Finance.

[Act V of 1878, sections 7 and 9.] **26.** After deducting the expenses of collection, four-fifths of the net proceeds of all rates and taxes imposed under this Act shall be carried to the credit of the committee of the district within which they are levied. The remaining one-fifth shall be carried to the credit of the Local Government, and may—

Portion of rates and taxes to be credited to the Local Government and committees respectively.

(1) be allotted for expenditure by any committee or board, or

(2) be applied as the Local Government, from time to time, directs (*a*) for the benefit of the territories to which this Act extends, or (*b*) for the benefit of any district or districts or portions thereof, to provide for any of the matters upon which committees or boards may expend the funds at their disposal under this Act.

[New.] **27.** Subject to the provisions of this Act and to the sanction of the Deputy Commissioner, and in accordance with any rules made, from time to time, in this behalf by the Local Government, the committee shall determine in what proportion the rates and taxes levied in the district under this Act shall be retained by itself, or credited to the boards within the limits of the district, respectively.

Power of the committee to allot proceeds of rates and taxes as between itself and boards.

[New.] **28.** All fees levied under section 20 of this Act shall be credited to the committee or board by whose authority they are levied.

Crediting of fees levied.

[Act I of 1883, section 23.] **29.** The funds at the disposal of committees shall be called district funds, and shall consist of—

District funds.

(*a*) the proceeds of rates, taxes and fees credited to them under sections 26 and 28;

(*b*) all sums allotted to them from time to time by the Local Government under section 26, clause (1);

(*c*) all rents and profits accruing from public properties vested in the committee under this Act;

(*d*) all sums contributed to such funds by Government, committees, boards or private persons;

(*e*) all sums received by any committee or board in the discharge of functions exercised by them under this Act;

(*f*) all sums which the Local Government may, from time to time, declare to be assets of district funds.

30. The funds at the disposal of boards shall be called board funds, and shall consist—

Board funds.

(1) of all sums allotted to boards by the Local Government or by committees from any district funds; and

(2) of all fees, rents, profits and sums received by boards in the discharge of functions exercised by them under this Act otherwise than as the agents of committees.

[Act I of 1883, section 12.] **31.** Except as otherwise provided in this Act, no board shall incur expenses or undertake liabilities to any amount exceeding the limit imposed by the committee of the district in which the board has authority. But, subject to such limit, every board shall be entitled to retain and apply to the purposes of this Act any balance of board funds remaining at its credit at the close of any financial year.

Right of boards to unspent balances and limits on their expenditure.

32. The balances standing at the credit of all district and board funds shall be kept in the Government treasury, unless the Local Government shall in any case otherwise specially permit.

Custody of district and board funds.

[Act I of 1883, section 23, clause (3).] **33.** Subject to such rules as the Local Government may, from time to time, in this behalf prescribe, district and board funds shall be at the disposal of committees and boards, respectively, and may be applied by them within the area of their jurisdiction, and (with the sanction of the Commissioner in the case of committees, and the sanction of the Deputy Commissioners in the case of boards) outside that area, to payment, in whole or in part, of the charges and expenses incidental to the several matters specified in sections 11, 46, 47 and 48;

Application of district and board funds.

and also in the case of committees to the following purposes:—

(*a*) the maintenance of the district-post;

(*b*) the provision of grants-in-aid to educational and medical institutions;

(*c*) the expenses attending the audit of the accounts of district and board funds;

(*d*) the payment of such portion of the cost of the Provincial Departments for Education, Sanitation, Vaccination, Medical Relief and Public Works as may be held by the Local Government to be equitably debitable to committees in consequence of services rendered to such committees by such Departments.

[Act V of 1878, section 17.] **34.** In the case of works or undertakings which benefit more districts than one, when the committees cannot agree, the Commissioner, or when the districts are in different divisions and the Commissioners of such divisions cannot agree, the Local Government, may determine what proportion of the expenses of the work or undertaking shall be borne by each of the district funds constituted within the districts benefited thereby; and such proportion shall be payable out of the several district funds accordingly.

Works or undertakings benefiting several districts.

[New.] **35.** In the case of works or undertakings of public benefit to persons residing within the jurisdictions of more boards than one in any district, when the boards cannot agree, powers similar to those conferred by section 34 may be exercised by the committee, subject to the sanction of the Deputy Commissioner.

Works or undertakings benefiting residents within the jurisdictions of several boards.

[Act I of 1883, section 17.] **36.** A committee or board may, from time to time, arrange with any other committee or committees or board or boards, or with any municipal committee or committees, for appointing, out of their respective bodies, joint committees for any purpose in which they are jointly interested, and for delegating to any such joint committee any power which might be exercised by either or any of the committees or boards concerned, and for framing or modifying regulations as to the proceedings of any such joint committee.

Joint committees of two or more committees or boards.

[Act I of 1883, section 24.] **37.** *(1)* Every committee shall appoint a finance committee consisting of not less than three of its members.

Annual estimates of income and expenditure of committees.

(2) Every committee shall, on or before a prescribed day in each year, hold a meeting at which the finance committee shall submit to the committee an estimate of the income and expenditure of the committee for the next financial year, in such form as the Local Government may, from time to time, by rule, prescribe.

(3) The committee shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The committee shall, on or before a prescribed day, cause copies of the estimate, as provisionally approved by it, to be sent to the Deputy Commissioner.

(5) The Deputy Commissioner shall, on or before a prescribed day, signify in writing to the committee his approval or disapproval of the estimate. When he disapproves of the estimate, he shall state the nature of his objection, whether with reference to any proposed expenditure on salaries, works or otherwise, which appears to him to be unnecessary or excessive, or with reference to any particular or particulars which appear to him to be erroneous, defective or improper. The committee shall then consider the matter, and either modify the estimate, so as to remove the objection, or refer it through the Deputy Commissioner to the Commissioner of the division. If the Commissioner concurs in the objection, he shall make such modification in the estimate as may, in his judgment, be necessary to remove the objection in whole or in part. If he does not concur in the objection, he shall pass the estimate, and his orders shall be final and binding on the committee.

(6) When the Deputy Commissioner has signified his approval of an estimate, or the committee has modified an estimate so as to remove the Deputy Commissioner's objections, or when the Commissioner has passed orders as provided in clause (5), no expenditure which is not provided for in the estimate as approved or modified shall be incurred during the year to which the estimate relates without the previous sanction of the Deputy Commissioner.

(7) The Local Government may, by notification, from time to time, declare the provisions of this section applicable to any board of the first class, and may, in like manner, cancel such declaration. While any such declaration is in force, the procedure of such board shall be regulated accordingly. In the absence of any notification under this clause, such procedure shall be regulated, in regard to the matters mentioned in this section, as the Local Government may, from time to time, by rule, direct.

[Act I of 1883, section 28, clause (4).]

[Act I of 1883, section 25.] **38.** Accounts of the receipts and expenditure of every committee and every board to which section 37 has been made applicable shall be made up to the last day of every financial year in such form as the Local Government, from time to time, prescribes, and shall be examined and audited as soon as may be after the end of each financial year by such persons as the Local Government, from time to time, appoints in this behalf, and may further be examined and audited periodically within the year in such manner as the Local Government, from time to time, may direct.

Annual accounts and annual and periodical audit.

[Act I of 1883, section 11.] **39.** Every board to which the provisions of section 37 have not been made applicable shall submit annually to the committee of its district, on or before such date as the committee may appoint in this behalf, a statement of the requirements, and an estimate of the probable receipts and expenditure, of the board for the coming financial year, and shall submit, as often as the committee may require, accounts of its receipts and expenditure. The committee shall signify in writing to the board its approval or disapproval of the estimate so submitted, and powers similar to those conferred on the Deputy Commissioner and Commissioner by section 37, clauses (5) and (6), shall be exercised, in regard to such estimate, by the committee and the Deputy Commissioner respectively:

Annual estimates and accounts of certain boards.

Panjáb Local Self-government Bill, 1883.
(Relations between Committees, Boards and Municipal Committees; Officers and Servants—Sections 40-47.)

Provided that, during the currency of any financial year, the Deputy Commissioner may sanction transfers of provision within the estimate finally approved, when inconvenience or undue delay would be caused by a previous reference to the committee.

The committee shall make arrangements, subject to the approval of the Deputy Commissioner, for the examination and audit of accounts submitted to it under this section, and may arrange for the publication of such accounts.

[Act I of 1883, section 23, clause (4).]

40. The funds at the disposal of boards to which section 37 has been made applicable shall, for such time as the declaration mentioned in clause (7) of that section is in force, be treated for the purposes of this Act as a separate district fund; and for such time the provisions of section 31 (so far as they relate to the imposition of a limit on expenditure and the acceptance of liabilities) and of section 39 shall not apply to such boards.

Exemption of certain boards from section 37 and certain provisions of section 31.

[Act I of 1883, section 26.]

41. Every committee and board shall cause a copy of every estimate provisionally or finally approved and of every annual account to be kept at its office; and any person paying rates or taxes under this Act may, at all reasonable times, inspect any such estimate or account without payment of any fee.

Inspection of estimates and accounts.

[Act I of 1883, section 27.]

42. A statement of every annual account of a committee or board to which section 37 has been made applicable, showing the income of the district or board fund under each head of receipt, the charges for establishment, the works undertaken, the sums expended on each work and the balance, if any, of the fund remaining unspent, shall be prepared by the committee or board in such form as the Local Government, from time to time, prescribes; and an abstract of the same shall be published annually in the English and Vernacular official Gazettes, or in such other manner as the Local Government may, from time to time, direct.

Publication of abstract of accounts.

Relations between Committees, Boards and Municipal Committees.

43. *(1)* Subject to the provisions of this Act and of the rules framed thereunder, a committee shall have power to control the finances of the boards within its district to which section 37 has not been made applicable, and, in the case of all boards within its district, to deal with questions affecting—

Relations of boards to committees.

(*a*) the common interests of the district as a whole;

(*b*) the joint or conflicting interests of any two or more boards constituted within its district.

(2) The decisions of committees upon such questions shall be binding upon, and executed by, the boards concerned, subject to appeal to the Deputy Commissioner, or, when the Deputy Commissioner is a member of the committee, to the Commissioner.

[Act I of 1883, section 10, clause (1).]

44. Subject to the provisions of the last preceding section, a committee may direct any board constituted within its district to act as its agent in the management of any matters placed under the direct control and administration of the committee by notification under section 11. Such direction shall be obeyed by the board to which it is addressed.

Boards may be employed as agents of committees.

[New.]

45. If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more committees or boards, or between any municipal committee and any committee or board, the matter shall be referred for the decision—

Disputes.

(*a*) of the Deputy Commissioner if the committees, boards and municipalities are in the same district;

(*b*) of the Commissioner if the committees, boards or municipalities are in different districts; and

(*c*) of the Local Government if the committees, boards or municipalities are in different divisions and the Commissioners of such divisions are unable to agree as to the decision of the case.

Officers and Servants.

[Act I of 1883, section 12.]

46. *(1)* Subject to the provisions hereinbefore contained and to any rules which may, from time to time, be framed, altered or amended by the Local Government, with respect to the employment, payment, suspension and removal of officers and servants, every first class committee and every first class board may employ and pay such officers and servants as may be necessary and proper for the efficient execution of its duties. Subject to any such rules and to the provisions of this Act, the like powers may be exercised by committees and boards of the second class.

Employment of officers and servants.

(2) In the case of second class committees and second class boards, if at any time, in the opinion of the Deputy Commissioner,—

(*a*) the number of persons employed by the committee or board under this section, or the remuneration assigned by the committee or board to those persons, or to any particular person, is excessive, or

(*b*) any such person is unfit for his employment,

the committee or board shall, on the requirement of the Deputy Commissioner, reduce the number, or remuneration, of such persons, or, as the case may be, dismiss the unfit person:

Provided that any such committee or board may appeal against any such requirement to the Commissioner of the division, whose decision shall be final.

[Act I of 1883, section

47. In the case of Government officials, any committee or board may—

Pensions of Government officials serving committees and boards.

(1) if the services of such officials are wholly lent to it, contribute to their pensions, gratuities and leave-allowances in accordance with the rules for the time being in force; and

(2) if such officials devote only a part of their time to the performance of duties in behalf of the committee or board, contribute to their pensions, gratuities and leave-allowances in such proportion as may be determined by the Government.

Panjáb Local Self-government Bill, 1883.
(Control—Sections 48-51.)

[New.]

48. In the case of servants, not being Government officials referred to in section 47, any committee or board may—

Pensions of servants of committees and boards.

(1) grant leave-allowances and, in the case of servants appointed before the passing of this Act and not entitled to pension, and of servants drawing less than ten rupees a month, gratuities to such servants; and

(2) if empowered in this behalf by the Local Government—

(*a*) subscribe in behalf of such servants for pensions, gratuities and leave-allowances under the rules of the Government Leave and Pension Code for the time being in force;

(*b*) purchase from the Government or otherwise annuities for such servants on their retirement:

Provided that such pensions, gratuities, leave-allowances and annuities shall in no case exceed the sum to which, under the Government Leave and Pension Code for the time being in force, such servants would be entitled if the service had been service under Government.

Control.

[Panjáb University Act, section 19.]

49. It shall be the duty of the Local Government, and of all Commissioners and Deputy Commissioners acting under its orders, to require that the proceedings of committees and boards shall be in conformity with this Act and with the rules for the time being in force under the same; and the Local Government may exercise all powers necessary for giving effect to its requisitions in this behalf, and may, among other things, by order in writing, annul or modify any such proceeding which is not in conformity with this Act and the said rules.

Duty of Local Government towards, and powers over, committees and boards.

[Act I of 1883, section 28.]

50. *(1)* For the purposes of section 49, the Commissioner of the division and the Deputy Commissioner of the district may within their jurisdiction exercise such powers as shall, from time to time, be conferred upon them by rules made in this behalf by the Local Government, and may (among other things)—

Commissioner's and Deputy Commissioner's power of supervision.

(*a*) enter on, inspect and survey, or cause to be entered on, inspected or surveyed, any immoveable property occupied by committees or boards, or any work in progress under their direction;

(*b*) by order in writing call for and inspect any document in the possession or under the control of committees or boards for the purposes of this Act; and

(*c*) by order in writing, require committees or boards to furnish statements, accounts and reports.

(2) Every committee and board shall promptly comply with requisitions made under this and the last preceding section, and shall regularly submit copies of all its proceedings to the Deputy Commissioner, and shall further duly submit such periodical reports to the Deputy Commissioner or other authority as the Local Government may, from time to time, direct.

[Act I of 1883, section 29.]

51. When, in the opinion of the Deputy Commissioner, the execution of any order or resolution of a committee, board or joint committee, or the doing of any act which is about to be done or is being done, in pursuance of or under cover of this Act, is likely to cause injury or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace, he may, by order in writing, suspend the execution or prohibit the doing thereof within his district.

Power of Deputy Commissioner to suspend execution of orders, &c., of committees, boards or joint committees.

[Act I of 1883, section 30.]

52. *(1)* In cases of emergency the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a committee or board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the committee or board.

Powers of Deputy Commissioner in cases of emergency.

(2) If the expense and remuneration are not so paid, the Deputy Commissioner may issue a warrant directing the person having the custody of the balance of the district or board fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

[Act I of 1883, section 31.]

53. *(1)* When the Commissioner, after due enquiry, is satisfied that a committee or board of the first class has made default in performing any duty imposed on it by or under this Act, he may, by an order in writing, fix a period for the performance of that duty.

Power to provide for performance of duties in default of any committee or board.

(2) If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the committee or board.

(3) If the expense and remuneration are not so paid, the Commissioner may issue a warrant directing the person having the custody of the balance of the district or board fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

(4) The powers conferred upon the Commissioner by this section in respect to first class committees and boards shall, in respect to committees or boards of the second class, vest in the Deputy Commissioner.

[New.]

54. When a Deputy Commissioner makes any order under sections 51, 52 and 53, clause (4), he shall forthwith forward to the Local Government through the Commissioner a copy thereof with a statement of the reasons for making it; and when the Commissioner makes any order under section 53, he shall forthwith forward to the Local Government a copy thereof with a statement of the reasons for making it.

Action of Deputy Commissioner and Commissioner to be immediately reported.

Panjáb Local Self-government Bill, 1883.
(Conduct of Business, Rules and Regulations; Suits by and against Committees and Boards—Sections 55-65.)

[Act I of 1883, section 32, clause (1).]

55. When the Local Government is satisfied that a committee or board has persistently made default in performance of the duties imposed on it by or under this Act, or otherwise by law, or has exceeded or abused its powers, or that there is any other good and sufficient reason affecting the public interests for superseding such committee or board, the Local Government may, by notification, in which the reasons for so doing shall be stated, declare the committee or board to be superseded:

Power to supersede committees or boards in case of default or abuse of powers.

Provided that, except in the case of civil commotion or great public emergency, such notification shall not be issued in regard to a committee without the previous approval of the Governor General in Council.

Proviso.

[Act I of 1883, section 32, clause (2).]

56. When a committee or board is superseded under section 55, the following consequences shall ensue:—

Consequences of supersession.

(*a*) The corporation, if any, constituted under section 9 of this Act shall cease to exist, and all property vested in the committee or board under this Act shall vest in the Secretary of State for India in Council.

(*b*) All members of the committee or board shall, from the date of the order, vacate their offices as such members.

(*c*) All powers and duties of the committee or board may be exercised and performed by such person or persons as the Local Government, from time to time, appoints in that behalf.

57. When any board is superseded, the Local Government may reconstitute the board or may transfer its functions to the committee of the district or any other board, altering the definition of local area. When any committee is superseded, the Local Government shall, as soon as in its judgment conveniently may be, reconstitute the committee.

Transfer of functions of superseded boards and constitution of new committees or boards.

Conduct of Business, Rules and Regulations.

[Act IV of 1873, section 18, and Act I of 1883, section 20.]

58. *(1)* Every committee and board may, from time to time, make rules as to—

Power to make rules as to business and affairs.

(*a*) the time and place of its meeting;

(*b*) the conduct of its business;

(*c*) the division of duties amongst members;

(*d*) the duties, salaries, appointment, suspension and removal of the officers and servants of the committee or board; and

(*e*) other similar matters:

(2) Provided that every rule made under this section must be consistent with this Act and with any rules made by the Local Government under this Act.

Proviso.

[Act IV of 1873, section 14.]

59. *(1)* Every first class committee and every first class board may make regulations for carrying out all or any of the purposes of this Act. The Local Government may, from time to time, confer the power of making regulations under this section upon any committee or board of the second class.

Power to make regulations.

(2) No regulation, and no alteration or repeal of, or addition to, a regulation, shall have effect until it has been confirmed by the Local Government.

[Act IV of 1873, section 15.]

60. All regulations made under this Act, and all rules made under section 58, and all alterations and repeals of, and additions to, such regulations and rules, shall, before coming into force, be published for such length of time and in such manner as the Local Government, from time to time, directs.

Regulations and rules to be published.

[Act IV of 1873, section 21.]

61. Whoever infringes any regulation made and confirmed as directed in this Act shall be liable to a fine not exceeding fifty rupees, and, in the case of a continuing infringement, to a further fine not exceeding five rupees for every day after notice from the committing of such infringement.

Penalty for infringement of regulations or non-payment of fine.

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

[Act IV of 1873, section 22.]

62. Prosecutions under this Act for infringement of regulations may be instituted by any committee or board, or by any person authorized by such committee or board in this behalf, before any Magistrate not being himself a member of such committee or board.

Prosecutions.

[Act IV of 1873, section 23.] X of 1882.

63. Fines imposed under this Act may be recovered in manner provided by the Code of Criminal Procedure for the time being in force.

Recovery of fines.

Suits by and against Committees and Boards.

[Act IV of 1873, section 18.]

64. *(1)* Every committee and board shall sue and be sued in the name of its chairman.

Suits by and against committees and boards.

(2) Every contract made on behalf of any committee or board in respect of any sum or property exceeding one hundred rupees in amount or value shall be in writing, and shall be signed by the chairman or vice-chairman (if any) and at least two other members of the committee or board. No contract, unless so executed, shall be binding on the committee or board in whose behalf it is made.

Contracts of committees and boards.

[Act IV of 1873, section 18.]

65. No member of a committee or board shall be personally liable for any contract made or expense incurred by or in behalf of the committee or board; but the funds from time to time in the hands of the committee or board shall be liable for, and chargeable with, contracts duly made as aforesaid.

Liability of members of committees and boards.

Every member of a committee or board shall be personally liable for any misapplication of money entrusted to the committee or board to which he has been a party, or which happens through, or is facilitated by, his neglect of his duty.

Panjáb Local Self-government Bill, 1883.
(Rules; Supplementary and Temporary Provisions—Sections 66-70.)

And he shall be liable to be sued for the same in such Court as the Local Government directs as for money due to the Secretary of State for India in Council.

[Act IV of 1873, section 19.]

66. No suit for damages or compensation for wrongful acts shall be brought against a committee or board, or any of its officers or persons acting under its direction, for anything done or purporting to be done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the committee or board, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Bar of certain suits in absence of one month's notice of cause of suit.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within six months next after the accrual of the right to sue, and not afterwards.

And if any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Rules.

67. So far as may be consistent with the provisions of this Act—

Power of the Local Government to make rules.

(1) the Governor General in Council may, from time to time, make and alter general rules or special orders for the regulation of taxation under section 18;

(2) the Local Government may, for any committee or board, or any class of committees or boards, from time to time, make and alter rules for—

(*a*) the classification of committees and boards under section 5, clause (2);

(*b*) the mode and time of appointment or election of members of boards and committees, the term of office, remuneration and allowances (if any), and the qualifications and disqualifications of such members, and the qualifications and disqualifications of voters under section 6, and generally for regulating all elections under this Act;

(*c*) the appointment of a chairman under section 8;

(*d*) regulating powers of committees and boards incorporated under section 9 to transfer property;

(*e*) regulating the powers of committees and boards to contract and do other things necessary for the purposes of their constitution;

(*f*) the determination by committees of the amount of the local rate under section 14;

(*g*) the confirmation of assessments and the remuneration of persons employed to collect rates and taxes under section 21;

(*h*) the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district under section 27;

(*i*) the application of district and board funds under section 33;

(*j*) the form of estimate of income and expenditure under section 37, clause (2);

(*k*) the financial procedure of first class boards under section 37, clause (7);

(*l*) the form of annual accounts and the manner of periodical audit under section 38;

(*m*) the publication of abstracts of accounts under section 42;

(*n*) the employment, payment, suspension and removal of officers and servants under section 46;

(*o*) the powers of supervision to be exercised by Commissioners and Deputy Commissioners under section 50;

(*p*) the publication of rules and regulations under section 60;

(*q*) the conduct of proceedings of committees and boards, including the fixing of a quorum, the nomination or election of a vice-chairman, the formation of sub-committees, and the delegation of powers to such sub-committees;

[Act I of 1883, section 34, clause (c).]

(*r*) the appointment and payment of auditors of the accounts of committees and boards; and

(*s*) generally for determining the relations between committees and boards, and for the guidance of committees, boards and Government officers in all matters connected with the administration of this Act.

All such rules and alterations of rules shall be duly notified, and no rules or alteration of rules under clause (2) (*b*) shall come into operation until three months after they have been so notified.

[Act I of 1883, section 35.]

68. The Local Government shall, before making any rules under section 67, publish, in such manner as it may deem sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

Procedure for making rules under section 67.

Supplementary and Temporary Provisions.

[Act I of 1894, section 37.]

69. Where any land is required for the purposes of this Act, the Local Government may, on the request of a committee or board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on the payment by the committee or board of the compensation awarded under that Act, the land shall vest in the Secretary of State for India in Council, or, if the committee or board is incorporated under section 9, in such committee or board. X of 1870.

Acquisition of land.

[Act I of 1883, section 41.]

70. *(1)* All rates for the maintenance of roads, schools or the district-post, for the payment of which provision has been made in any settlement-record previous to the passing of this Act, or which have been habitually levied by Government, shall be deemed to have been and to be legally imposed, and to have been and to be legally recoverable as if they were arrears of land-revenue payable directly to Government and due on the land in respect of which they are payable.

Confirmation and recovery of existing rates.

Panjáb Local Self-government Bill, 1883.
(Amendment of the Northern India Ferries Act of 1878—Sections 71-76.)

(2) Notwithstanding anything herein contained, this section shall come into force from the date of the passing of this Act throughout the territories administered by the Lieutenant-Governor of the Panjáb.

[Act I of 1883, section 43.]

71. If any member, officer or servant of a committee, board or joint committee appointed under this Act is directly or indirectly interested in any contract made with that committee, board or joint committee, he shall be deemed to have committed an offence under the Indian Penal Code, section 168.

Penalty on member, officer or servant being interested in contracts made with a committee, board or joint committee.

XLV of 1860

[New.]

72. Nothing in, or done under, this Act shall prejudicially affect the rights of any officer or servant appointed before the passing of this Act as to tenure of office, salary or pension.

Saving of rights of existing officers and servants.

[Act I of 1883, section 43.]

73. In all matters connected with this Act the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

General powers of Local Government and Commissioners.

74. The Local Government may, by notification, exempt any district or part of a district, or any committee or board, from the operation of any of the provisions of this Act, except sections 1, 2, 3, 6, 7, 11, 26, 49, 50, 51, 52, 53, 54, 55, 56, 57, 67, 68, 69, 70, 72 and 73, and may in like manner cancel such exemption.

Power of the Local Government to make exemptions.

While such exemption is in force, the Local Government may make rules to provide, in respect to such district, part of a district, committee or board for the matters dealt with in this enactment:

Provided that the Local Government shall have no power, except as therein authorised, to impose any local rate or tax.

Proviso.

Amendment of the Northern India Ferries Act of 1878.

75. After section 7 of the Northern India Ferries Act of 1878, the following shall be inserted, namely:—

[Act I of 1883, section 43.] XVII of 1878.

Amendment of the Northern India Ferries Act.

"7A. The Local Government may direct that any public ferry, wholly or partly within the area subject to the jurisdiction of a committee or board in any district in the territories under the administration of the Lieutenant-Governor, be managed by that committee or board, and may further direct that all or any part of the proceeds from such ferry be paid into the district or board funds; and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

Management of ferries may be vested in committees and boards.

76. In section 6 of the same Act, after the words "section seven," and in section 17 of the same Act, after the words "section seven" where they first occur, the following shall be inserted, namely:—"and section 7A."

[Act I of 1883, section 44.]

Further amendment.

STATEMENT OF OBJECTS AND REASONS.

THE present law regulating the constitution and functions of district committees and providing for local (other than municipal) taxation in the Panjáb is contained in Act V of 1878. In addition, however, to the local rate levied on land under that Act, which falls at 8 pies on the rupee of the annual value, which, for the purposes of the Act, is assumed to be double the land-revenue, other cesses are levied under the name of road, school and district-post cesses, calculated at a percentage upon the land-revenue, which usually amounts to $2\frac{1}{2}$ per cent. more. The levy of these cesses was provided for at the time of the settlement of the land-revenue of each district as a part of the settlement-arrangements, and in a few districts they are levied at a rate somewhat different from that prevailing in other parts of the province. The general result, however, is that the rates and cesses fall at $10\frac{5}{6}$ pies on the rupee of assumed annual value, or at $10\frac{5}{6}$ per cent. on the land-revenue.

2. The main object of the present Bill is to give effect to the proposals for the extension of local self-government explained by the Panjáb Government in its Resolution No. 1777, dated 7th September, 1882, by conferring upon district committees greater financial and administrative independence, constituting local bodies for smaller areas than districts, providing for the mode of appointing members of district committees and local boards, and increasing the number and extent of the services transferred to local management and control.

3. At the same time, it has been thought advisable to consolidate the road, school and district-post cesses with the local rate hitherto assessed under Act V of 1878, and, as that Act has been found defective in other respects, to repeal it and re-enact its provisions with such alterations as experience has shown to be necessary. These matters have already formed the subject of correspondence between the Panjáb Government and the Government of India.

4. In many of its provisions the Bill is an enabling rather than an enacting measure. While prescribing certain general principles in regard to the constitution of district committees and local boards, it leaves much to be provided for by rules to be framed from time to time by the Local Government. Different parts of the province vary so much in their stages of development as to render uniformity of system impossible. To provide for the varying requirements of different localities, it is necessary to confer upon the Local Government large powers of regulating details by rules.

5. The principal provisions of the Bill are as follows.

6. Sections 3 to 8 provide for the constitution of committees and boards.

7. Section 3 empowers the Local Government to constitute a committee for each district, excluding the area of military cantonments and municipalities, and to constitute boards for sub-divisions of districts.

8. Section 4 provides for the repeal of Act V of 1878 throughout the areas placed under the jurisdiction of committees or boards appointed under section 3.

9. Section 5 provides for the classification of committees and boards by the Local Government, and for the powers to be exercised by them.

10. Section 6 provides for the appointment of the members of committees and boards. They may be appointed *ex officio*, or by nomination, or by election, or some by one and some by another of such methods, the Local Government being empowered to regulate details. Provision is made that not less than one-half of the members shall be landholders in the district, while two-thirds shall ordinarily be non-officials. It is anticipated that in most parts of the province the majority of the members will be appointed by election, but it is impossible to prescribe this by law, owing to the variety of the circumstances of different localities. Where appointment by election has once been introduced, the circumstances under which this mode of appointment may afterwards be departed from are defined so far as possible. Similarly, in section 7, which provides for the removal of members by the Local Government and for filling up casual vacancies, special provision is made for the case of members appointed by election.

11. Section 8 enables the Local Government to provide for the appointment of the chairman of each committee or board. The appointment may be either *ex officio*, or by nomination, or by election, as, with reference to existing circumstances, Government may, from time to time, determine.

12. Sections 9 and 10 provide for the incorporation of committees and boards when the Local Government may think fit, for the vesting of property in them, and for the controlling of transfers by them of immoveable property or money invested in the public funds.

13. Sections 11 and 12 specify the powers and duties which may be conferred upon or entrusted to committees and boards, and provide that they must be supplied with adequate funds to maintain the services they are called upon to undertake in their existing state of efficiency. The list of matters which may be made over to them contained in section 11 is long, but it must not be supposed that all such matters will necessarily be made over to the committee and boards appointed in each district. The variety of local circumstances and the capacity of the committee and boards to perform the duty will have to be taken into consideration; and it will, therefore, be necessary for Government to decide in each case what services shall be made over either to the committee or to the several boards in each district. Sections 75 and 76 amend the Northern India Ferries Act in order to enable the Local Government to make over the management of ferries and their proceeds to committees and boards, when it may seem desirable to do so under section 11.

14. Sections 13 to 25 deal with the subject of local taxation. In part they replace the corresponding provisions of Act V of 1878, but section 13 departs from that Act in fixing the maximum local rate at one anna instead of eight pies per rupee of the annual value, in order to consolidate the road, school and district-post cesses with the local rate. One anna per rupee of the assumed annual value corresponds with $12\frac{1}{2}$ per cent. on the annual revenue, which is $1\frac{3}{8}$ per cent. in excess of the present rate of taxation; but it is not intended that there should be any general increase in the local taxation now levied. The maximum rate has been fixed at one anna instead of $10\frac{2}{3}$ pies, partly for the sake of simplicity, and partly because in some tracts, where the land-revenue is small and lightly assessed, it may be found advantageous to have the power, without resort to further legislation, to increase the rate in order to provide for purposes clearly for the benefit of the neighbourhood.

15. Section 14 enables the Local Government to empower committees to fix the proportion to be borne by the rate to the annual value, or itself to determine such proportion.

16. Section 18 is the chief new proposal in this part of the Bill. It enables district committees, if empowered under section 14 to determine the incidence of the rate, to impose other taxes approved by the Local Government, subject to the proviso that no such tax shall be imposed on property which is liable to the local rate. This may be done either in order to lower the local rate, or to provide for the improvement of the services placed under the control of the district committee. This power is subjected to the same checks as the power of municipal committees to impose new taxes, and must also be exercised subject to any general rules or special orders which the Governor General in Council may make on this behalf. It will be observed that here again no general increase in local taxation is aimed at. As already explained, the proviso to section 11 requires the Local Government, when the control of new services is made over to committees or boards, to supply them with such funds or sources of

income as are sufficient to maintain such service in its existing state of efficiency. This section may be used to tax classes which at present bear no share in the local burdens, while they benefit largely from the expenditure from district funds. But it can only be used to enable the committee either to reduce the taxation on land subject to local rates, or to make better provision than before for objects of a local character the administration of which has already been entrusted to them.

17. Section 20 makes provision for empowering committees or boards to fix school-fees and other fees charged for the use of, or advantages derived from, institutions and works under the control of the committee or board. These fees are not of the nature of taxes, but are payments by persons availing themselves of services rendered.

18. Section 23 provides for fixing the time at which rates or taxes assessed under the Act shall be payable.

19. Sections 26 to 42 regulate the finance of district and board funds.

20. The deduction of one-fifth made from the net proceeds of rates and taxes and to be credited to the Local Government, which is provided for by section 26, practically corresponds with the deduction of one-fourth from the local rate of eight pies per rupee of annual value now made under Act V of 1878 for the purpose of increasing the funds available to meet famine charges. It so far differs that, under the section now proposed, the contribution to the provincial finances will increase or diminish in any district as local taxation is increased or reduced in amount. Under present financial arrangements, the annual provision for famine expenditure is treated as an Imperial charge, and it is therefore no longer necessary expressly to reserve the additional local rate imposed under Act V of 1878 for the purpose of meeting such expenditure; and under the new financial contract with the Local Government, the additional local rate has been treated as one of the branches of revenue placed at the disposal of the Local Government for provincial purposes. Though no longer specifically appropriated to famine expenditure, it thus sets free an equivalent sum in the Imperial Budget, which would otherwise have had to be allotted for provincial expenditure, and which is now included in the amount set apart for famine charges. It is now provided that it shall be applied by the Local Government, either in aid of district and board funds or otherwise, to purposes similar to those for which committees or boards may expend their own share of the rates and taxes.

21. Section 27 provides for the distribution of the proceeds of rates and taxes in any district between the committee and the several boards of the district; while section 28 places fees at the disposal of the committee or board by whose authority they are levied.

22. Sections 29 and 30 establish district and board funds, and state the sources of income to be included in each; and section 33 regulates the application of such funds. Section 31 gives the committee the power to place limits on the expenditure of boards within the district, but leaves unspent balances of board funds at the disposal of the board.

23. Sections 34 to 36 provide for cases in which co-operation between different committees or boards is necessary.

24. Sections 37 to 42 provide for the system of account, and the last clause of section 37 empowers Government to raise a first-class board to the status of a committee, in which case the funds at the disposal of the board will be treated as a separate district fund (section 40), and certain of the provisions of the Act regulating the relations between committees and boards in matters of account will cease to apply.

25. Sections 43 to 45 regulate the relations between committees and boards not raised to the status of a committee, enable committees to make use of boards as their agents in regard to matters under the direct control of the committee, and provide for the decision of disputes between committees, boards and municipal committees.

26. Section 46 provides for the employment of officers and servants by committees and boards, subject to such rules as may be made for the purpose by the Local Government, and gives certain powers to the Deputy Commissioner to control improper appointments by second class committees or boards, subject to an appeal to the Commissioner of the division.

27. Section 47 provides for contributions by committees or boards for the pensions, gratuities and leave-allowances of Government officials whose services are wholly or partially placed at their disposal, and section 48 for pensions, gratuities or leave-allowances to other servants. Special provision is made for gratuities on retirement in the case of servants appointed before the passing of the Act, as it was not clearly understood in 1871 that officials retaining service under the committees ceased to be servants of Government and lost their claims to pension; and when this was discovered, it was found that existing financial rules did not admit of their subscribing under the Pension Code to retain their claims to pension from Government. Such servants, therefore, stand on a different footing from servants hereafter appointed, whose pay will necessarily be calculated with reference to the absence of any right to pension, unless they are permitted to subscribe for pension on first appointment, and the committee or board employing them undertakes to pay the necessary subscriptions.

28. Sections 49 to 57 provide for the control to be exercised over committees and boards by Government or its officers. The powers conferred are in most cases similar to those

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land. It also includes a person holding land the land-revenue of which has been wholly, or in part, released, compounded for, redeemed or assigned.

"Annual value." "Annual value" means—

(1) double the land-revenue for the time being assessed on any land, whether such assessment be leviable or not; and

(2) when the land-revenue has been permanently assessed, or has been wholly or in part compounded for or redeemed, double the amount which, but for such permanent assessment, composition or redemption would have been leviable:

[New.] Proviso. Provided that, in all cases when the improvement of the land due to canal irrigation has been excluded from account in assessing the land-revenue, and a rate has been imposed in respect of such improvement under the name of owner's rate or of water-advantage rate or of revenue, then such rate or revenue shall be added to the land-revenue for the purpose of computing the annual value.

"Year." "Year" means the year commencing on the first day of April.

"Prescribed day." "Prescribed day" means such day as the Local Government may, from time to time, prescribe.

"Notification." "Notification" means a notification published by the authority of the Local Government in the official Gazette.

"Notified." "Notified" means notified in the official Gazette.

"Committee." "Committee" means a district committee constituted under this Act.

"Board." "Board" means a local board constituted under this Act.

"Deputy Commissioner." "Deputy Commissioner" means the Deputy Commissioner of a district, and any officer specially appointed by the Local Government to perform the functions of a Deputy Commissioner under this Act.

Constitution of Committees and Boards.

Act V of 1878, section 1.] Constitution of committees and boards. 3. *(1)* Subject to the provisions of this Act, the Local Government, by notification, may, from time to time, constitute a committee for each district, and a board or boards within the limits of any district, and shall define, and may from time to time alter, the areas over which such committees and boards shall have jurisdiction.

Act I of 1883, section 3.] *(2)* Such portions of districts as are for the time being included in the limits of a military cantonment or of a municipality shall be excluded from such areas except as regards liability to assessment for the tax hereinafter called the local rate.

[New.] Time for committees and boards coming into existence. 4. From the date on which any committee or board is constituted under section 3 of this Act, the Panjáb Local Rates Act, 1878, shall be repealed throughout the area under the jurisdiction of such committee or board. But all rates imposed, sums credited to the Local Government, committees appointed, and notifications published under the said Act, shall be deemed to have been respectively imposed, credited, appointed and published under this Act.

Act V of 1878. Repeal of Act V of 1878.

And all assignments or allotments made under the said Act for expenditure by district committees shall be deemed to be contributions made by Government under this Act to district or board funds.

[New.] Classification of committees and boards. 5. *(1)* The Local Government may, from time to time, by notification, declare that any committee or board shall be deemed to be a committee or board of the first or second class.

(2) A committee or board so classed shall thereupon within its area exercise the powers, and perform the duties, conferred upon or assigned to committees or boards of the first or second class respectively by this Act, or by the Local Government under this Act.

[Act V of 1878, section 1.] Number, appointment and election of members. 6. No committee or board shall consist of less than six members.

Such members may be appointed either *ex officio*, or by nomination, or by election, or some by one and some by any other of such methods, as the Local Government, from time to time, directs; and shall hold office for such time as the Local Government may, by rule, direct:

Proviso. Provided that—

(1) when the Local Government has directed that all or any of such members shall be appointed by election, they shall not thereafter be appointed by any other method unless—

(*a*) the electors fail to return a sufficient number of members; or,

(*b*) a sufficient number of candidates fail to appear; or

(*c*) a majority of electors by vote declare that they so desire; or

(*d*) by order of the Local Government, subject to the sanction of the Governor General in Council, for any other good and sufficient reason affecting the public interests:

(2) except with the approval of the Governor General in Council, or unless salaried officers of Government be appointed by election, not less than two-thirds of the members of every committee or board shall be persons other than salaried officers of Government: and

[Act V of 1878, section 1.] (3) not less than one-half of the members of such committee or board shall be landholders in the district.

[Act IV of 1878, section] Powers of the Local Government as to removal of members and filling vacancies. 7. *(1)* The Local Government may, from time to time, remove any member of any committee or board appointed by election or by nomination.

(2) The Local Government may remove any member appointed by election—

(*a*) if such member is, in the opinion of the Local Government, unfit to be a member of such committee or board on the ground that he is or has been convicted of an offence punishable with imprisonment or required to give security for good behaviour under the provisions of the Code of Criminal Procedure;

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(Incorporation and Vesting of Property; Powers and Duties of Committees and Boards—Sections 8-11.)

(*b*) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace and order or, when he is a salaried officer of Government, inconsistent with the proper discharge of his official functions;

(*c*) if for six calendar months he absents himself from the meetings of the committee or board without such cause as shall appear to the Local Government to be reasonable.

(3) Except as above provided, members appointed by election shall not be removed by the Local Government.

(4) The Local Government may, from time to time, add to the number of any committee or board, and, subject to the provisions of section 6, fill up vacancies among the members, or cause such vacancies to be filled up by election.

Chairman.

8. *(1)* Subject to any rules made from time to time in this behalf by the Local Government, a chairman shall be appointed either *ex officio*, or by nomination, or by election, for every committee and board, and shall hold office for such term as the Local Government directs.

(2) The Local Government shall, from time to time, determine, as regards each committee and board, or as regards any class or classes of committees or boards, whether the chairman shall be appointed *ex officio*, or by nomination, or by election.

Incorporation and Vesting of Property.

[1 of 1878, section 9.]

Incorporation of committees or boards.

9. The Local Government shall have power to declare, by notification, that any committee or board shall be a body corporate by the name of its district or locality, or by such other name as it may select, and that the committee or board shall, subject to the provisions of this Act, have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, in trust for the purposes of this Act; and, subject to this Act and to any rules made by the Local Government, from time to time, in this behalf, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of its constitution:

Proviso.

Provided that no committee or board shall transfer immoveable property or money invested in the public [illegible] without the sanction, in each case, of the Local Government.

Power to vest property in committees and boards.

10. The Local Government may, from time to time, by notification, direct that any property, moveable or immoveable, which is vested in the Secretary of State for India in Council and is situate in the Panjáb, shall vest in any committee or board which has consented to accept such property in trust for the purposes of this Act; and thereupon that property shall vest in such committee or board in trust as aforesaid, subject to all debts, liabilities and obligations (if any) affecting that property, and subject to the right of resumption by Government on payment of compensation for improvements effected by the committee or board or loss of income derived therefrom.

Powers and Duties of Committees and Boards.

[Act I of 1878, section 9.]

Matters to be administered by committees and boards.

11. The Local Government may, by notification, from time to time, empower any committee or board to undertake, in whole or in part, the control and administration of all or any of the following matters within the areas of their respective jurisdictions:—

(*a*) all property vesting in such committee or board under sections 9 and 10 of this Act;

(*b*) the construction, repair and maintenance of roads and other means of communication;

(*c*) the maintenance, visiting and management of schools, hospitals, dispensaries, markets, rest-houses, saráís and other public institutions, and the construction and repair of all buildings connected with these institutions;

(*d*) the training of teachers and the establishment of scholarships;

(*e*) the supply, storage and preservation from pollution of water for drinking and cooking purposes, the construction and repair of embankments, and the supply, storage and control of water for agricultural purposes;

(*f*) the preservation of the soil on the ridges and slopes, and in the valleys, of hilly tracts and in submontane tracts, the prevention of landslips and of the formation of ravines and torrents, and the protection of land from erosion, or the deposit thereon of sand, gravel or stones, the reclamation of lands injured by torrents and sand deposits, and the drainage and reclamation of swamps; [Act VII 1878, sec 35.]

(*g*) the planting and preservation of trees;

(*h*) the construction, repair and maintenance of famine preventive works, and the establishment and maintenance of relief-works, relief-houses and relief-hospitals, and other measures in the time of famine or scarcity;

(*i*) cattle and commercial fairs, agricultural shows and industrial exhibitions;

(*j*) any other local works or measures likely to promote the health, comfort or convenience of the public, or the agricultural and industrial prosperity of the country;

(*k*) the establishment and management of pounds, including, where the Cattle-trespass Act of 1871 is in operation, all the functions of the Local Government and the Magistrate of the district under sections 4, 5, 6 and 7 and clause (*a*) of section 18 of that Act; I of 1871

(*l*) the management of such public ferries as may be entrusted to their charge under section 7A of the Northern India Ferries Act of 1878, as amended by sections 75 and 76 of this Act; XVII 1878.

(*m*) any other matters which the Local Government, with the previous sanction of the Governor General in Council, may declare to be fit and proper matters to be taken under the control and administration of

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Proviso.

Provided that, when any committee or board is empowered under this section to undertake the control and administration of any of the aforesaid matters, the Local Government shall provide such committee or board with such funds or sources of income as the Local Government and the committee or board shall deem sufficient to maintain such control and administration in its existing state of efficiency.

Power of committees and boards to contract.

12. Subject to the provisions of this Act and of any rules made by the Local Government, from time to time, in this behalf, every committee and board shall have power to contract and do all other things necessary for the purposes of their constitution.

Taxation.

[Act V of 1878, section 4.]

The local rate.

13. All land shall be liable to the payment of a rate, to be called the local rate, not exceeding one anna for every rupee of its annual value, and not less than so many pies for every such rupee as the Local Government, from time to time, directs. Such local rate shall be independent of and in addition to, land-revenue.

[New.]

Committees may be empowered to fix the rate.

14. *(1)* Within the limits aforesaid, and subject to such rules as may be framed by the Local Government, any committee duly empowered by notification may determine the proportion which shall be borne by the rate to the annual value of land situated within the local jurisdiction of such committee.

Local Government to determine the rate in certain cases.

(2) Where no committee shall have been empowered to determine the proportion which the rate shall bear to the annual value of land, such proportion shall be determined by the Local Government.

[New.]

Road, school and post cesses to merge in the rate.

15. From such date after the passing of this Act as may be notified in respect to each district or portion of a district by the Local Government, all authorized rates and cesses for the maintenance of roads, schools and district-posts shall merge in and become part of the local rate, and no rate or cess other than the local rate shall be thereafter leviable for such maintenance.

[Act V of 1878, section 4.]

Local rate by whom payable.

16. When the proportion which the local rate, if any, shall bear to the annual value has been determined by any committee under section 14, clause (1), or by the Local Government under section 14, clause (2), the local rate shall be paid by the landholder:

Proviso.

Provided—

(1) that wherever the landholder pays the land-revenue in kind to any assignee of revenue or any village-headman, such assignee of revenue or village-headman shall be responsible for the payment of the local rate instead of the landholder, and no demand shall be made by any such assignee or village-headman on such landholder in respect of the payment of any such rate; and

(2) that the Government, where it has hitherto paid the local rate on trini, shall continue to pay it during the currency, in each case, of any existing trini lease.

[Act V of 1878, section 5.]

Power to recover a share of the rate from tenant.

17. Whenever a local rate is charged on a landholder in respect of lands held by a tenant with a right of occupancy holding at a favourable rent, such landholder may realize from such tenant a share of the said rate, bearing the same proportion to the whole rate as the excess of the annual value over the rent paid by such tenant bears to half the annual value.

Other powers of taxation conferred on committees and boards.

18. Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, any committee duly empowered under section 14 to determine the proportion which the local rate shall bear to the annual value may impose such taxes as may be approved by the Local Government:

Provided that—

(1) no such taxes shall be imposed in respect of any property subject to the local rate,

(2) no such taxes shall be imposed except—

(*a*) to enable the committee to make a reduction in the local rate; or

(*b*) when the funds and sources of income placed at the disposal of the committee and boards of a district by and under this Act are insufficient to provide for the matters under the control and administration of such committee and boards; and

(3) in the imposition of such taxes, the provisions of the Panjáb Municipal Act for the time being in force touching public notice, definition of persons and property to be taxed, objections to rates, procedure thereon, and the sanction of the Local Government, shall, as far as possible, apply. IV of 1878.

[Act V of 1878, section 14.] [Act IV of 1873, section 9.]

Recovery of rates.

19. All rates and taxes imposed under this Act, and all arrears of such rates and taxes, may be recovered as if they were arrears of land-revenue.

[New.]

Levy of fees.

20. With the previous sanction of the Local Government, or of such officer as the Local Government may authorize in this behalf, any committee or board may fix and levy school-fees and fees for the use of, or benefits derived from, any of the works specified in section 11, clauses (*d*), (*e*) and (*f*), and fees at cattle and commercial fairs, agricultural shows and industrial exhibitions held within their jurisdiction and under their control.

[Act V of 1878, section 15 (*a*).]

Local rate or tax how to be assessed and collected.

21. The Local Government may, by notification, from time to time, prescribe the persons by whom the local rate or any tax imposed under this Act shall be assessed and collected, and direct in what manner such persons shall be remunerated.

[Act V of 1878, section 13.]

Appeals.

22. In matters connected with the assessment and collection of any rate or tax leviable under this Act, an appeal shall lie from the order of any person authorized

under this Act to make assessments to such person as the Local Government appoints: Provided that such appeal shall be presented within 30 days from the date of such order. The order of such person on such appeal shall be final.

[New.] **23.** The Local Government, or any committee duly empowered in this behalf by the Local Government, may prescribe by what instalments and at what times any rate or tax leviable under this Act shall be payable. The order prescribing such instalments or times shall, when approved by the Local Government and duly notified, be binding on the persons liable to the rate or tax:

Instalments of rates and taxes.

Provided that the local rate leviable under section 13 shall be payable with the land-revenue.

Proviso.

[Act V of 1878, section 17, (c).] **24.** *(1)* The Local Government may, by notification, from time to time, exempt, wholly or in part, any portions of the territories under the administration of the Lieutenant-Governor from the operation of so much of this Act as relates to taxation, or remit or reduce any rate or tax imposed under this Act, or exempt any land or person from liability to pay the whole or any part of any rate or tax under this Act, and cancel such remission, reduction or exemption.

Powers of the Local Government to exempt from taxation;

(2) When measurements are necessary for the assessment of the local rate or of any tax imposed under this Act, the Local Government may, by notification, from time to time, direct such measurements to be made.

and to direct measurements.

[Act V of 1878, section 9.] **25.** Suits for the recovery from co-sharers, tenants or others of any sum on account of any rate or tax imposed under this Act, and suits on account of illegal exaction of such rate or tax, or for settlement of accounts connected therewith, shall, unless the Local Government shall otherwise direct, be cognizable by the Courts which for the time being have cognizance of suits for rent due on land.

Suits relating to rates and taxes under this Act cognizable by Courts having cognizance of suits for rent.

Finance.

[Act V of 1878, sections 8 and 9.] **26.** After deducting the expenses of collection, four-fifths of the net proceeds of all rates and taxes imposed under this Act shall be carried to the credit of the committee of the district within which they are levied. The remaining one-fifth shall be carried to the credit of the Local Government, and may—

Portion of rates and taxes to be credited to the Local Government and committees respectively.

(1) be allotted for expenditure by any committee or board, or

(2) be applied as the Local Government, from time to time, directs (*a*) for the benefit of the territories to which this Act extends, or (*b*) for the benefit of any district or districts or portions thereof, to provide for any of the matters upon which committees or boards may expend the funds at their disposal under this Act.

[New.] **27.** Subject to the provisions of this Act and to the sanction of the Deputy Commissioner, and in accordance with any rules made, from time to time, in this behalf by the Local Government, the committee shall determine in what proportion the rates and taxes levied in the district under this Act shall be retained by itself, or credited to the boards within the limits of the district, respectively.

Power of the committee to allot proceeds of rates and taxes as between itself and boards.

[New.] **28.** All fees levied under section 20 of this Act shall be credited to the committee or board by whose authority they are levied.

Crediting of fees levied.

[Act I of 1883, section 23.] **29.** The funds at the disposal of committees shall be called district funds, and shall consist of—

District funds.

(*a*) the proceeds of rates, taxes and fees credited to them under sections 26 and 28;

(*b*) all sums allotted to them from time to time by the Local Government under section 26, clause (1);

(*c*) all rents and profits accruing from public properties vested in the committee under this Act;

(*d*) all sums contributed to such funds by Government, committees, boards or private persons;

(*e*) all sums received by any committee or board in the discharge of functions exercised by them under this Act;

(*f*) all sums which the Local Government may, from time to time, declare to be assets of district funds.

30. The funds at the disposal of boards shall be called board funds, and shall consist—

Board funds.

(1) of all sums allotted to boards by the Local Government or by committees from any district funds; and

(2) of all fees, rents, profits and sums received by boards in the discharge of functions exercised by them under this Act otherwise than as the agents of committees.

31. Except as otherwise provided in this Act, no board shall incur expenses or undertake liabilities to any amount exceeding the limit imposed by the committee of the district in which the board has authority. But, subject to such limit, every board shall be entitled to retain and apply to the purposes of this Act any balance of board funds remaining at its credit at the close of any financial year.

[Act I of 1883, section 12.]

Right of boards to unspent balances and limits on their expenditure.

32. The balances standing at the credit of all district and board funds shall be kept in the Government treasury, unless the Local Government shall in any case otherwise specially permit.

Custody of district and board funds.

[Act I of 1883, section 23, clause (3).] **33.** Subject to such rules as the Local Government may, from time to time, in this behalf prescribe, district and board funds shall be at the disposal of committees and boards, respectively, and may be applied by them within the area of their jurisdiction, and (with the sanction of the Commissioner in the case of committees, and the sanction of the Deputy Commissioners in the case of boards) outside that area, to payment, in whole or in part, of the charges and expenses incidental to the several matters specified in sections 11, 46, 47 and 48,

Application of district and board funds.

and also in the case of committees to the following purposes:—

(*a*) the maintenance of the district-post;

(*b*) the provision of grants-in-aid to educational and medical institutions;

(*c*) the expenses attending the audit of the accounts of district and board funds;

(*d*) the payment of such portion of the cost of the Provincial Departments for Education, Sanitation, Vaccination, Medical Relief and Public Works as may be held by the Local Government to be equitably debitable to committees in consequence of services rendered to such committees by such Departments.

[Act V of 1878, section 17.] **34.** In the case of works or undertakings which benefit more districts than one, when the committees cannot agree, the Commissioner, or when the districts are in different divisions and the Commissioners of such divisions cannot agree, the Local Government, may determine what proportion of the expenses of the work or undertaking shall be borne by each of the district funds constituted within the districts benefited thereby; and such proportion shall be payable out of the several district funds accordingly.

Works or undertakings benefiting several districts.

[New.] **35.** In the case of works or undertakings of public benefit to persons residing within the jurisdictions of more boards than one in any district, when the boards cannot agree, powers similar to those conferred by section 34 may be exercised by the committee, subject to the sanction of the Deputy Commissioner.

Works or undertakings benefiting residents within the jurisdictions of several boards.

[Act I of 1883, section 37.] **36.** A committee or board may, from time to time, arrange with any other committee or committees or board or boards, or with any municipal committee or committees, for appointing, out of their respective bodies, joint committees for any purpose in which they are jointly interested, and for delegating to any such joint committee any power which might be exercised by either or any of the committees or boards concerned, and for framing or modifying regulations as to the proceedings of any such joint committee.

Joint committees of two or more committees or boards.

[Act I of 1883, section 34.] **37.** *(1)* Every committee shall appoint a finance committee consisting of not less than three of its members.

Annual estimates of income and expenditure of committees.

(2) Every committee shall, on or before a prescribed day in each year, hold a meeting at which the finance committee shall submit to the committee an estimate of the income and expenditure of the committee for the next financial year, in such form as the Local Government may, from time to time, by rule, prescribe.

(3) The committee shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The committee shall, on or before a prescribed day, cause copies of the estimate, as provisionally approved by it, to be sent to the Deputy Commissioner.

(5) The Deputy Commissioner shall, on or before a prescribed day, signify in writing to the committee his approval or disapproval of the estimate. When he disapproves of the estimate, he shall state the nature of his objection, whether with reference to any proposed expenditure on salaries, works or otherwise, which appears to him to be unnecessary or excessive, or with reference to any particular or particulars which appear to him to be erroneous, defective or improper. The committee shall then consider the matter, and either modify the estimate, so as to remove the objection, or refer it through the Deputy Commissioner to the Commissioner of the division. If the Commissioner concurs in the objection, he shall make such modification in the estimate as may, in his judgment, be necessary to remove the objection in whole or in part. If he does not concur in the objection, he shall pass the estimate, and his orders shall be final and binding on the committee.

(6) When the Deputy Commissioner has signified his approval of an estimate, or the committee has modified an estimate so as to remove the Deputy Commissioner's objections, or when the Commissioner has passed orders as provided in clause (5), no expenditure which is not provided for in the estimate as approved or modified shall be incurred during the year to which the estimate relates without the previous sanction of the Deputy Commissioner.

(7) The Local Government may, by notification, from time to time, declare the provisions of this section applicable to any board of the first class, and may, in like manner, cancel such declaration. While any such declaration is in force, the procedure of such board shall be regulated accordingly. In the absence of any notification under this clause, such procedure shall be regulated, in regard to the matters mentioned in this section, as the Local Government may, from time to time, by rule, direct.

[Act I of 1883, section 23, clause (4).]

[Act I of 1883, section 25.] **38.** Accounts of the receipts and expenditure of every committee and every board to which section 37 has been made applicable shall be made up to the last day of every financial year in such form as the Local Government, from time to time, prescribes, and shall be examined and audited as soon as may be after the end of each financial year by such persons as the Local Government, from time to time, appoints in this behalf, and may further be examined and audited periodically within the year in such manner as the Local Government, from time to time, may direct.

Annual accounts and annual and periodical audit.

[Act I of 1883, section 11.] **39.** Every board to which the provisions of section 37 have not been made applicable shall submit annually to the committee of its district, on or before such date as the committee may appoint in this behalf, a statement of the requirements, and an estimate of the probable receipts and expenditure, of the board for the coming financial year, and shall submit, as often as the committee may require, accounts of its receipts and expenditure. The committee shall signify in writing to the board its approval or disapproval of the estimate so submitted, and powers similar to those conferred on the Deputy Commissioner and Commissioner by section 37, clauses (5) and (6), shall be exercised, in regard to such estimate, by the committee and the Deputy Commissioner respectively:

Annual estimates and accounts of certain boards.

Panjáb Local Self-government Bill, 1883.
(Relations between Committees, Boards and Municipal Committees; Officers and Servants—Sections 40-47.)

Provided that, during the currency of any financial year, the Deputy Commissioner may sanction transfers of provision within the estimate finally approved, when inconvenience or undue delay would be caused by a previous reference to the committee.

The committee shall make arrangements, subject to the approval of the Deputy Commissioner, for the examination and audit of accounts submitted to it under this section, and may arrange for the publication of such accounts.

[I of 8, section clause (4).]

40. The funds at the disposal of boards to which section 37 has been made applicable shall, for such time as the declaration mentioned in clause (7) of that section is in force, be treated for the purposes of this Act as a separate district fund; and for such time the provisions of section 31 (so far as they relate to the imposition of a limit on expenditure and the acceptance of liabilities) and of section 39 shall not apply to such boards.

Exemption of certain boards from section 37 and certain provisions of section 31.

[I of section

41. Every committee and board shall cause a copy of every estimate provisionally or finally approved and of every annual account to be kept at its office; and any person paying rates or taxes under this Act may, at all reasonable times, inspect any such estimate or account without payment of any fee.

Inspection of estimates and accounts.

I of section

42. A statement of every annual account of a committee or board to which section 37 has been made applicable, showing the income of the district or board fund under each head of receipt, the charges for establishment, the works undertaken, the sums expended on each work and the balance, if any, of the fund remaining unspent, shall be prepared by the committee or board in such form as the Local Government, from time to time, prescribes; and an abstract of the same shall be published annually in the English and Vernacular official Gazettes, or in such other manner as the Local Government may, from time to time, direct.

Publication of abstract of accounts.

Relations between Committees, Boards and Municipal Committees.

43. *(1)* Subject to the provisions of this Act and of the rules framed thereunder, a committee shall have power to control the finances of the boards within its district to which section 37 has not been made applicable, and, in the case of all boards within its district, to deal with questions affecting—

Relations of boards to committees.

(*a*) the common interests of the district as a whole;

(*b*) the joint or conflicting interests of any two or more boards constituted within its district.

(2) The decisions of committees upon such questions shall be binding upon, and executed by, the boards concerned, subject to appeal to the Deputy Commissioner, or, when the Deputy Commissioner is a member of the committee, to the Commissioner.

[Act 1 of 1883, section 29, clause (1).]

44. Subject to the provisions of the last preceding section, a committee may direct any board constituted within its district to act as its agent in the management of any matters placed under the direct control and administration of the committee by notification under section 11. Such direction shall be obeyed by the board to which it is addressed.

Boards may be employed as agents of committees.

[New.]

45. If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more committees or boards, or between any municipal committee and any committee or board, the matter shall be referred for the decision—

Disputes.

(*a*) of the Deputy Commissioner if the committees, boards and municipalities are in the same district;

(*b*) of the Commissioner if the committees, boards or municipalities are in different districts; and

(*c*) of the Local Government if the committees, boards or municipalities are in different divisions and the Commissioners of such divisions are unable to agree as to the decision of the case.

Officers and Servants.

[Act I of 1883, section 12.]

46. *(1)* Subject to the provisions hereinbefore contained and to any rules which may, from time to time, be framed, altered or amended by the Local Government, with respect to the employment, payment, suspension and removal of officers and servants, every first class committee and every first class board may employ and pay such officers and servants as may be necessary and proper for the efficient execution of its duties. Subject to any such rules and to the provisions of this Act, the like powers may be exercised by committees and boards of the second class.

Employment of officers and servants.

(2) In the case of second class committees and second class boards, if at any time, in the opinion of the Deputy Commissioner,—

(*a*) the number of persons employed by the committee or board under this section, or the remuneration assigned by the committee or board to those persons, or to any particular person, is excessive, or

(*b*) any such person is unfit for his employment,

the committee or board shall, on the requirement of the Deputy Commissioner, reduce the number, or remuneration, of such persons, or, as the case may be, dismiss the unfit person:

Provided that any such committee or board may appeal against any such requirement to the Commissioner of the division, whose decision shall be final.

[Act I of 1883, section

47. In the case of Government officials, any committee or board may—

Pensions of Government officials serving committees and boards.

(1) if the services of such officials are wholly lent to it, contribute to their pensions, gratuities and leave-allowances in accordance with the rules for the time being in force; and

(2) if such officials devote only a part of their time to the performance of duties in behalf of the committee or board, contribute to their pensions, gratuities and leave-allowances in such proportion as may be determined by the Local Government.

Panjáb Local Self-government Bill, 1883.
(Control—Sections 48-54.)

[New.]

48. In the case of servants, not being Government officials referred to in section 47, any committee or board may—

Pensions of servants of committees and boards.

(1) grant leave-allowances and, in the case of servants appointed before the passing of this Act and not entitled to pension, and of servants drawing less than ten rupees a month, gratuities to such servants; and

(2) if empowered in this behalf by the Local Government—

(*a*) subscribe in behalf of such servants for pensions, gratuities and leave-allowances under the rules of the Government Leave and Pension Code for the time being in force;

(*b*) purchase from the Government or otherwise annuities for such servants on their retirement:

Provided that such pensions, gratuities, leave-allowances and annuities shall in no case exceed the sum to which, under the Government Leave and Pension Code for the time being in force, such servants would be entitled if the service had been service under Government.

Control.

[Punjab University Act, section 19.]

49. It shall be the duty of the Local Government, and of all Commissioners and Deputy Commissioners acting under its orders, to require that the proceedings of committees and boards shall be in conformity with this Act and with the rules for the time being in force under the same; and the Local Government may exercise all powers necessary for giving effect to its requisitions in this behalf, and may, among other things, by order in writing, annul or modify any such proceeding which is not in conformity with this Act and the said rules.

Duty of Local Government towards, and powers over, committees and boards.

I of section

50. *(1)* For the purposes of section 49, the Commissioner of the division and the Deputy Commissioner of the district may within their jurisdiction exercise such powers as shall, from time to time, be conferred upon them by rules made in this behalf by the Local Government, and may (among other things)—

Commissioner's and Deputy Commissioner's power of supervision.

(*a*) enter on, inspect and survey, or cause to be entered on, inspected or surveyed, any immoveable property occupied by committees or boards, or any work in progress under their direction;

(*b*) by order in writing call for and inspect any document in the possession or under the control of committees or boards for the purposes of this Act; and

(*c*) by order in writing, require committees or boards to furnish statements, accounts and reports.

(2) Every committee and board shall promptly comply with requisitions made under this and the last preceding section, and shall regularly submit copies of all its proceedings to the Deputy Commissioner, and shall further duly submit such periodical reports to the Deputy Commissioner or other authority as the Local Government may, from time to time, direct.

[Act I of 1883, section 29.]

51. When, in the opinion of the Deputy Commissioner, the execution of any order or resolution of a committee, board or joint committee, or the doing of any act which is about to be done or is being done, in pursuance of or under cover of this Act, is likely to cause injury or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace, he may, by order in writing, suspend the execution or prohibit the doing thereof within his district.

Power of Deputy Commissioner to suspend execution of orders, &c., of committees, boards or joint committees.

[Act 1883, section 30.]

52. *(1)* In cases of emergency the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a committee or board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the committee or board.

Powers of Deputy Commissioner in cases of emergency.

(2) If the expense and remuneration are not so paid, the Deputy Commissioner may issue a warrant directing the person having the custody of the balance of the district or board fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

53. *(1)* When the Commissioner, after enquiry, is satisfied that a committee or board of the first class has made default in performing any duty imposed on it by or under this Act, he may, by an order in writing, fix a period for the performance of that duty.

Power to provide for performance of duties in default of any committee or board.

(2) If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the committee or board.

(3) If the expense and remuneration are not so paid, the Commissioner may issue a warrant directing the person having the custody of the balance of the district or board fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

(4) The powers conferred upon the Commissioner by this section in respect to first class committees and boards shall, in respect to committees or boards of the second class, vest in the Deputy Commissioner.

54. When a Deputy Commissioner makes any order under sections 51, 52 and 53, clause (4), he shall forthwith forward to the Local Government through the Commissioner a copy thereof with a statement of the reasons for making it; and when the Commissioner makes any order under section 53, he shall forthwith forward to the Local Government a copy thereof with a statement of the reasons for making it.

Action of Deputy Commissioner and Commissioner to be immediately reported.

Panjáb Local Self-government Bill, 1883.
(Conduct of Business, Rules and Regulations; Suits by and against Committees and Boards—Sections 55-65.)

[Act I of 1883, section 32, clause (1).]

55. When the Local Government is satisfied that a committee or board has persistently made default in performance of the duties imposed on it by or under this Act, or otherwise by law, or has exceeded or abused its powers, or that there is any other good and sufficient reason affecting the public interests for superseding such committee or board, the Local Government may, by notification, in which the reasons for so doing shall be stated, declare the committee or board to be superseded:

Power to supersede committees or boards in case of default or abuse of powers.

Provided that, except in the case of civil commotion or great public emergency, such notification shall not be issued in regard to a committee without the previous approval of the Governor General in Council.

Proviso.

[Act I of 1883, section 32, clause (2).]

56. When a committee or board is superseded under section 55, the following consequences shall ensue:—

Consequences of supersession.

(*a*) The corporation, if any, constituted under section 9 of this Act shall cease to exist, and all property vested in the committee or board under this Act shall vest in the Secretary of State for India in Council.

(*b*) All members of the committee or board shall, from the date of the order, vacate their offices as such members.

(*c*) All powers and duties of the committee or board may be exercised and performed by such person or persons as the Local Government, from time to time, appoints in that behalf.

57. When any board is superseded, the Local Government may reconstitute the board or may transfer its functions to the committee of the district or any other board, altering the definition of local area. When any committee is superseded, the Local Government shall, as soon as in its judgment conveniently may be, reconstitute the committee.

Transfer of functions of superseded boards and constitution of new committees or boards.

Conduct of Business, Rules and Regulations.

[Act IV of 1873, section 15, and Act I of 1883, section 20.]

58. *(1)* Every committee and board may, from time to time, make rules as to—

Power to make rules as to business and affairs.

(*a*) the time and place of its meeting;

(*b*) the conduct of its business;

(*c*) the division of duties amongst members;

(*d*) the duties, salaries, appointment, suspension and removal of the officers and servants of the committee or board; and

(*e*) other similar matters:

(2) Provided that every rule made under this section must be consistent with this Act and with any rules made by the Local Government under this Act.

Proviso.

[Act IV of 1873, section 16.]

59. *(1)* Every first class committee and every first class board may make regulations for carrying out all or any of the purposes of this Act. The Local Government may, from time to time, confer the power of making regulations under this section upon any committee or board of the second class.

Power to make regulations.

(2) No regulation, and no alteration or repeal of, or addition to, a regulation, shall have effect until it has been confirmed by the Local Government.

60. All regulations made under this Act, and all rules made under section 58, and all alterations and repeals of, and additions to, such regulations and rules, shall, before coming into force, be published for such length of time and in such manner as the Local Government, from time to time, directs.

[Act IV of 1873, section 15.]

Regulations and rules to be published.

61. Whoever infringes any regulation made and confirmed as directed in this Act shall be liable to a fine not exceeding fifty rupees, and, in the case of a continuing infringement, to a further fine not exceeding five rupees for every day after notice from the committing of such infringement.

[Act IV of 1873, section 21.]

Penalty for infringement of regulations or non-payment of fine.

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

62. Prosecutions under this Act for infringement of regulations may be instituted by any committee or board, or by any person authorized by such committee or board in this behalf, before any Magistrate not being himself a member of such committee or board.

[Act IV of 1873, section 22.]

Prosecutions.

63. Fines imposed under this Act may be recovered in manner provided by the Code of Criminal Procedure for the time being in force.

[Act IV of 1873, section 23.] X of 1882.

Recovery of fines.

Suits by and against Committees and Boards.

64. *(1)* Every committee and board shall sue and be sued in the name of its chairman.

[Act IV of 1873, section 18.]

Suits by and against committees and boards.

(2) Every contract made on behalf of any committee or board in respect of any sum or property exceeding one hundred rupees in amount or value shall be in writing, and shall be signed by the chairman or vice-chairman (if any) and at least two other members of the committee or board. No contract, unless so executed, shall be binding on the committee or board in whose behalf it is made.

Contracts of committees and boards.

65. No member of a committee or board shall be personally liable for any contract made or expense incurred by or in behalf of the committee or board; but the funds from time to time in the hands of the committee or board shall be liable for, and chargeable with, contracts duly made as aforesaid.

[Act IV of 1873, section 18.]

Liability of members of committees and boards.

Every member of a committee or board shall be personally liable for any misapplication of money entrusted to the committee or board to which he has been a party, or which happens through, or is facilitated by, his neglect of his duty;

Panjáb Local Self-government Bill, 1883.
(Rules; Supplementary and Temporary Provisions—Sections 66-70.)

And he shall be liable to be sued for the same in such Court as the Local Government directs as for money due to the Secretary of State for India in Council.

[Act IV of 1873, section 19.]

66. No suit for damages or compensation for wrongful acts shall be brought against a committee or board, or any of its officers or persons acting under its direction, for anything done or purporting to be done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the committee or board, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Bar of certain suits in absence of one month's notice of cause of suit.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within six months next after the accrual of the right to sue, and not afterwards.

And if any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Rules.

67. So far as may be consistent with the provisions of this Act—

Power of the Local Government to make rules.

(1) the Governor General in Council may, from time to time, make and alter general rules or special orders for the regulation of taxation under section 18;

(2) the Local Government may, for any committee or board, or any class of committees or boards, from time to time, make and alter rules for—

(*a*) the classification of committees and boards under section 5, clause (2);

(*b*) the mode and time of appointment or election of members of boards and committees, the term of office, remuneration and allowances (if any), and the qualifications and disqualifications of such members, and the qualifications and disqualifications of voters under section 6, and generally for regulating all elections under this Act;

(*c*) the appointment of a chairman under section 8;

(*d*) regulating powers of committees and boards incorporated under section 9 to transfer property;

(*e*) regulating the powers of committees and boards to contract and do other things necessary for the purposes of their constitution;

(*f*) the determination by committees of the amount of the local rate under section 14;

(*g*) the confirmation of assessments and the remuneration of persons employed to collect rates and taxes under section 21;

(*h*) the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district under section 27;

(*i*) the application of district and board funds under section 33;

(*j*) the form of estimate of income and expenditure under section 37, clause (2);

(*k*) the financial procedure of first class boards under section 37, clause (7);

(*l*) the form of annual accounts and the manner of periodical audit under section 38;

(*m*) the publication of abstracts of accounts under section 42;

(*n*) the employment, payment, suspension and removal of officers and servants under section 46;

(*o*) the powers of supervision to be exercised by Commissioners and Deputy Commissioners under section 50;

(*p*) the publication of rules and regulations under section 60;

(*q*) the conduct of proceedings of committees and boards, including the fixing of a quorum, the nomination or election of a vice-chairman, the formation of sub-committees, and the delegation of powers to such sub-committees; [Act 1883, section 34, clause (*a*)]

(*r*) the appointment and payment of auditors of the accounts of committees and boards; and

(*s*) generally for determining the relations between committees and boards, and for the guidance of committees, boards and Government officers in all matters connected with the administration of this Act.

All such rules and alterations of rules shall be duly notified, and no rules or alteration of rules under clause (2) (*b*) shall come into operation until three months after they have been so notified.

68. The Local Government shall, before making any rules under section 67, publish, in such manner as it may deem sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

[Act 1883, section 35.]

Procedure for making rules under section 67.

Supplementary and Temporary Provisions.

69. Where any land is required for the purposes of this Act, the Local Government may, on the request of a committee or board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on the payment by the committee or board of the compensation awarded under that Act, the land shall vest in the Secretary of State for India in Council, or, if the committee or board is incorporated under section 9, in such committee or board.

[Act I of 1... section 3...] X of 1870.

Acquisition of land.

70. *(1)* All rates for the maintenance of roads, schools or the district-post, for the payment of which provision has been made in any settlement-record previous to the passing of this Act, or which have been habitually levied by Government, shall be deemed to have been and to be legally imposed, and to have been and to be legally recoverable as if they were arrears of land-revenue payable directly to Government and due on the land in respect of which they are payable.

[Act I of 1... section ...]

Confirmation and recovery of existing rates.

Panjáb Local Self-government Bill, 1883.
(Amendment of the Northern India Ferries Act of 1878—Sections 71-76.)

(2) Notwithstanding anything herein contained, this section shall come into force from the date of the passing of this Act throughout the territories administered by the Lieutenant-Governor of the Panjáb.

I of section

71. If any member, officer or servant of a committee, board or joint committee appointed under this Act is directly or indirectly interested in any contract made with that committee, board or joint committee, he shall be deemed to have committed an offence under the Indian Penal Code, section 168.

Penalty on member, officer or servant being interested in contracts made with a committee, board or joint committee.

XLV of 1860

[New.]

72. Nothing in, or done under, this Act shall prejudicially affect the rights of any officer or servant appointed before the passing of this Act as to tenure of office, salary or pension.

Saving of rights of existing officers and servants.

I of section

73. In all matters connected with this Act the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

General powers of Local Government and Commissioners.

74. The Local Government may, by notification, exempt any district or part of a district, or any committee or board, from the operation of any of the provisions of this Act, except sections 1, 2, 3, 6, 7, 11, 26, 49, 50, 51, 52, 53, 54, 55, 56, 57, 67, 68, 69, 70, 72 and 73, and may in like manner cancel such exemption.

Power of the Local Government to make exemptions.

While such exemption is in force, the Local Government may make rules to provide, in respect to such district, part of a district, committee or board for the matters dealt with in this enactment:

Provided that the Local Government shall have no power, except as therein authorised, to impose any local rate or tax.

Proviso.

Amendment of the Northern India Ferries Act of 1878.

75. After section 7 of the Northern India Ferries Act of 1878, the following shall be inserted, namely:—

[Act I of 1883, section 43.] XVII of 1878.

Amendment of the Northern India Ferries Act.

"7A. The Local Government may direct that any public ferry, wholly or partly within the area subject to the jurisdiction of a committee or board in any district in the territories under the administration of the Lieutenant-Governor, be managed by that committee or board, and may further direct that all or any part of the proceeds from such ferry be paid into the district or board funds; and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

Management of ferries may be vested in committees and boards.

76. In section 6 of the same Act, after the words "section seven," and in section 17 of the same Act, after the words "section seven" where they first occur, the following shall be inserted, namely:—"and section 7A."

[Act I of 1883, section 44.]

Further amendment.

STATEMENT OF OBJECTS AND REASONS.

THE present law regulating the constitution and functions of district committees and providing for local (other than municipal) taxation in the Panjáb is contained in Act V of 1878. In addition, however, to the local rate levied on land under that Act, which falls at 8 pies on the rupee of the annual value, which, for the purposes of the Act, is assumed to be double the land-revenue, other cesses are levied under the name of road, school and district-post cesses, calculated at a percentage upon the land-revenue, which usually amounts to 2½ per cent. more. The levy of these cesses was provided for at the time of the settlement of the land-revenue of each district as a part of the settlement-arrangements, and in a few districts they are levied at a rate somewhat different from that prevailing in other parts of the province. The general result, however, is that the rates and cesses fall at 10⅔ pies on the rupee of assumed annual value, or at 10⅝ per cent. on the land-revenue.

2. The main object of the present Bill is to give effect to the proposals for the extension of local self-government explained by the Panjáb Government in its Resolution No. 1777, dated 7th September, 1882, by conferring upon district committees greater financial and administrative independence, constituting local bodies for smaller areas than districts, providing for the mode of appointing members of district committees and local boards, and increasing the number and extent of the services transferred to local management and control.

3. At the same time, it has been thought advisable to consolidate the road, school and district-post cesses with the local rate hitherto assessed under Act V of 1878, and, as that Act has been found defective in other respects, to repeal it and re-enact its provisions with such alterations as experience has shown to be necessary. These matters have already formed the subject of correspondence between the Panjáb Government and the Government of India.

4. In many of its provisions the Bill is an enabling rather than an enacting measure. While prescribing certain general principles in regard to the constitution of district committees and local boards, it leaves much to be provided for by rules to be framed from time to time by the Local Government. Different parts of the province vary so much in their stages of development as to render uniformity of system impossible. To provide for the varying requirements of different localities, it is necessary to confer upon the Local Government large powers of regulating details by rules.

5. The principal provisions of the Bill are as follows.

6. Sections 3 to 8 provide for the constitution of committees and boards.

7. Section 3 empowers the Local Government to constitute a committee for each district, excluding the area of military cantonments and municipalities, and to constitute boards for sub-divisions of districts.

8. Section 4 provides for the repeal of Act V of 1878 throughout the areas placed under the jurisdiction of committees or boards appointed under section 3.

9. Section 5 provides for the classification of committees and boards by the Local Government, and for the powers to be exercised by them.

10. Section 6 provides for the appointment of the members of committees and boards. They may be appointed *ex officio*, or by nomination, or by election, or some by one and some by another of such methods, the Local Government being empowered to regulate details. Provision is made that not less than one-half of the members shall be landholders in the district, while two-thirds shall ordinarily be non-officials. It is anticipated that in most parts of the province the majority of the members will be appointed by election, but it is impossible to prescribe this by law, owing to the variety of the circumstances of different localities. Where appointment by election has once been introduced, the circumstances under which this mode of appointment may afterwards be departed from are defined so far as possible. Similarly, in section 7, which provides for the removal of members by the Local Government and for filling up casual vacancies, special provision is made for the case of members appointed by election.

11. Section 8 enables the Local Government to provide for the appointment of the chairman of each committee or board. The appointment may be either *ex officio*, or by nomination, or by election, as, with reference to existing circumstances, Government may, from time to time, determine.

12. Sections 9 and 10 provide for the incorporation of committees and boards when the Local Government may think fit, for the vesting of property in them, and for the controlling of transfers by them of immoveable property or money invested in the public funds.

13. Sections 11 and 12 specify the powers and duties which may be conferred upon or entrusted to committees and boards, and provide that they must be supplied with adequate funds to maintain the services they are called upon to undertake in their existing state of efficiency. The list of matters which may be made over to them contained in section 11 is long, but it must not be supposed that all such matters will necessarily be made over to the committee and boards appointed in each district. The variety of local circumstances and the capacity of the committee and boards to perform the duty will have to be taken into consideration; and it will, therefore, be necessary for Government to decide in each case what services shall be made over either to the committee or to the several boards in each district. Sections 75 and 76 amend the Northern India Ferries Act in order to enable the Local Government to make over the management of ferries and their proceeds to committees and boards, when it may seem desirable to do so under section 11.

14. Sections 13 to 25 deal with the subject of local taxation. In part they replace the corresponding provisions of Act V of 1878, but section 13 departs from that Act in fixing the maximum local rate at one anna instead of eight pies per rupee of the annual value, in order to consolidate the road, school and district-post cesses with the local rate. One anna per rupee of the assumed annual value corresponds with 12½ per cent. on the annual revenue, which is 1⅓ per cent. in excess of the present rate of taxation; but it is not intended that there should be any general increase in the local taxation now levied. The maximum rate has been fixed at one anna instead of 10⅔ pies, partly for the sake of simplicity, and partly because in some tracts, where the land-revenue is small and lightly assessed, it may be found advantageous to have the power, without resort to further legislation, to increase the rate in order to provide for purposes clearly for the benefit of the neighbourhood.

15. Section 14 enables the Local Government to empower committees to fix the proportion to be borne by the rate to the annual value, or itself to determine such proportion.

16. Section 18 is the chief new proposal in this part of the Bill. It enables district committees, if empowered under section 14 to determine the incidence of the rate, to impose other taxes approved by the Local Government, subject to the proviso that no such tax shall be imposed on property which is liable to the local rate. This may be done either in order to lower the local rate, or to provide for the improvement of the services placed under the control of the district committee. This power is subjected to the same checks as the power of municipal committees to impose new taxes, and must also be exercised subject to any general rules or special orders which the Governor General in Council may make on this behalf. It will be observed that here again no general increase in local taxation is aimed at. As already explained, the proviso to section 11 requires the Local Government, when the control of new services is made over to committees or boards, to supply them with such funds or sources of

income as are sufficient to maintain such service in its existing state of efficiency. This section may be used to tax classes which at present bear no share in the local burdens, while they benefit largely from the expenditure from district funds. But it can only be used to enable the committee either to reduce the taxation on land subject to local rates, or to make better provision than before for objects of a local character the administration of which has already been entrusted to them.

17. Section 20 makes provision for empowering committees or boards to fix school-fees and other fees charged for the use of, or advantages derived from, institutions and works under the control of the committee or board. These fees are not of the nature of taxes, but are payments by persons availing themselves of services rendered.

18. Section 23 provides for fixing the time at which rates or taxes assessed under the Act shall be payable.

19. Sections 26 to 42 regulate the finance of district and board funds.

20. The deduction of one-fifth made from the net proceeds of rates and taxes and to be credited to the Local Government, which is provided for by section 26, practically corresponds with the deduction of one-fourth from the local rate of eight pies per rupee of annual value now made under Act V of 1878 for the purpose of increasing the funds available to meet famine charges. It so far differs that, under the section now proposed, the contribution to the provincial finances will increase or diminish in any district as local taxation is increased or reduced in amount. Under present financial arrangements, the annual provision for famine expenditure is treated as an Imperial charge, and it is therefore no longer necessary expressly to reserve the additional local rate imposed under Act V of 1878 for the purpose of meeting such expenditure; and under the new financial contract with the Local Government, the additional local rate has been treated as one of the branches of revenue placed at the disposal of the Local Government for provincial purposes. Though no longer specifically appropriated to famine expenditure, it thus sets free an equivalent sum in the Imperial Budget, which would otherwise have had to be allotted for provincial expenditure, and which is now included in the amount set apart for famine charges. It is now provided that it shall be applied by the Local Government, either in aid of district and board funds or otherwise, to purposes similar to those for which committees or boards may expend their own share of the rates and taxes.

21. Section 27 provides for the distribution of the proceeds of rates and taxes in any district between the committee and the several boards of the district; while section 28 places fees at the disposal of the committee or board by whose authority they are levied.

22. Sections 29 and 30 establish district and board funds, and state the sources of income to be included in each; and section 33 regulates the application of such funds. Section 31 gives the committee the power to place limits on the expenditure of boards within the district, but leaves unspent balances of board funds at the disposal of the board.

23. Sections 34 to 36 provide for cases in which co-operation between different committees or boards is necessary.

24. Sections 37 to 42 provide for the system of account, and the last clause of section 37 empowers Government to raise a first-class board to the status of a committee, in which case the funds at the disposal of the board will be treated as a separate district fund (section 40), and certain of the provisions of the Act regulating the relations between committees and boards in matters of account will cease to apply.

25. Sections 43 to 45 regulate the relations between committees and boards not raised to the status of a committee, enable committees to make use of boards as their agents in regard to matters under the direct control of the committee, and provide for the decision of disputes between boards and municipal committees.

26. Section 46 provides for the employment of officers and servants by committees and boards, subject to the rules as may be made for the purpose by the Local Government, and gives certain powers to the Deputy Commissioner to control improper appointments by second class committees or boards, subject to an appeal to the Commissioner of the division.

27. Section 47 provides for contributions by committees or boards for the pensions, gratuities and leave-allowances of Government officials whose services are wholly or partially placed at their disposal, and section 48 for pensions, gratuities or leave-allowances to other servants. Special provision is made for gratuities on retirement in the case of servants appointed before the passing of the Act, as it was not clearly understood in 1871 that officials retaining service under the committees ceased to be servants of Government and lost their claims to pension; and when this was discovered, it was found that existing financial rules did not admit of their subscribing under the Pension Code to retain their claims to pension from Government. Such servants, therefore, stand on a different footing from servants hereafter appointed, whose pay will necessarily be calculated with reference to the absence of any right to pension, unless they are permitted to subscribe for pension on first appointment, and the committee or board employing them undertakes to pay the necessary subscriptions.

28. Sections 49 to 57 provide for the control to be exercised over committees and boards by Government or its officers. The powers conferred are in most cases similar to those

given by the Central Provinces Local Self-government Act; but section 49 enables Government to annul or modify any proceeding of a committee or board not warranted by the Act, or by the rules framed under it.

29. Sections 58 to 63 enable committees and boards to make rules for the conduct of business, and give first-class committees and boards powers, similar to those possessed by municipal committees under Act IV of 1873, to make regulations for carrying out any of the purposes of the Act, subject to the confirmation of the Local Government. Similar powers may be conferred by the Local Government upon committees or boards of the second class.

30. Sections 64 to 66 make similar provisions as to suits by and against committees and boards to those contained in the Panjáb Municipal Act, IV of 1873; but section 66 has been so framed as to make it clear that the suits for which a special limitation is provided are only suits for damages or compensation for wrongful acts done, or purporting to be done, under the Act.

31. Section 67 enables the Governor General in Council to make rules or special orders for the regulation of the new taxes which may be imposed under section 18, and gives large powers to the Local Government to make rules for the various purposes which the Act leaves to be regulated by such rules.

32. Section 1 enables the Local Government to apply the Act gradually in different parts of the province, as suitable arrangements can be made; and the large powers given to the Local Government of regulating various matters by rules will facilitate the adaptation of the provisions of the Act to the circumstances of the different parts of the province where some progress in the direction of local self-government is practicable. Section 74 has been added, but for the present tentatively, and with a view to further consideration, to enable the Local Government to exempt, by notification, any district or part of a district, or any committee or board, from the application of the less essential provisions of the Act, should these be found unsuited to local requirements, and to substitute such rules as may be found suitable.

33. In the interpretation-clause (section 2), the definition of land-revenue has been added, and that of annual value amended, to provide for some of the points in regard to which Act V of 1878 has been found defective. The local rate has, in practice, been charged upon the grazing dues levied in the Southern Panjáb, upon the owner's rate assessed on lands irrigated from permanent canals, and upon the similar rates levied on lands irrigated from inundation canals; but it is desirable that this practice should be expressly authorized by law.

The 23rd May, 1883.

D. G. BARKLEY.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 23, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th June, 1883:—

No. 14 of 1883.

A Bill to amend the Cattle-trespass Act, 1871.

I of 1871.

WHEREAS it is expedient to amend the Cattle-trespass Act, 1871; It is hereby enacted as follows:—

I of 1871.

Power for Local Government to transfer functions of District Magistrate and Local Government to local authority and direct that surplus receipts be credited to local fund.

1. The Local Government may, from time to time, by order notified in the local official Gazette—

(*a*) transfer to any local authority, within any part of the territories under its administration in which the Cattle-trespass Act, 1871, is in operation, all or any of the functions of the Local Government and the Magistrate of the district under sections four, five, six, seven, twelve, fourteen and seventeen, and clause (*a*) of section eighteen, of that Act, within the local area subject to the jurisdiction of the local authority; or I of 1871.

(*b*) direct that the surplus accruing in any district under section eighteen of that Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district,

and may from time to time, in like manner, cancel any order made under this section.

Definitions.

2. In this Act—

"Local authority" means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area; and

"local fund" means any fund under the control or management of a local authority.

STATEMENT OF OBJECTS AND REASONS.

By the Central Provinces Local Self-government Act, 1883, (I of 1883), certain functions which under the Cattle-trespass Act (I of 1871), are to be performed by the Local Government or the Magistrate of the District are transferred to the local authorities constituted under the first-mentioned Act, and the surplus proceeds arising under section 18 of the Cattle-trespass Act are directed to be carried to the local funds which are placed under the control of the local authorities. Provisions to the same effect are embodied in the Bill now pending in the Legislative Council of the Lieutenant-Governor of Bengal for the amendment of the system of Local Self-government in that province and in the Bills now pending in the Legislative Council of the Governor General for the amendment of the system of Local Self-government in the North-West Provinces and in the Panjáb. But doubts have been entertained whether, inasmuch as these provisions amount to an amendment of the Cattle-trespass Act, which is an Act of the Governor General in Council, their enactment would not be beyond the powers of a local legislature such as the Legislative Council of the Lieutenant-Governor of Bengal. It has therefore been thought desirable to amend the Act in such a way as to enable Local Governments to make the requisite changes by executive order.

2. The following extracts from the Cattle-trespass Act will explain the nature of the powers which it is proposed by the Bill to confer on Local Governments:—

"4. Pounds shall be established at such places as the Magistrate of the District, subject to the general control of the Local Government, from time to time directs.

"The village by which every pound is to be used shall be determined by the Magistrate of the District.

"5. The pounds shall be under the control of the Magistrate of the District; and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

"6. The Magistrate of the District shall also appoint for each pound a pound-keeper:

"Provided that, in the Presidency of Fort St. George, the heads of villages, and, in the Presidency of Bombay, the police pátils, or (where there are no police pátils) the heads of villages, shall be *ex-officio* the keepers of village-pounds.

"Every pound-keeper appointed by the Magistrate of the District may be suspended or removed by such Magistrate.

* * * * * * * *

"7. Every pound-keeper shall keep such registers and furnish such returns as the Local Government from time to time directs.

"12. For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine according to the following scale:—

* * * * * * * *

"All fines so levied shall be sent to the Magistrate of the District through such officer as the Local Government from time to time directs.

* * * * * * * *

"14. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to the officer in charge of the nearest police-station, or to such other officer as the Magistrate of the District appoints in this behalf.

* * * * * * * *

"If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place and time and subject to such conditions as the Magistrate of the District by general or special order from time to time directs:

"Provided that if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

"17. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

"The charges for feeding and watering deducted under section sixteen shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section thirteen.

"The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and, if no claim thereto be preferred and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

"18. Out of the sums received on account of fines and the unclaimed proceeds of the sale of cattle, shall be paid—

"(*a*) the salaries allowed to pound-keepers under the orders of the Local Government;

"(*b*) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act;

"and the surplus (if any) shall be applied, under orders of the Local Government, to the construction and repair of roads and bridges and to other purposes of public utility."

The 20th June, 1883.

C. P. ILBERT.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 30, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th June, 1883:—

No. 14 OF 1883.

A Bill to amend the Cattle-trespass Act, 1871.

I of 1871. WHEREAS it is expedient to amend the Cattle-trespass Act, 1871; It is hereby enacted as follows:—

Power for Local Government to transfer functions of District Magistrate and Local Government to local authority and direct that surplus receipts be credited to local fund.

I of 1871. **1.** The Local Government may, from time to time, by order notified in the local official Gazette—

(*a*) transfer to any local authority, within any part of the territories under its administration in which the Cattle-trespass Act, 1871, is in operation, all or any of the functions of the Local Government and the Magistrate of the district under sections four,* five, six, seven, twelve, fourteen and seventeen, and clause (*a*) of section eighteen, of that Act, within the local area subject to the jurisdiction of the local authority; or I of 1871.

(*b*) direct that the surplus accruing in any district under section eighteen of that Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district,

and may from time to time, in like manner, cancel any order made under this section.

Definitions. **2.** In this Act—

"Local authority" means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area; and

"local fund" means any fund under the control or management of a local authority.

STATEMENT OF OBJECTS AND REASONS.

By the Central Provinces Local Self-government Act, 1883, (I of 1883), certain functions which under the Cattle-trespass Act (I of 1871), are to be performed by the Local Government or the Magistrate of the District are transferred to the local authorities constituted under the first-mentioned Act, and the surplus proceeds arising under section 18 of the Cattle-trespass Act are directed to be carried to the local funds which are placed under the control of the local authorities. Provisions to the same effect are embodied in the Bill now pending in the Legislative Council of the Lieutenant-Governor of Bengal for the amendment of the system of Local Self-government in that province and in the Bills now pending in the Legislative Council of the Governor General for the amendment of the system of Local Self-government in the North-West Provinces and in the Panjáb. But doubts have been entertained whether, inasmuch as these provisions amount to an amendment of the Cattle-trespass Act, which is an Act of the Governor General in Council, their enactment would not be beyond the powers of a local legislature such as the Legislative Council of the Lieutenant-Governor of Bengal. It has therefore been thought desirable to amend the Act in such a way as to enable Local Governments to make the requisite changes by executive order.

2. The following extracts from the Cattle-trespass Act will explain the nature of the powers which it is proposed by the Bill to confer on Local Governments:—

"4. Pounds shall be established at such places as the Magistrate of the District, subject to the general control of the Local Government, from time to time directs.

"The village by which every pound is to be used shall be determined by the Magistrate of the District.

"5. The pounds shall be under the control of the Magistrate of the District; and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

"6. The Magistrate of the District shall also appoint for each pound a pound-keeper:

"Provided that, in the Presidency of Fort St. George, the heads of villages, and, in the Presidency of Bombay, the police pátíls, or (where there are no police pátíls) the heads of villages, shall be *ex-officio* the keepers of village-pounds.

"Every pound-keeper appointed by the Magistrate of the District may be suspended or removed by such Magistrate.

* * * * * * * *

"7. Every pound-keeper shall keep such registers and furnish such returns as the Local Government from time to time directs.

"12. For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine according to the following scale:—

* * * * * * * *

"All fines so levied shall be sent to the Magistrate of the District through such officer as the Local Government from time to time directs.

* * * * * * * *

"14. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to the officer in charge of the nearest police-station, or to such other officer as the Magistrate of the District appoints in this behalf.

* * * * * * * *

"If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place and time and subject to such conditions as the Magistrate of the District by general or special order from time to time directs:

"Provided that if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

"17. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

"The charges for feeding and watering deducted under section sixteen shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section thirteen.

"The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and, if no claim thereto be preferred and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

"18. Out of the sums received on account of fines and the unclaimed proceeds of the sale of cattle, shall be paid—

"(*a*) the salaries allowed to pound-keepers under the orders of the Local Government;

"(*b*) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act;

"and the surplus (if any) shall be applied, under orders of the Local Government, to the construction and repair of roads and bridges and to other purposes of public utility."

The 20th June, 1883.

C. P. ILBERT.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th June, 1883, and was referred to a Select Committee on the 27th idem:—

No. 15 OF 1883.

A Bill to amend the Native Passenger Ships Act, 1876.

VIII of 1876.

Preamble.

WHEREAS it is expedient to amend the Native Passenger Ships Act, 1876, with a view to provide for the better regulation of the passenger traffic between British India and ports in the Red Sea; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Native Passenger Ships Act, 1883;

Commencement.

and it shall come into force on such day as the Governor General in Council directs by notification in the *Gazette of India*.

VIII of 1876.

Addition to section 11 of the Native Passenger Ships Act, 1876.

2. After clause (*e*) of section 11 of the Native Passenger Ships Act, 1876, the following clause shall be added:—

"(*ee*) in the case of any ship sailing to any port in the Red Sea, that she is propelled principally by steam, and, if she is carrying more than one hundred passengers being Natives of Asia or Africa, that she has on board a medical officer licensed in accordance with rules to be made under this Act."

Substitution of new section for section 26 of the same Act.

3. For section twenty-six of the same Act, the following section shall be substituted:—

Bond where ship clears for port in Red Sea.

"26. In the case of every ship sailing from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for any such ship shall not grant the clearance unless and until the owner, agent or master of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of Rs. 5,000, conditioned—

"(*a*) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers; and

"(*b*) that the master and medical officer (if any) of the ship shall comply with on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships sailing between ports in British India and ports in the Red Sea as the Governor General in Council may, from time to time, make under section forty-six."

Amendment of section 27 of same Act.

4. In section twenty-seven of the same Act, for the word "thirty" the word "sixty" shall be substituted.

Addition to section 28 of the same Act.

5. To section twenty-eight of the same Act the following words shall be added:—"and the authority empowered to grant the same may refuse to grant a bill of health in the case of any ship on board of which the requirements of the rules made under section 46 are not complied with."

Addition of new sections after section 28 of same Act.

6. After section twenty-eight of the same Act, the following sections shall be added:—

Certain ships to carry medical officer.

"28A. Every ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers being Natives of Asia or Africa shall have on board a medical officer licensed in accordance with rules to be made under this Act.

Certain ships to be propelled by steam.

"28B. Every ship sailing from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Power for Governor General in Council to issue notification requiring medical inspection in case of certain passengers.

"28C. *(1)* The Governor General in Council may, from time to time, by notification in the *Gazette of India*, direct that no passenger of such class as may be specified in the notification shall be received

on board any ship sailing from any port in British India to any port in the Red Sea unless and until he has obtained a certificate from a medical officer to be appointed by the Local Government in this behalf, to the effect that he has been examined by that officer and is not suffering from any dangerously infectious or contagious disease, and is in a fit state of health to undertake the voyage to the port in the Red Sea for which he is bound.

(2) The Governor General in Council may cancel or alter, either in whole or in part, any notification which may at any time be issued under this section.

Addition of new sections after section 38 of same Act.

7. After section thirty-eight of the same Act, the following sections shall be added:—

"38A. If the master of any such ship as is referred to in section twenty-seven, or any medical officer in charge of any such ship, wilfully breaks, or omits or neglects to obey, any rule with regard to those ships made under section forty-six, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master or medical officer of certain ships disobeying rules.

"38B. If any ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers has not on board a medical officer as required by section 28A, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master of certain ships sailing without medical officer.

"38C. The owner and master of any ship sailing from or to any port in British India to or from any port in the Red Sea and not principally propelled by steam shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on owner and master of certain ships not propelled by steam.

"38D. If the master of any ship, while a notification under section 28C is in force, knowingly receives on board his ship any person in contravention of that notification, he shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees for each person so received, or with both."

Penalty on master receiving passenger in contravention of a notification under section 28C.

8. After clause (*b*) of section forty-six of the same Act, the following clause shall be added:—

Additions to section 46 of same Act.

"(*bb*) the licensing and appointment of medical officers in cases where they are required, under this Act, to be carried";

and after clause (*e*) of the same section the following clauses shall be added:—

"(*ee*) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

"(*eee*) the access of intermediate or between decks passengers to the upper deck.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend the Native Passenger Ships Act, VIII of 1876, with a view to provide for the better regulation of the pilgrim traffic between British India and Arabia. This traffic has formed the subject of correspondence between the Secretary of State, the Government of India and the various local maritime Governments in India. A careful consideration has brought the Government to the conclusion that the importance of the pilgrim traffic makes its detailed regulation imperative, and that, to secure uniformity of procedure, and thereby avoid the friction which must inevitably follow divergence between rules separately framed by different States, it is desirable that, in all the more important points, a common understanding should be come to among the Governments who are chiefly interested in the proper management of that traffic. The establishment of a practical coincidence between the general provisions of the local Turkish regulations and those of the law of India—the country which at present furnishes the largest number of pilgrims to the Hedjaz—can only be effected by diplomatic correspondence between the British and Turkish Governments. But, since experience has shown that the provisions of the Indian law as it at present stands are insufficient to meet the peculiar exigencies of this traffic, and that in some respects they require revision, it seems desirable, before attempting to bring about an assimilation of the British and Turkish laws, to make such amendments of our own law as are necessary to put it in a satisfactory state.

2. The Indian law on this subject is contained partly in the provisions of the Native Passenger Ships Act, 1876, and partly in those of the rules framed under that Act. With a view to the amendment of the latter, the Government of India has already submitted to the Secretary of State a copy of a draft set of rules, which have been framed on the model of those regulating the transport of emigrants from India to the English and French colonies, and which it proposes to issue under the Native Passenger Ships Act, 1876, as rules regulating the conveyance of Native passengers between the ports of India and of the Hedjaz. With a view to the amendment of the former, the present Bill has been prepared.

3. Section 2 adds to section 11 of the Native Passenger Ships Act, 1876, a provision requiring the certificate given under that section to contain in the case of a ship sailing to the Red Sea a declaration that she is propelled principally by steam, and when the ship carries more than 100 Native passengers a declaration that she has on board a licensed medical officer. The effect of this will be that such ships will not be able to obtain a port-clearance (see section 9) unless they comply with these requirements.

4. Section 3 amends section 26 of the Act, by requiring the bond given under that section to be conditioned for the observance of the provisions of the Act and of such rules with regard to Native passenger ships sailing to the Red Sea as the Governor General in Council may make under section 46 of the Act. The object of this amendment is to enable the Government of India to enforce the observance of its rules beyond the limits of its jurisdiction.

5. The substitution (by section 4 of the Bill) of 60 for 30 as the number of passengers which must be on board a ship in order that section 27 of the Act may apply follows as a necessary consequence of the provision that all ships are to be propelled by steam (see section 2 of the Act).

6. Section 5 empowers the authorities at Aden to refuse a bill of health to a ship if the requirements of the rules are not complied with.

7. The sections (28A, 28B and 28C) which section 6 adds to the Act require every ship sailing to or from the Red Sea and carrying more than 100 Native passengers to have a licensed medical officer, and every Native passenger ship sailing to or from the Red Sea to be propelled principally by steam, and empower the Governor General in Council to issue a notification directing that no passenger of such description as may be specified in the notification shall be received on board any such ship until he has obtained a certificate from a prescribed medical officer certifying that he is not suffering from any infectious or contagious disease, and is in a fit state of health to proceed to the port to which he intends to proceed.

With regard to section 28A, the Government has no doubt that the presence of a medical officer on board will serve to diminish many of the hardships from which pilgrims now suffer, especially if he is by rule made responsible for seeing that the sanitary and dietary arrangements on board are properly managed, and if he is liable to be disqualified for any breach of duty on his own part. It may not always be possible to secure Muhammadan medical men for this service, but endeavours will be made to supply officers of that persuasion in preference to others. Section 28B speaks for itself. Section 28C may have to be enforced, at the instance of the European powers, as a precaution against the possible introduction of epidemic disease by Indian pilgrims into Arabia.

8. Section 7 imposes penalties for breaches of the requirements of the Bill.

9. Lastly, by section 8, certain words are added to section 46 of the Act to enable the Governor General in Council to make rules to regulate the licensing of medical officers and the functions of those officers and of the officers of the ship generally, and ensure to the passengers free access to the upper deck.

The 20th June, 1883.

C. P. ILBERT.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th June, 1883, and was referred to a Select Committee on the 27th idem :—

No. 16 OF 1883.

Note.—B. B. in the margin of this Bill refers to the Bill submitted by the Chief Commissioner.

A Bill to authorize the making and to regulate the working of Street Tramways in Rangoon.

Preamble.

WHEREAS the Municipal Committee of the Town of Rangoon, by an agreement dated the 22nd day of June, 1882, a copy whereof is set forth in the schedule annexed to this Act, granted, for the considerations therein expressed, to John William Darwood, his heirs, executors, administrators and assigns, hereinafter called the grantee, the right to construct, maintain and use a tramway or tramways in Rangoon upon the terms subject to the conditions and in the manner mentioned in the said agreement, but the said agreement was made subject to the confirmation thereof by the Chief Commissioner of British Burma and to the recognition thereof by an Act of the Governor General in Council;

and whereas the said agreement was, on the 13th day of November, 1882, confirmed by the Chief Commissioner of British Burma; and it is now expedient to recognise it and give effect to it, subject to the provisions and limitations hereinafter contained; It is hereby enacted as follows :—

A.—Preliminary.

Short title. Commencement.

1. This Act may be called the Rangoon Tramways Act, 1883; and it shall come into force at once.

Definitions.

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

"Committee" means the Committee for the town of Rangoon appointed under the British Burma Municipal Act, 1874.

VII of 1874.

"Tramway," means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway.

[B. B., s. 2.]

"Street" means the way of any street, road, thoroughfare, passage or place along or across which any tramway authorised by this Act is or is intended to be laid, and includes the surface soil and subsoil of any such street, and the footway and drains of any such street, and any bridge, culvert or causeway forming part of any such street.

B.—Powers of Grantee generally.

Power to make, maintain and use tramways.

3. Subject to the provisions of this Act, and to the terms and conditions of the said agreement so far as the same are not inconsistent with this Act, the grantee may make, maintain and use any of the tramways for the construction, maintenance and use of which provision is made in the said agreement: [B. B., ss. 3, 4, 5, 6 & 7.]

Provided that any such tramway shall not be opened for public traffic until it has been inspected and certified by the engineer to the Committee to be fit for such traffic.

C.—Construction and Maintenance of Tramways and of Streets on which they are laid.

Power to grantee to break up streets.

4. Subject to the terms and conditions of the said agreement, the grantee may, from time to time, for the purpose of constructing, maintaining or renewing any tramway under this Act, open and break up any street, and therein or thereon lay sleepers and rails, and repair, alter or remove the same; and may, for the purposes aforesaid, do in and on any such street all other acts which may, from time to time, be necessary for constructing, maintaining or renewing the tramway. [33 & 34 Vic., c. 78, s. 26; [B. B., s. 12.]

Provided that he shall not, without the consent of the Committee, open or break up at any one time a greater length than one hundred yards of any street which does not exceed a quarter of a mile in length; and in the case of any street exceeding a quarter of a mile in length, he shall leave an interval of at least a quarter of a mile between any two places at which he may open or break up the street, and shall not open or break up at any such place a greater length than one hundred yards.

Grantee to keep the tramways and adjoining part of street in repair.

5. The grantee shall, at his own expense, at all times maintain and keep in good condition and repair, in such manner as the Committee from time to time directs, all tramways constructed by him under this Act, and so much of any street as lies between the rails of any such tramway; and in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway. [33 & 34 Vic., c. 78, s. 26; [B. B., s. 13.]

Obligations of grantee when he has broken up street.

6. When the grantee has for the purposes of section 4 or section 5 opened or broken up any portion of a street, he shall be under the following further obligations, namely :—

[25 & 34 Vic., c. 78, s. 27.] [B. B., s. 12.]

(*a*) He shall, with all convenient speed, and in all cases within six weeks at the most, unless the Committee otherwise consent in writing, complete the work for which the street has been broken up, and fill in the ground, and make good the surface, and, to the satisfaction of the Committee, restore the street to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

(*b*) He shall, in the meantime, cause the place where the street is opened or broken up, to be fenced and watched, and to be properly lighted at night, and,

(*c*) He shall make good all damage done to drains, sewers, water-pipes and gas-pipes, and to the wires or other materials or things used for any system of lighting, and whether belonging to the Committee, to the Government, or to private persons, and shall make compensation for any other damage done in the execution of the powers granted to him.

[34 Vic., c. 78, ss. 32 & 33] [B. B., s. 28.]

Reservation of Committee's power over streets.

7. *(1)* Nothing in this Act shall prevent the Committee from opening, breaking up, widening, altering, diverting or improving any street traversed by a tramway for the purposes for which they might otherwise under the law for the time being in force lawfully open, break up, widen, alter, divert or improve such street

Provided that—

(*a*) they shall cause as little detriment or inconvenience to the grantee as circumstances admit; and

(*b*) before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantee not less than eighteen hours previous notice of their intention to commence the work, specifying the time at which they will commence it.

(2) The Committee shall not be liable to pay to the grantee any compensation for injury done to the tramway by the execution of any work referred to in sub-section (1) or for loss of traffic occasioned by the reasonable exercise of their powers in connection with the same.

D.—Rights over Tramways and Streets on which they are laid.

[34 Vic., s. 34.] [B. B., ss. 8, 15.]

Grantee's exclusive right over tramways.

8. The grantee shall subject to the provisions of this Act and to the terms and conditions of the said agreement, have the exclusive use of his tramways for carriages with flange wheels or other wheels suitable only to run on a grooved rail.

[25 & 34 Vic., c. 78, s. 62.]

Provided that nothing in this Act shall affect

(*a*) The right of the public to pass along or across any part of any road, along or across which any tramway is laid, whether on or off the tramway with carriages not having flange wheels or wheels suitable to run on a grooved rail; or

(*b*) the right of the Commissioners for the Port of Rangoon, or of any other body or person entitled at the time of the commencement of this Act to work and maintain a tramway, to pass across any tramway constructed under this Act with carriages having flange wheels or wheels suitable to run on a grooved rail.

[33 & 34 Vic., c. 78, s. 57.] [B. B., s. 16.]

Grantee to have right of user only.

9. Notwithstanding anything in this Act, the grantee shall not acquire any right other than that of user of any street along or across which he lays any tramway.

[33 & 34 Vic., c. 78, s. 61.] [B. B., s. 27.]

Power of Committee and police to regulate traffic on streets.

10. Nothing in this Act shall affect the powers of the Committee or the police to regulate the passage of any traffic along or across any street along or across which any tramway is laid down, and the Committee or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantee as to the traffic of other persons.

E.—Traffic on Tramways.

[B. B., s. 9.] [33 & 34 Vic., c. 78, s. 45.]

Rate of fares.

11. The grantee may, from time to time, by a notice published in such languages and in such manner as the Chief Commissioner may prescribe, fix the rates of fares and charges for carrying passengers and goods in his carriages:

Provided that the rates of passenger fares shall not exceed one anna per mile for each passenger in the lower class and two annas per mile for each passenger in the higher or first class.

[B. B., s. 11.]

Mode of payment of fares.

12. The fares and charges by this Act authorized shall be paid to such persons at such places, upon or near to the tramways, and in such manner and under such regulations as the grantee may, by a notice published as aforesaid, from time to time prescribe.

[B. B., s. 22.]

Carriage of dangerous or offensive goods.

13. *(1)* No person shall be entitled to carry or to require to be carried on any tramway constructed under this Act any goods of a dangerous or offensive nature.

(2) Every person taking such goods with him on any such tramway shall before entering the carriage give notice of their nature to the servant of the grantee in charge of the carriage.

(3) Every person sending such goods by any such tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the book-keeper or other servant of the grantee with whom the same are left at the time of such sending.

(4) The grantee may refuse to take any parcel which he may suspect to contain goods of a dangerous or offensive nature, or require the same to be opened to ascertain the fact.

F.—Offences and Penalties.

[33 & 34 Vic., c. 78, s. 27.] [B. B., s. 17.]

Penalty for failure of grantee to comply with provisions of this Act.

14. If the grantee—

(*a*) constructs or maintains any tramway, or runs any car or carriage thereon otherwise than in accordance with the said agreement;

(*b*) opens any tramway for traffic before it has been inspected and certified in manner required by section 3;

(*c*) opens or breaks up any street otherwise than as permitted by this Act, or having opened or broken up a street fails to discharge any of the obligations imposed on him by section 6, clauses (*a*) and (*b*); or

(*d*) fails to keep the rails of any tramway and the portions of the street adjoining the same in repair as required by section 5

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the said agreement or to any other remedy against him), on complaint of the Committee or of any person injuriously affected thereby, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for each day after the first day during which the offence continues to be committed.

[B B., s. 18.] [32 & 34 Vic., c. 78, s. 49.]

Penalty for obstructing grantee in the exercise of his powers.

15. Any person who wilfully obstructs any person acting under the authority of the grantee in the lawful exercise of his powers in constructing, repairing or renewing a tramway, or injures or destroys any mark, made for the purpose of setting out the line of the tramway, shall be punished with fine which may extend to fifty rupees.

[B. B., s. 19.] [33 & 34 Vic., c. 78, s. 50.]

Penalty for interfering with tramway.

16. Any person who without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely,—

(*a*) interferes with, removes or alters any part of a tramway constructed under this Act or of the works connected therewith;

(*b*) does or causes to be done anything in such a manner as to obstruct any carriage using any such tramway; or

(*c*) knowingly aids or assists in the doing of such thing,

shall be punished with fine which may extend to one hundred rupees.

[B. B., s. 22.] [33 & 34 Vic., c. 78, s. 53.]

Penalty for taking or sending dangerous or offensive goods without giving notice.

17. Any person taking or sending by any tramway any goods of a dangerous or offensive nature without giving the notice required by section 13 shall be punished with fine which may extend to fifty rupees.

[B. B., s. 20.] [33 & 34 Vic., c. 78, s. 51.]

Penalty for avoiding payment of proper fare.

18. If any person travelling or having travelled in any carriage of the grantee avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit the carriage, he shall be punished with fine which may extend to ten rupees.

[B. B., s. 21.] [33 & 34 vic., c. 78, s. 52.]

Power of servant of grantee to arrest persons avoiding payment of fare.

19. Any servant of the Grantee, and any person called in by him for his assistance, may arrest and take to the nearest police-station any person who is discovered either in or after committing or attempting to commit an offence punishable under section 18, and whose name and residence is refused by him and is unknown to such servant or person, and the police-officer in charge of the police-station, on receiving a complaint that such an offence has been committed, shall adopt such legal measures as may be necessary to cause the accused person to be taken before a Magistrate with the least possible delay.

G.—Powers to make Rules.

[B. B., ss. 23, 24 & 25.] [33 & 34 Vic., c. 78, ss. 46, 47 & 48.]

Powers to make rules.

20. *(1)* The Committee in special meeting may, with the sanction of the Chief Commissioner, from time to time make such rules consistent with this Act as to the rate of speed, number of passengers, and mode of use of the tramways and as to the licensing and control of drivers, conductors and other persons having charge of the carriages of the grantee as the convenience and safety of the public may require.

(2) The grantee may, with the like sanction, from time to time, make rules consistent with this Act for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to him; and

for regulating the travelling in any carriage belonging to him.

(3) The authority making any rule under this section may prescribe as a punishment for the breach of it a fine which may extend to twenty rupees.

(4) All rules made under this section shall be published in the *British Burma Gazette*.

H.—Miscellaneous.

[B. B., [33 & 3 c. 78,

Construction of clause 15 of agreement.

21. For the purpose of clause 15 of the agreement set forth in the schedule annexed to this Act, the want of sufficient funds shall not be deemed to be a circumstance beyond the control of the grantee.

[B. B., s. 1

Exemption from certain municipal taxation.

22. The plant, rolling-stock and other vehicles, yards, workshops engine-sheds and depôts of the grantee shall, for a period of five years from the passing of this Act, be exempt from all municipal taxation except such lighting and water-rates as may from time to time be payable in respect of the yards, workshops, engine-sheds, and depôts.

[Model tramways Bill.]

Provisions as to general Acts.

23. Nothing in this Act shall exempt the grantee or any tramway constructed by him under this Act from the provisions of any general enactment relating to tramways now in force or which may hereafter be passed.

SCHEDULE.

ARTICLES OF AGREEMENT made this 22nd day of June 1882 BETWEEN THE MUNICIPAL COMMITTEE OF THE CITY OF RANGOON appointed under the British Burma Municipal Act, 1874, hereinafter called the said Committee, of the one part, and JOHN WILLIAM DARWOOD, of Rangoon, hereinafter called the said Grantee, of the other part. WHEREAS the said Committee have, subject to the confirmation thereof by the Chief Commissioner of British Burma and to the recognition of this Agreement by an Act of the Governor General of India in Council, agreed to grant to the said Grantee the right to construct, maintain and use a tramway or

tramways in Rangoon upon the terms and conditions hereinafter contained, NOW THESE PRESENTS WITNESS that in consideration of the covenants and agreements hereinafter contained and on the part of the said Committee to be performed, the said Grantee for himself, his heirs, executors, administrators and assigns doth covenant with the said Committee, so far as the covenants and conditions hereinafter contained are to be performed by the said Grantee and his heirs, executors, administrators and assigns, and the said Committee, for and in consideration of the covenants and agreements hereinafter contained and on the part of the said Grantee, his heirs, executors, administrators and assigns to be performed, do hereby covenant with the said Grantee, his heirs, executors, administrators and assigns so far as the covenants and agreements hereinafter contained are to be performed by the said Committee in manner following, that is to say :—

1. The said Committee grant to the said Grantee and his heirs, executors, administrators and assigns, all which persons are hereinaftar included in the words "the said Grantee," the right to construct, maintain and use a tramway or tramways, with single or double tracks or lines, and with all necessary sidings, turnouts, connections and lines, or tracks of whatever nature which may be required to connect the said tramway or tramways with the depôts of the said Grantee (but in the case of sidings and turnouts, only in such places as the said Committee may sanction), on the following routes and between such other places and by such other routes as may be hereafter approved of by the said Committee :—

The tramways referred to and now authorised for construction subject to such confirmation as aforesaid are :—

I.—A tramway with a double track or line along China Street and Pagoda road from the Strand road at its junction with China street to the Shway Dagone Pagoda.

II.—A tramway with a double track or line along the Strand road from East street to West street.

III.—A tramway with a double track or line along Dalhousie street from East street to the junction of Dalhousie street with the Strand road.

IV.—A tramway with a double track or line along Soolay Pagoda road from the Strand road to Montgomery street and along Montgomery street to the Phayre street railway station and along Montgomery road to the iron bridge near the bázár at Poozoondoung.

V.—A tramway with a double track or line from the Strand road down Barr street to Shafraz road round the Public Buildings back into the Strand road.

2. When approved of and desired by the said Committee, tramways with such tracks or lines as may be approved of by the said Committee from East street to Monkey point and along the Upper and Lower Poozoondoung roads to Monkey point, and along Merchant street, Fraser street and Canal street, and along Lower Kemmendine road from the Strand road, Kemmendine, to the junction of West street with the Strand road.

3. The said tramway or tramways to be constructed and maintained in such form and manner and upon such gradient and with such gauge as the said Committee may approve, and the cars and carriages intended to run on the said rails shall be such as are approved of by the said Committee.

4. The cars and carriages of the Grantee on the tracks or lines of the said tramway shall, unless with the consent of the said Committee, be worked with steam power of the most approved engine of the time only, and the said Committee shall have power at all times to make such regulations as to the rate of speed and mode and use of the said tracks or lines as the convenience and safety of the public using the streets may require.

5. The said Grantee shall have power from time to time to fix the rate of fares for carrying persons and goods in the cars or carriages to be run on the said tramway or tramways, provided that the rates of fares shall for any distance not exceed the rate of one anna per mile for the lower class and two annas per mile for the higher or first class for each passenger.

6. The said Grantee may, for the purpose of constructing and maintaining such tramways under such superintendence as is hereinafter specified, open and break up the soil and metalled way of the several streets, roads and bridges in the city and thereon lay sleepers and rails, and from time to time repair, alter or remove the same, and may, for the purposes aforesaid, remove and use all earth and materials in such streets, roads and bridges, and the said Grantee may, in and on such streets, roads and bridges, do all other acts which he shall from time to time deem necessary for constructing and maintaining street tramways in the said city, doing as little damage as may be in the execution of the powers hereby granted, and shall make good all damage done to drains, sewers, water and gas pipes, or to the wires or other materials or things used for any other system of lighting, and whether belonging to the said municipality or to private individuals, and shall make compensation for any other damage done in the execution of such powers.

7. Before the said Grantee proceeds to open or break up any street, road or bridge other than those referred to in sub-clauses from I to V in clause 1, he shall obtain the approval in writing of the said Committee to the tracks or lines of the said tramway being laid down on the said streets, roads or bridges, and the said Grantee, before opening or breaking up any street, road or bridge, shall give to the said Committee or their Executive Engineer, or other municipal officer duly appointed for that purpose, notice in writing of his intention to open or break up the same not less than three clear days before beginning such work, except in such cases of emergency arising from defects in any of the rails or other work, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

8. No street, road or bridge shall, except in cases of emergency as aforesaid, be opened or broken up, except under the superintendence of the said Committee or of their Executive Engineer or of some other municipal officer duly appointed for that purpose, and according to such plans as shall be approved of by him or them : provided always that if the said Committee or their Engineer or other such officer as aforesaid fail to attend at the time fixed for the opening of any

such street, road or bridge after having had such notice of the said Grantee's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said Grantee may perform the work specified in such notice without such superintendence as aforesaid.

9. When the said Grantee opens or breaks up the roadway or pavement of any street, road or bridge, he shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and make good the roadway or pavement so opened or broken up as aforesaid, and carry away the rubbish occasioned thereby and deposit the same for the use of the said Committee at such place as the Executive Engineer of the said municipality shall direct, and shall at all times whilst any such roadway or pavement shall be so opened or broken up cause the same to be guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such roadway or pavement where the same shall be open or broken up every night during which the same shall continue open or broken up.

10. If the said Grantee opens or breaks up any street, road or bridge without giving such notice as hereinbefore mentioned or in a manner different from that which shall have been approved of or determined as aforesaid except in the cases in which the said Grantee is hereby authorized to perform such work without any superintendence or notice, or if the said Grantee shall make any unnecessary delay in completing any such work or in filling in the ground or reinstating and making good, so far as is consistent with the existence of the said tramway, the roadway or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby, or if he neglect to cause the place where such roadway or pavement has been broken up to be guarded and lighted, he shall forfeit to the said Committee a sum not exceeding fifty (50) rupees for every such offence, and he shall forfeit an additional sum not exceeding fifty (50) rupees for each day during which any such delay or neglect as aforesaid shall continue after he shall have received notice thereof.

11. The said Grantee shall maintain and keep in repair such portion of the streets, roads and bridges in the City of Rangoon as shall be occupied by his tracks or lines, including therein not only the space between his tracks or lines but a space eighteen inches on either side thereof, and in consideration of the maintenance of such streets, roads and bridges as aforesaid, and of the yearly rent hereinafter mentioned to be paid by the Grantee, the plant, rolling-stock and other vehicles, yards, workshops, engine-sheds and depôts of the said Grantee shall be exempt from municipal taxation for a period of five years, except lighting and water-rates for such yards, workshops, engine-sheds and depôts.

12. The said Grantee shall be liable for any loss, damage or injuries that any person or persons may sustain by reason of any defect or want of repairs in any of the plant, rolling-stock or other properties of the said Grantee, or by reason of any carelessness, neglect or misconduct of his agents or servants in the management, construction or use of the said tramways or any portion thereof, or in the exercise of the power given by clauses 6, 7, 8, and 11; the same shall be made good by the said Grantee, and in the event of any suit being instituted against the said Committee in respect of any of the matters hereinbefore mentioned, the said Grantee shall, within fourteen days from the receipt of a notice thereof from the said Committee, settle the same; but if the said Grantee choose to defend such suit, he shall be at liberty to do so upon his undertaking to indemnify the said Committee against all losses, damages and expenses in respect thereof: provided always that, if the said Grantee fail to settle such suit or to indemnify the said Committee as is hereinbefore provided, it shall be lawful for the said Committee to settle the same without any consent or concurrence on the part of the said Grantee, and the sums which they shall have to pay in making such settlement, together with interest thereon at the rate of 8 per cent. per annum from the date of payment, and with all expenses which they may be put to, shall be recoverable as a debt from the said Grantee.

13. Nothing in this agreement shall be construed to prevent the said Committee from taking up any of the public streets or roads traversed by the said tramway for the purposes for which the said Committee may lawfully take up the same, and that the said Grantee shall have no right to claim cost from the said Committee for obstructing the tramway or causing delay in the traffic so long as the delay shall not be unreasonable for the work to be performed.

14. If the said Committee shall hereafter alter the level of any street, road or bridge along or across which any tramway by this agreement authorized is laid or authorized to be laid, the Grantee shall alter or (as the case may be) lay his rails to suit the altered level of such street, road or bridge, provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways, and in any case so as not to stop or prevent the free use or working thereof.

15. If at any time after the opening of any tramway for traffic the said Grantee shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the said Grantee), it shall be lawful for the said Committee, without any previous notice to the said Grantee, to remove the tramway or part of the tramway so discontinued, and the said Grantee shall pay to the said Committee the cost of such removal and of the making good of the street, road or bridge, and the certificate of the said Committee or of their Engineer as to such cost shall be conclusive.

16. The provisions of this agreement shall remain and be in force for a term not less than twenty-one (21) years from the date thereof. The said Committee shall have the right of purchasing the said tramways with the plant, stores, rolling-stock, sheds, depôts and yards, and everything connected therewith after the expiration of the said twenty-one (21) years upon declaring its intention so to do within six months after the expiration of the said twenty-one (21) years; the amount to be paid in the event of such purchase shall be the actual *bonâ fide* value at the termination of this agreement exclusive of any compensation for goodwill, premium on compulsory sale or other consideration whatever of the tramways and of the work and materials connected therewith,

and of the lands and buildings and all other the property of the Grantee, such value to be decided by mutual agreement or by arbitration as hereinafter provided.

17. The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said Grantee by any route or routes to be hereafter sanctioned by the said Committee and to the works connected with or incidental to such tramways, it being agreed that in the event of the municipality failing to declare its intention as above provided to purchase the property of the said Grantee the terms of this contract shall continue in force during the period of six months from the date of the determination of these presents and for a further period of six months, and if the said Committee shall not within that time exercise the option of purchase hereby given, the said Committee and the said Grantee shall enter into a fresh agreement.

18. The said Grantee will, if required by the said Committee before opening up the roadway of any street, road or bridge, deposit with the Bank of Bengal in the name of the said Committee the sum of rupees five thousand (5,000) or, in their option, promissory notes of the Government of India of the nominal value of rupees five thousand (5,000), and the same will remain so deposited until the completion by the said Grantee of the abovementioned lines of tramway herein sanctioned for construction. All interest accruing on the said sum, or the said notes, shall be credited to the said Grantee, and, subject as next hereinafter mentioned, be paid to him as the same accrues due. The said Committee shall be entitled to deduct all fines recoverable by the said Committee and all monies to which they may be entitled under any clause or clauses of these presents out of the sum so deposited, or the interest accruing on the said sum or notes, or out of the proceeds of sale of a portion of the said notes on completion of the tramways herein sanctioned for immediate construction.

19. In consideration of the concession herein granted, the said Grantee undertakes on behalf of himself, his heirs, executors, administrators and assigns that he will pay to the said Committee a yearly rent of rupees three thousand (3,000) per mile of double track or line and rupees two thousand (2,000) per mile of single track or line, payable half-yearly; the date on which such rent on each line of tramway shall begin to accrue shall be the date on which such line of tramways is open for public traffic.

20. It is agreed that the tramway or tramways from the Strand road along Barr street and Shafraz road round the Public Buildings and back to the Strand road should not be included, and that no sidings, turnouts or tracks necessary to connect the traffic lines with the carriage-sheds, engine-sheds, factories, depôts, yards or other property or properties of the said Grantee shall be included in the mileage on which rent is to be paid, the tramway or tramways more particularly described in this paragraph, and such sidings, turnouts and necessary connecting tracks or lines, being free of rent.

21. The sleepers, rails, materials and implements, and other erections placed and erected by the said Grantee on the streets, bridges or roads under the powers hereby granted shall be and remain the property of the said Grantee, and the said Grantee shall have the exclusive use of his tramway or tramways for carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

22. The prescribed rail is that known as the box-rail introduced by Mr. Robinson Souttar, to be made of Bessemer steel of the weight of sixty pounds to the yard, or such other rail of such weight as may be approved by the said Committee.

23. The said Grantee shall have the exclusive right of laying and using tramways within the limit of the Rangoon Municipality on the terms herein stated, but in the event of the said Grantee refusing to lay down any line when the said Committee may consider it necessary, the said Committee shall be at liberty to grant the right of laying and using such line to any other party.

24. Unless the said Grantee shall have commenced the work of laying down the said tramways within twelve months from the date of the execution of these articles of agreement, the said Committee shall be at liberty to cease and determine this contract and to enter into arrangements with any other person or persons for the construction of tramways, it being agreed, however, that these conditions of contract are subject to the sanction of Government, and that, in the event of their being executed prior to such sanction being given, the said 12 months shall date from the day on which notice of such sanction is given to the said Grantee, provided also that any delay in commencing the work beyond 12 months shall not have been due to any cause beyond the control of the said Grantee.

25. If any doubt, difference or dispute shall arise between the said Grantee and the said Committee touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference or dispute shall be referred to the arbitration of two persons, one to be chosen by the said Grantee and the other by the said Committee within one calendar month after either of them shall have made to the other a requisition to that effect, and should the arbitrators fail to agree, they shall refer the question or questions at issue to the decision of an umpire to be chosen by the said arbitrators, and the decision of such arbitrators if they agree, or of such umpire if they disagree, shall be final; and in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a decision alone, and the decision of such arbitrators, umpire or arbitrator, as the case may be, shall be effectual and binding upon both parties.

26. The said Grantee is to be at liberty to form a Company or Limited Liability Company for the purpose of constructing, maintaining and working the tramways authorized by or hereafter to be authorized under the terms of this agreement. The words "the said Grantee" used in this agreement shall include such Company or Limited Liability Company so formed as aforesaid.

27. The words "the said Committee" used in this agreement shall include the present Committee and their successors, and also persons empowered by the said Committee or their successors or by other duly constituted authority to do any act or thing or exercise any powers or authorities which the said Committee are hereinbefore authorized or empowered to do or exercise.

STATEMENT OF OBJECTS AND REASONS.

ON the 22nd June, 1882, the Municipal Committee of Rangoon entered into an agreement with Mr. J. W. Darwood, by which they conferred upon him the exclusive right to construct and work public tramways within the limits of the municipality, and arranged with him for the construction and working of certain specified tramways and of such others as might from time to time be determined on.

2. An agreement of this description, it need hardly be said, requires to be supported and supplemented by legislation. Statutory powers are needed by the grantee of the concession to enable him to exercise with safety the powers over the public streets which the agreement purports to confer on him. Statutory penalties must be provided, in order, on the one hand, to impose an efficient check on the abuse of those powers and enforce the conditions upon which they are conferred, and, on the other, to prevent any improper interference with the exercise of them.

3. It is further desirable to fix by a legislative enactment a maximum limit to the fares to be charged, and to provide a penalty for evading the payment of fares and empower the servants of the grantee in certain cases to arrest persons charged with this offence.

4. Lastly, it is desirable to confer upon the municipal authority and upon the grantee a power to make rules regarding the working and use of the tramways, and to impose a small pecuniary penalty for the breach of such rules.

5. The above are the principal matters provided for in the present Bill, which, it should be stated, has been prepared on the principle of restricting the action of the legislature to those points for which the agreement does not sufficiently provide. The only other matters to which attention need here be directed are, first, that the carriage of goods of a dangerous or offensive nature is placed by the Bill under very much the same species of control as the carriage of dangerous goods is by the Railway Act; and secondly, that, in consideration of the grantee being obliged to keep a considerable portion of the roadways in repair, his premises and rolling-stock are exempted for five years from all municipal taxation, except lighting and water rates.

C. P. ILBERT.

The 20th June, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th June, 1883, and was referred to a Select Committee on the 27th idem :—

No. 17 OF 1883.

A Bill for the protection of Inventions exhibited in the Exhibitions of India.

WHEREAS it is expedient that such protection as is hereinafter mentioned should be afforded to the inventors of new manufactures who are desirous of exhibiting them at Exhibitions to be held in India; It is hereby enacted as follows :—

Preamble.

Short title. Commencement.

1. This Act may be called the Protection of Inventions Act, 1883; and it shall come into force at once.

Act to be read with Act XV of 1859.

2. It shall be read with and taken as part of Act XV of 1859 (*for granting exclusive privileges to inventors*).

Inventions exhibited when to be deemed new though publicly used or made publicly known.

[cf. 33 & 34 Vic., c. 27, s. 2.]

3. If, within six months from the time of the opening of an International Exhibition, a person, being the inventor and exhibitor of any manufacture exhibited at that Exhibition, petitions the Governor General in Council under Act XV of 1859, for leave to file a specification of his invention, the circumstance that the invention has at any time after the opening of the Exhibition been publicly used or made publicly known shall not prevent the invention being deemed to have been at the time of presenting the petition a new invention for the purposes of the said Act.

Meaning of term "International Exhibition."

[cf. 33 & 34 Vic., c. 27, s. 3.]

4. In this Act, "International Exhibition" means the International Exhibition to be held in the year one thousand eight hundred and eighty-four at Calcutta, and any Exhibition to be held in India which the Governor General in Council may, upon the application of any persons desirous of holding the Exhibition, by notification in the *Gazette of India*, declare to be, in the judgment of the Governor General in Council, calculated to promote Indian art or industry, and to prove beneficial to the mercantile, agricultural or industrial classes of Her Majesty's subjects in India.

STATEMENT OF OBJECTS AND REASONS.

THIS Bill has been prepared in view of the forthcoming International Exhibition which it is proposed to hold in Calcutta next cold weather. It has been brought to the notice of Government that the want of some such protection as the Bill affords might probably deter inventors of unpatented inventions from sending them, and thus prevent the exhibition of some interesting exhibits.

2. It has been found necessary in England, and also, it is believed, in the Australian colonies, to legislate on this subject.

The Bill is drawn on the model of the Protection of Inventions Act, 1870 (33 & 34 Vic., cap. 27), but necessarily differs from it in details, inasmuch as the system of protection to inventions in force in this country differs from that in force in England in many respects, and, among others, in permitting an inventor to use his invention, or allow others to use it, publicly for a year without losing his right to protection. The effect of the Bill, if it becomes law, may be shortly stated to be that, if an inventor exhibiting his invention applies within six months from the opening of the exhibition for leave to file a specification, the circumstance of the invention having been publicly used or publicly made known after the opening of the exhibition will not affect his rights.

3. To prevent the necessity for similar legislation in the case of other exhibitions which may hereafter be held, section 4 of the Bill defines the term "International Exhibition" as meaning, not only the contemplated "International Exhibition" to be held at Calcutta, but any exhibition to be held in India which the Governor Oeneral in Council may, upon the application of any persons desirous of holding the exhibition, by notification in the *Gazette of India*, declare to be, in the judgment of the Governor General in Council, calculated to promote Indian art or industry, and to prove beneficial to the mercantile, agricultural or industrial classes of Her Majesty's subjects in India.

The 20th June, 1883.

C. P. ILBERT.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 7, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th June, 1883, and was referred to a Select Committee on the 27th idem :—

No. 14 OF 1883.

A Bill to amend the Cattle-trespass Act, 1871.

WHEREAS it is expedient to amend the Cattle-trespass Act, 1871; It is hereby enacted as follows :—

Power for Local Government to transfer functions of District Magistrate and Local Government to local authority and direct that surplus receipts be credited to local fund.

1. The Local Government may, from time to time, by order notified in the local official Gazette—

(*a*) transfer to any local authority, within any part of the territories under its administration in which the Cattle-trespass Act, 1871, is in operation, all or any of the functions of the Local Government and the Magistrate of the district under sections four, five, six, seven, twelve, fourteen and seventeen, and clause (*a*) of section eighteen, of that Act, within the local area subject to the jurisdiction of the local authority ; or

(*b*) direct that the surplus accruing in any district under section eighteen of that Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district,

and may from time to time, in like manner, cancel any order made under this section.

Definitions.

2. In this Act—

"Local authority" means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area ; and

"local fund" means any fund under the control or management of a local authority.

STATEMENT OF OBJECTS AND REASONS.

By the Central Provinces Local Self-government Act, 1883, (I of 1883), certain functions which under the Cattle-trespass Act (I of 1871), are to be performed by the Local Government or the Magistrate of the District are transferred to the local authorities constituted under the first-mentioned Act, and the surplus proceeds arising under section 18 of the Cattle-trespass Act are directed to be carried to the local funds which are placed under the control of the local authorities. Provisions to the same effect are embodied in the Bill now pending in the Legislative Council of the Lieutenant-Governor of Bengal for the amendment of the system of Local Self-government in that province and in the Bills now pending in the Legislative Council of the Governor General for the amendment of the system of Local Self-government in the North-West Provinces and in the Panjáb. But doubts have been entertained whether, inasmuch as these provisions amount to an amendment of the Cattle-trespass Act, which is an Act of the Governor General in Council, their enactment would not be beyond the powers of a local legislature such as the Legislative Council of the Lieutenant-Governor of Bengal. It has therefore been thought desirable to amend the Act in such a way as to enable Local Governments to make the requisite changes by executive order.

2. The following extracts from the Cattle-trespass Act will explain the nature of the powers which it is proposed by the Bill to confer on Local Governments:—

"4. Pounds shall be established at such places as the Magistrate of the District, subject to the general control of the Local Government, from time to time directs.

"The village by which every pound is to be used shall be determined by the Magistrate of the District.

"5. The pounds shall be under the control of the Magistrate of the District; and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

"6. The Magistrate of the District shall also appoint for each pound a pound-keeper:

"Provided that, in the Presidency of Fort St. George, the heads of villages, and, in the Presidency of Bombay, the police pátils, or (where there are no police pátils) the heads of villages, shall be *ex-officio* the keepers of village-pounds.

"Every pound-keeper appointed by the Magistrate of the District may be suspended or removed by such Magistrate.

* * * * * * * *

"7. Every pound-keeper shall keep such registers and furnish such returns as the Local Government from time to time directs.

"12. For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine according to the following scale:—

* * * * * * * *

"All fines so levied shall be sent to the Magistrate of the District through such officer as the Local Government from time to time directs.

* * * * * * * *

"14. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to the officer in charge of the nearest police-station, or to such other officer as the Magistrate of the District appoints in this behalf.

* * * * * * * *

"If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place and time and subject to such conditions as the Magistrate of the District by general or special order from time to time directs:

"Provided that if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

"17. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

"The charges for feeding and watering deducted under section sixteen shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section thirteen.

"The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and, if no claim thereto be preferred and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

"18. Out of the sums received on account of fines and the unclaimed proceeds of the sale of cattle, shall be paid—

"(*a*) the salaries allowed to pound-keepers under the orders of the Local Government;

"(*b*) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act;

"and the surplus (if any) shall be applied, under orders of the Local Government, to the construction and repair of roads and bridges and to other purposes of public utility."

The 20th June, 1883.

C. P. ILBERT.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th June, 1883, and was referred to a Select Committee on the 27th idem:—

No. 15 OF 1883.

A Bill to amend the Native Passenger Ships Act, 1876.

VIII of 1876.

Preamble.

WHEREAS it is expedient to amend the Native Passenger Ships Act, 1876, with a view to provide for the better regulation of the passenger traffic between British India and ports in the Red Sea; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Native Passenger Ships Act, 1883;

Commencement.

and it shall come into force on such day as the Governor General in Council directs by notification in the *Gazette of India*.

VIII of 1876.

Addition to section 11 of the Native Passenger Ships Act, 1876.

2. After clause (*e*) of section 11 of the Native Passenger Ships Act, 1876, the following clause shall be added:—

"(*ee*) in the case of any ship sailing to any port in the Red Sea, that she is propelled principally by steam, and, if she is carrying more than one hundred passengers being Natives of Asia or Africa, that she has on board a medical officer licensed in accordance with rules to be made under this Act."

Substitution of new section for section 26 of the same Act.

3. For section twenty-six of the same Act, the following section shall be substituted:—

Bond where ship clears for port in Red Sea.

"26. In the case of every ship sailing from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for any such ship shall not grant the clearance unless and until the owner, agent or master of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of Rs. 5,000, conditioned—

"(*a*) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers; and

"(*b*) that the master and medical officer (if any) of the ship shall comply with on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships sailing between ports in British India and ports in the Red Sea as the Governor General in Council may, from time to time, make under section forty-six."

Amendment of section 27 of same Act.

4. In section twenty-seven of the same Act, for the word "thirty" the word "sixty" shall be substituted.

Addition to section 28 of the same Act.

5. To section twenty-eight of the same Act the following words shall be added:—"and the authority empowered to grant the same may refuse to grant a bill of health in the case of any ship on board of which the requirements of the rules made under section 46 are not complied with."

Addition of new sections after section 28 of same Act.

6. After section twenty-eight of the same Act, the following sections shall be added:—

Certain ships to carry medical officer.

"28A. Every ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers being Natives of Asia or Africa shall have on board a medical officer licensed in accordance with rules to be made under this Act.

Certain ships to be propelled by steam.

"28B. Every ship sailing from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Power for Governor General in Council to issue notification requiring medical inspection in case of certain passengers.

"28C. *(1)* The Governor General in Council may, from time to time, by notification in the *Gazette of India*, direct that no passenger of such class as may be specified in the notification shall be received

on board any ship sailing from any port in British India to any port in the Red Sea unless and until he has obtained a certificate from a medical officer to be appointed by the Local Government in this behalf, to the effect that he has been examined by that officer and is not suffering from any dangerously infectious or contagious disease, and is in a fit state of health to undertake the voyage to the port in the Red Sea for which he is bound.

(2) The Governor General in Council may cancel or alter, either in whole or in part, any notification which may at any time be issued under this section.

Addition of new sections after section 38 of same Act.

7. After section thirty-eight of the same Act, the following sections shall be added:—

"38A. If the master of any such ship as is referred to in section twenty-seven, or any medical officer in charge of any such ship, wilfully breaks, or omits or neglects to obey, any rule with regard to those ships made under section forty-six, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master or medical officer of certain ships disobeying rules.

"38B. If any ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers has not on board a medical officer as required by section 28A, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master of certain ships sailing without medical officer.

"38C. The owner and master of any ship sailing from or to any port in British India to or from any port in the Red Sea and not principally propelled by steam shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on owner and master of certain ships not propelled by steam.

"38D. If the master of any ship, while a notification under section 28C is in force, knowingly receives on board his ship any person in contravention of that notification, he shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees for each person so received, or with both."

Penalty on master receiving passenger in contravention of a notification under section 28C.

8. After clause (*b*) of section forty-six of the same Act, the following clause shall be added:—

Additions to section 46 of same Act.

"(*bb*) the licensing and appointment of medical officers in cases where they are required, under this Act, to be carried";

and after clause (*e*) of the same section the following clauses shall be added:—

"(*ee*) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

"(*eee*) the access of intermediate or between decks passengers to the upper deck.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend the Native Passenger Ships Act, VIII of 1876, with a view to provide for the better regulation of the pilgrim traffic between British India and Arabia. This traffic has formed the subject of correspondence between the Secretary of State, the Government of India and the various local maritime Governments in India. A careful consideration has brought the Government to the conclusion that the importance of the pilgrim traffic makes its detailed regulation imperative, and that, to secure uniformity of procedure, and thereby avoid the friction which must inevitably follow divergence between rules separately framed by different States, it is desirable that, in all the more important points, a common understanding should be come to among the Governments who are chiefly interested in the proper management of that traffic. The establishment of a practical coincidence between the general provisions of the local Turkish regulations and those of the law of India—the country which at present furnishes the largest number of pilgrims to the Hedjaz—can only be effected by diplomatic correspondence between the British and Turkish Governments. But, since experience has shown that the provisions of the Indian law as it at present stands are insufficient to meet the peculiar exigencies of this traffic, and that in some respects they require revision, it seems desirable, before attempting to bring about an assimilation of the British and Turkish laws, to make such amendments of our own law as are necessary to put it in a satisfactory state.

2. The Indian law on this subject is contained partly in the provisions of the Native Passenger Ships Act, 1876, and partly in those of the rules framed under that Act. With a view to the amendment of the latter, the Government of India has already submitted to the Secretary of State a copy of a draft set of rules, which have been framed on the model of those regulating the transport of emigrants from India to the English and French colonies, and which it proposes to issue under the Native Passenger Ships Act, 1876, as rules regulating the conveyance of Native passengers between the ports of India and of the Hedjaz. With a view to the amendment of the former, the present Bill has been prepared.

3. Section 2 adds to section 11 of the Native Passenger Ships Act, 1876, a provision requiring the certificate given under that section to contain in the case of a ship sailing to the Red Sea a declaration that she is propelled principally by steam, and when the ship carries more than 100 Native passengers a declaration that she has on board a licensed medical officer. The effect of this will be that such ships will not be able to obtain a port-clearance (see section 9) unless they comply with these requirements.

4. Section 3 amends section 26 of the Act, by requiring the bond given under that section to be conditioned for the observance of the provisions of the Act and of such rules with regard to Native passenger ships sailing to the Red Sea as the Governor General in Council may make under section 46 of the Act. The object of this amendment is to enable the Government of India to enforce the observance of its rules beyond the limits of its jurisdiction.

5. The substitution (by section 4 of the Bill) of 60 for 30 as the number of passengers which must be on board a ship in order that section 27 of the Act may apply follows as a necessary consequence of the provision that all ships are to be propelled by steam (see section 2 of the Act).

6. Section 5 empowers the authorities at Aden to refuse a bill of health to a ship if the requirements of the rules are not complied with.

7. The sections (28A, 28B and 28C) which section 6 adds to the Act require every ship sailing to or from the Red Sea and carrying more than 100 Native passengers to have a licensed medical officer, and every Native passenger ship sailing to or from the Red Sea to be propelled principally by steam, and empower the Governor General in Council to issue a notification directing that no passenger of such description as may be specified in the notification shall be received on board any such ship until he has obtained a certificate from a prescribed medical officer certifying that he is not suffering from any infectious or contagious disease, and is in a fit state of health to proceed to the port to which he intends to proceed.

With regard to section 28A, the Government has no doubt that the presence of a medical officer on board will serve to diminish many of the hardships from which pilgrims now suffer, especially if he is by rule made responsible for seeing that the sanitary and dietary arrangements on board are properly managed, and if he is liable to be disqualified for any breach of duty on his own part. It may not always be possible to secure Muhammadan medical men for this service, but endeavours will be made to supply officers of that persuasion in preference to others. Section 28B speaks for itself. Section 28C may have to be enforced, at the instance of the European powers, as a precaution against the possible introduction of epidemic disease by Indian pilgrims into Arabia.

8. Section 7 imposes penalties for breaches of the requirements of the Bill.

9. Lastly, by section 8, certain words are added to section 46 of the Act to enable the Governor General in Council to make rules to regulate the licensing of medical officers and the functions of those officers and of the officers of the ship generally, and ensure to the passengers free access to the upper deck.

The 20th June, 1883.

C. P. ILBERT.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th June, 1883, and was referred to a Select Committee on the 27th idem :—

No. 16 OF 1883.

Note.—B. B. in the margin of this Bill refers to the Bill submitted by the Chief Commissioner.

A Bill to authorize the making and to regulate the working of Street Tramways in Rangoon.

Preamble.

WHEREAS the Municipal Committee of the Town of Rangoon, by an agreement dated the 22nd day of June, 1882, a copy whereof is set forth in the schedule annexed to this Act, granted, for the considerations therein expressed, to John William Darwood, his heirs, executors, administrators and assigns, hereinafter called the grantee, the right to construct, maintain and use a tramway or tramways in Rangoon upon the terms subject to the conditions and in the manner mentioned in the said agreement, but the said agreement was made subject to the confirmation thereof by the Chief Commissioner of British Burma and to the recognition thereof by an Act of the Governor General in Council;

and whereas the said agreement was, on the 13th day of November, 1882, confirmed by the Chief Commissioner of British Burma; and it is now expedient to recognise it and give effect to it, subject to the provisions and limitations hereinafter contained; It is hereby enacted as follows :—

A.—Preliminary.

Short title. Commencement.

1. This Act may be called the Rangoon Tramways Act, 1883; and it shall come into force at once.

Definitions.

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

"Committee" means the Committee for the town of Rangoon appointed under the British Burma Municipal Act, 1874.

VII of 1874.

"Tramway," means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway.

[B. B., s. 2.] "Street" means the way of any street, road, thoroughfare, passage or place along or across which any tramway authorised by this Act is or is intended to be laid, and includes the surface soil and subsoil of any such street, and the footway and drains of any such street, and any bridge, culvert or causeway forming part of any such street.

B.—Powers of Grantee generally.

Power to make, maintain and use tramways.

3. Subject to the provisions of this Act, and to the terms and conditions of the said agreement so far as the same are not inconsistent with this Act, the grantee may make, maintain and use any of the tramways for the construction, maintenance and use of which provision is made in the said agreement:

[B. 3, 4, 5, 6

Provided that any such tramway shall not be opened for public traffic until it has been inspected and certified by the engineer to the Committee to be fit for such traffic.

C.—Construction and Maintenance of Tramways and of Streets on which they are laid.

Power to grantee to break up streets.

4. Subject to the terms and conditions of the said agreement, the grantee may, from time to time, for the purpose of constructing, maintaining or renewing any tramway under this Act, open and break up any street, and therein or thereon lay sleepers and rails, and repair, alter or remove the same; and may, for the purposes aforesaid, do in and on any such street all other acts which may, from time to time, be necessary for constructing, maintaining or renewing the tramway.

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Provided that he shall not, without the consent of the Committee, open or break up at any one time a greater length than one hundred yards of any street which does not exceed a quarter of a mile in length; and in the case of any street exceeding a quarter of a mile in length, he shall leave an interval of at least a quarter of a mile between any two places at which he may open or break up the street, and shall not open or break up at any such place a greater length than one hundred yards.

Grantee to keep the tramways and adjoining part of street in repair.

5. The grantee shall, at his own expense, at all times maintain and keep in good condition and repair, in such manner as the Committee from time to time directs, all tramways constructed by him under this Act, and so much of any street as lies between the rails of any such tramway; and in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway.

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6. When the grantee has for the purposes of section 4 or section 5 opened or broken up any portion of a street, he shall be under the following further obligations, namely:—

Obligations of grantee when he has broken up street.

[34 Vic., c. 27, s. 12.]

(*a*) He shall, with all convenient speed, and in all cases within six weeks at the most, unless the Committee otherwise consent in writing, complete the work for which the street has been broken up, and fill in the ground, and make good the surface, and, to the satisfaction of the Committee, restore the street to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

(*b*) He shall, in the meantime, cause the place where the street is opened or broken up, to be fenced and watched, and to be properly lighted at night, and,

(*c*) He shall make good all damage done to drains, sewers, water-pipes and gas-pipes, and to the wires or other materials or things used for any system of lighting, and whether belonging to the Committee, to the Government, or to private persons, and shall make compensation for any other damage done in the execution of the powers granted to him.

7. *(1)* Nothing in this Act shall prevent the Committee from opening, breaking up, widening, altering, diverting or improving any street traversed by a tramway for the purposes for which they might otherwise under the law for the time being in force lawfully open, break up, widen, alter, divert or improve such street

Reservation of Committee's power over streets.

Provided that—

(*a*) they shall cause as little detriment or inconvenience to the grantee as circumstances admit; and

(*b*) before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantee not less than eighteen hours previous notice of their intention to commence the work, specifying the time at which they will commence it.

(2) The Committee shall not be liable to pay to the grantee any compensation for injury done to the tramway by the execution of any work referred to in sub-section (1) or for loss of traffic occasioned by the reasonable exercise of their powers in connection with the same.

D.—Rights over Tramways and Streets on which they are laid.

8. The grantee shall subject to the provisions of this Act and to the terms and conditions of the said agreement, have the exclusive use of his tramways for carriages with flange wheels or other wheels suitable only to run on a grooved rail.

Grantee's exclusive right over tramways.

Provided that nothing in this Act shall affect

(*a*) The right of the public to pass along or across any part of any road, along or across which any tramway is laid, whether on or off the tramway with carriages not having flange wheels or wheels suitable to run on a grooved rail; or

(*b*) the right of the Commissioners for the Port of Rangoon, or of any other body or person entitled at the time of the commencement of this Act to work and maintain a tramway, to pass across any tramway constructed under this Act with carriages having flange wheels or wheels suitable to run on a grooved rail.

9. Notwithstanding anything in this Act, the grantee shall not acquire any right other than that of user of any street along or across which he lays any tramway.

[33 & 34 Vic., c. 78, s. 57.] [B. B., s. 16.]

Grantee to have right of user only.

10. Nothing in this Act shall affect the powers of the Committee or the police to regulate the passage of any traffic along or across any street along or across which any tramway is laid down, and the Committee or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantee as to the traffic of other persons.

[33 & 34 Vic., c. 78, s. 61.] [B. B., s. 27.]

Power of Committee and police to regulate traffic on streets.

E.—Traffic on Tramways.

11. The grantee may, from time to time, by a notice published in such languages and in such manner as the Chief Commissioner may prescribe, fix the rates of fares and charges for carrying passengers and goods in his carriages:

[B. B., s. 9.] [33 & 34 Vic., c. 78, s. 48.]

Rate of fares.

Provided that the rates of passenger fares shall not exceed one anna per mile for each passenger in the lower class and two annas per mile for each passenger in the higher or first class.

12. The fares and charges by this Act authorized shall be paid to such persons at such places, upon or near to the tramways, and in such manner and under such regulations as the grantee may, by a notice published as aforesaid, from time to time prescribe.

[B. B., s. 11.]

Mode of payment of fares.

13. *(1)* No person shall be entitled to carry or to require to be carried on any tramway constructed under this Act any goods of a dangerous or offensive nature.

[B. B., s. 22.]

Carriage of dangerous or offensive goods.

(2) Every person taking such goods with him on any such tramway shall before entering the carriage give notice of their nature to the servant of the grantee in charge of the carriage.

(3) Every person sending such goods by any such tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the book-keeper or other servant of the grantee with whom the same are left at the time of such sending.

(4) The grantee may refuse to take any parcel which he may suspect to contain goods of a dangerous or offensive nature, or require the same to be opened to ascertain the fact.

F.—Offences and Penalties.

14. If the grantee—

[33 & 34 Vic., c. 78, s. 27.] [B. B., s. 17.]

Penalty for failure of grantee to comply with provisions of this Act.

(*a*) constructs or maintains any tramway, or runs any car or carriage thereon otherwise than in accordance with the said agreement;

(*b*) opens any tramway for traffic before it has been inspected and certified in manner required by section 3;

(*c*) opens or breaks up any street otherwise than as permitted by this Act, or having opened or broken up a street fails to discharge any of the obligations imposed on him by section 6, clauses (*a*) and (*b*); or

(*d*) fails to keep the rails of any tramway and the portions of the street adjoining the same in repair as required by section 5

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the said agreement or to any other remedy against him), on complaint of the Committee or of any person injuriously affected thereby, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for each day after the first day during which the offence continues to be committed.

[B. B., s. 18.] [32 & 34 Vic., c. 78, s. 49.]

15. Any person who wilfully obstructs any person acting under the authority of the grantee in the lawful exercise of his powers in constructing, repairing or renewing a tramway, or injures or destroys any mark, made for the purpose of setting out the line of the tramway, shall be punished with fine which may extend to fifty rupees.

Penalty for obstructing grantee in the exercise of his powers.

[B. B., s. 19.] [33 & 34 Vic., c. 78, s. 50.]

16. Any person who without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely,—

Penalty for interfering with tramway.

(*a*) interferes with, removes or alters any part of a tramway constructed under this Act or of the works connected therewith;

(*b*) does or causes to be done anything in such a manner as to obstruct any carriage using any such tramway; or

(*c*) knowingly aids or assists in the doing of such thing,

shall be punished with fine which may extend to one hundred rupees.

[B. B., s. 22.] [33 & 34 Vic., c. 78, s. 53.]

17. Any person taking or sending by any tramway any goods of a dangerous or offensive nature without giving the notice required by section 13 shall be punished with fine which may extend to fifty rupees.

Penalty for taking or sending dangerous or offensive goods without giving notice.

[B. B., s. 20.] [33 & 34 Vic., c. 78, s. 51.]

18. If any person travelling or having travelled in any carriage of the grantee avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit the carriage, he shall be punished with fine which may extend to ten rupees.

Penalty for avoiding payment of proper fare.

[B. B., s. 21.] [33 & 34 vic., c. 78, s. 52.]

19. Any servant of the Grantee, and any person called in by him for his assistance, may arrest and take to the nearest police-station any person who is discovered either in or after committing or attempting to commit an offence punishable under section 18, and whose name and residence is refused by him and is unknown to such servant or person, and the police-officer in charge of the police-station, on receiving a complaint that such an offence has been committed, shall adopt such legal measures as may be necessary to cause the accused person to be taken before a Magistrate with the least possible delay.

Power of servant of grantee to arrest persons avoiding payment of fare.

G.—Powers to make Rules.

20. *(1)* The Committee in special meeting may, with the sanction of the Chief Commissioner, from time to time make such rules consistent with this Act as to the rate of speed, number of passengers, and mode of use of the tramways and as to the licensing and control of drivers, conductors and other persons having charge of the carriages of the grantee as the convenience and safety of the public may require.

[B. B., ss. 24 & 25.] [33 & 34 Vic., c. 78, ss. 47 & 48.]

Powers to make rules.

(2) The grantee may, with the like sanction, from time to time, make rules consistent with this Act for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to him; and

for regulating the travelling in any carriage belonging to him.

(3) The authority making any rule under this section may prescribe as a punishment for the breach of it a fine which may extend to twenty rupees.

(4) All rules made under this section shall be published in the *British Burma Gazette*.

H.—Miscellaneous.

21. For the purpose of clause 15 of the agreement set forth in the schedule annexed to this Act, the want of sufficient funds shall not be deemed to be a circumstance beyond the control of the grantee.

[B. B., s. [33 & 34 Vic., c. 78,

Construction of clause 15 of agreement.

22. The plant, rolling-stock and other vehicles, yards, workshops engine-sheds and depôts of the grantee shall, for a period of five years from the passing of this Act, be exempt from all municipal taxation except such lighting and water-rates as may from time to time be payable in respect of the yards, workshops, engine-sheds, and depôts.

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Exemption from certain municipal taxation.

23. Nothing in this Act shall exempt the grantee or any tramway constructed by him under this Act from the provisions of any general enactment relating to tramways now in force or which may hereafter be passed.

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Provisions as to general Acts.

SCHEDULE.

ARTICLES OF AGREEMENT made this 22nd day of June 1882 BETWEEN THE MUNICIPAL COMMITTEE OF THE CITY OF RANGOON appointed under the British Burma Municipal Act, 1874, hereinafter called the said Committee, of the one part, and JOHN WILLIAM DARWOOD, of Rangoon, hereinafter called the said Grantee, of the other part. WHEREAS the said Committee have, subject to the confirmation thereof by the Chief Commissioner of British Burma and to the recognition of this Agreement by an Act of the Governor General of India in Council, agreed to grant to the said Grantee the right to construct, maintain and use a tramway or

tramways in Rangoon upon the terms and conditions hereinafter contained, NOW THESE PRESENTS WITNESS that in consideration of the covenants and agreements hereinafter contained and on the part of the said Committee to be performed, the said Grantee for himself, his heirs, executors, administrators and assigns doth covenant with the said Committee, so far as the covenants and conditions hereinafter contained are to be performed by the said Grantee and his heirs, executors, administrators and assigns, and the said Committee, for and in consideration of the covenants and agreements hereinafter contained and on the part of the said Grantee, his heirs, executors, administrators and assigns to be performed, do hereby covenant with the said Grantee, his heirs, executors, administrators and assigns so far as the covenants and agreements hereinafter contained are to be performed by the said Committee in manner following, that is to say :—

1. The said Committee grant to the said Grantee and his heirs, executors, administrators and assigns, all which persons are hereinaftar included in the words "the said Grantee," the right to construct, maintain and use a tramway or tramways, with single or double tracks or lines, and with all necessary sidings, turnouts, connections and lines, or tracks of whatever nature which may be required to connect the said tramway or tramways with the depôts of the said Grantee (but in the case of sidings and turnouts, only in such places as the said Committee may sanction), on the following routes and between such other places and by such other routes as may be hereafter approved of by the said Committee :—

The tramways referred to and now authorised for construction subject to such confirmation as aforesaid are :—

I.—A tramway with a double track or line along China Street and Pagoda road from the Strand road at its junction with China street to the Shway Dagone Pagoda.

II.—A tramway with a double track or line along the Strand road from East street to West street.

III.—A tramway with a double track or line along Dalhousie street from East street to the junction of Dalhousie street with the Strand road.

IV.—A tramway with a double track or line along Soolay Pagoda road from the Strand road to Montgomery street and along Montgomery street to the Phayre street railway station and along Montgomery road to the iron bridge near the bázár at Poozoondoung.

V.—A tramway with a double track or line from the Strand road down Barr street to Shafraz road round the Public Buildings back into the Strand road.

2. When approved of and desired by the said Committee, tramways with such tracks or lines as may be approved of by the said Committee from East street to Monkey point and along the Upper and Lower Poozoondoung roads to Monkey point, and along Merchant street, Fraser street and Canal street, and along Lower Kemmendine road from the Strand road, Kemmendine, to the junction of West street with the Strand road.

3. The said tramway or tramways to be constructed and maintained in such form and manner and upon such gradient and with such gauge as the said Committee may approve, and the cars and carriages intended to run on the said rails shall be such as are approved of by the said Committee.

4. The cars and carriages of the Grantee on the tracks or lines of the said tramway shall, unless with the consent of the said Committee, be worked with steam power of the most approved engine of the time only, and the said Committee shall have power at all times to make such regulations as to the rate of speed and mode and use of the said tracks or lines as the convenience and safety of the public using the streets may require.

5. The said Grantee shall have power from time to time to fix the rate of fares for carrying persons and goods in the cars or carriages to be run on the said tramway or tramways, provided that the rates of fares shall for any distance not exceed the rate of one anna per mile for the lower class and two annas per mile for the higher or first class for each passenger.

6. The said Grantee may, for the purpose of constructing and maintaining such tramways under such superintendence as is hereinafter specified, open and break up the soil and metalled way of the several streets, roads and bridges in the city and thereon lay sleepers and rails, and from time to time repair, alter or remove the same, and may, for the purposes aforesaid, remove and use all earth and materials in such streets, roads and bridges, and the said Grantee may, in and on such streets, roads and bridges, do all other acts which he shall from time to time deem necessary for constructing and maintaining street tramways in the said city, doing as little damage as may be in the execution of the powers hereby granted, and shall make good all damage done to drains, sewers, water and gas pipes, or to the wires or other materials or things used for any other system of lighting, and whether belonging to the said municipality or to private individuals, and shall make compensation for any other damage done in the execution of such powers.

7. Before the said Grantee proceeds to open or break up any street, road or bridge other than those referred to in sub-clauses from I to V in clause 1, he shall obtain the approval in writing of the said Committee to the tracks or lines of the said tramway being laid down on the said streets, roads or bridges, and the said Grantee, before opening or breaking up any street, road or bridge, shall give to the said Committee or their Executive Engineer, or other municipal officer duly appointed for that purpose, notice in writing of his intention to open or break up the same not less than three clear days before beginning such work, except in such cases of emergency arising from defects in any of the rails or other work, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

8. No street, road or bridge shall, except in cases of emergency as aforesaid, be opened or broken up, except under the superintendence of the said Committee or of their Executive Engineer or of some other municipal officer duly appointed for that purpose, and according to such plans as shall be approved of by him or them : provided always that if the said Committee or their Engineer or other such officer as aforesaid fail to attend at the time fixed for the opening of any such street, road or bridge after having had such notice of the said Grantee's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said Grantee may perform the work specified in such notice without such superintendence as aforesaid.

9. When the said Grantee opens or breaks up the roadway or pavement of any street, road or bridge, he shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and make good the roadway or pavement so opened or broken up as aforesaid, and carry away the rubbish occasioned thereby and deposit the same for the use of the said Committee at such place as the Executive Engineer of the said municipality shall direct, and shall at all times whilst any such roadway or pavement shall be so opened or broken up cause the same to be guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such roadway or pavement where the same shall be open or broken up every night during which the same shall continue open or broken up.

10. If the said Grantee opens or breaks up any street, road or bridge without giving such notice as hereinbefore mentioned or in a manner different from that which shall have been approved of or determined as aforesaid except in the cases in which the said Grantee is hereby authorized to perform such work without any superintendence or notice, or if the said Grantee shall make any unnecessary delay in completing any such work or in filling in the ground or reinstating and making good, so far as is consistent with the existence of the said tramway, the roadway or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby, or if he neglect to cause the place where such roadway or pavement has been broken up to be guarded and lighted, he shall forfeit to the said Committee a sum not exceeding fifty (50) rupees for every such offence, and he shall forfeit an additional sum not exceeding fifty (50) rupees for each day during which any such delay or neglect as aforesaid shall continue after he shall have received notice thereof.

11. The said Grantee shall maintain and keep in repair such portion of the streets, roads and bridges in the City of Rangoon as shall be occupied by his tracks or lines, including therein not only the space between his tracks or lines but a space eighteen inches on either side thereof, and in consideration of the maintenance of such streets, roads and bridges as aforesaid, and of the yearly rent hereinafter mentioned to be paid by the Grantee, the plant, rolling-stock and other vehicles, yards, workshops, engine-sheds and depôts of the said Grantee shall be exempt from municipal taxation for a period of five years, except lighting and water-rates for such yards, workshops, engine-sheds and depôts.

12. The said Grantee shall be liable for any loss, damage or injuries that any person or persons may sustain by reason of any defect or want of repairs in any of the plant, rolling-stock or other properties of the said Grantee, or by reason of any carelessness, neglect or misconduct of his agents or servants in the management, construction or use of the said tramways or any portion thereof, or in the exercise of the power given by clauses 6, 7, 8, and 11; the same shall be made good by the said Grantee, and in the event of any suit being instituted against the said Committee in respect of any of the matters hereinbefore mentioned, the said Grantee shall, within fourteen days from the receipt of a notice thereof from the said Committee, settle the same; but if the said Grantee choose to defend such suit, he shall be at liberty to do so upon his undertaking to indemnify the said Committee against all losses, damages and expenses in respect thereof : provided always that, if the said Grantee fail to settle such suit or to indemnify the said Committee as is hereinbefore provided, it shall be lawful for the said Committee to settle the same without any consent or concurrence on the part of the said Grantee, and the sums which they shall have to pay in making such settlement, together with interest thereon at the rate of 8 per cent. per annum from the date of payment, and with all expenses which they may be put to, shall be recoverable as a debt from the said Grantee.

13. Nothing in this agreement shall be construed to prevent the said Committee from taking up any of the public streets or roads traversed by the said tramway for the purposes for which the said Committee may lawfully take up the same, and that the said Grantee shall have no right to claim cost from the said Committee for obstructing the tramway or causing delay in the traffic so long as the delay shall not be unreasonable for the work to be performed.

14. If the said Committee shall hereafter alter the level of any street, road or bridge along or across which any tramway by this agreement authorized is laid or authorized to be laid, the Grantee shall alter or (as the case may be) lay his rails to suit the altered level of such street, road or bridge, provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways, and in any case so as not to stop or prevent the free use or working thereof.

15. If at any time after the opening of any tramway for traffic the said Grantee shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the said Grantee), it shall be lawful for the said Committee, without any previous notice to the said Grantee, to remove the tramway or part of the tramway so discontinued, and the said Grantee shall pay to the said Committee the cost of such removal and of the making good of the street, road or bridge, and the certificate of the said Committee or of their Engineer as to such cost shall be conclusive.

16. The provisions of this agreement shall remain and be in force for a term not less than twenty-one (21) years from the date thereof. The said Committee shall have the right of purchasing the said tramways with the plant, stores, rolling-stock, sheds, depôts and yards, and everything connected therewith after the expiration of the said twenty-one (21) years upon declaring its intention so to do within six months after the expiration of the said twenty-one (21) years; the amount to be paid in the event of such purchase shall be the actual *bonâ fide* value at the termination of this agreement exclusive of any compensation for goodwill, premium on compulsory sale or other consideration whatever of the tramways and of the work and materials connected therewith

and of the lands and buildings and all other the property of the Grantee, such value to be decided by mutual agreement or by arbitration as hereinafter provided.

17. The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said Grantee by any route or routes to be hereafter sanctioned by the said Committee and to the works connected with or incidental to such tramways, it being agreed that in the event of the municipality failing to declare its intention as above provided to purchase the property of the said Grantee the terms of this contract shall continue in force during the period of six months from the date of the determination of these presents and for a further period of six months, and if the said Committee shall not within that time exercise the option of purchase hereby given, the said Committee and the said Grantee shall enter into a fresh agreement.

18. The said Grantee will, if required by the said Committee before opening up the roadway of any street, road or bridge, deposit with the Bank of Bengal in the name of the said Committee the sum of rupees five thousand (5,000) or, in their option, promissory notes of the Government of India of the nominal value of rupees five thousand (5,000), and the same will remain so deposited until the completion by the said Grantee of the abovementioned lines of tramway herein sanctioned for construction. All interest accruing on the said sum, or the said notes, shall be credited to the said Grantee, and, subject as next hereinafter mentioned, be paid to him as the same accrues due. The said Committee shall be entitled to deduct all fines recoverable by the said Committee and all monies to which they may be entitled under any clause or clauses of these presents out of the sum so deposited, or the interest accruing on the said sum or notes, or out of the proceeds of sale of a portion of the said notes on completion of the tramways herein sanctioned for immediate construction.

19. In consideration of the concession herein granted, the said Grantee undertakes on behalf of himself, his heirs, executors, administrators and assigns that he will pay to the said Committee a yearly rent of rupees three thousand (3,000) per mile of double track or line and rupees two thousand (2,000) per mile of single track or line, payable half-yearly; the date on which such rent on each line of tramway shall begin to accrue shall be the date on which such line of tramways is open for public traffic.

20. It is agreed that the tramway or tramways from the Strand road along Barr street and Shafraz road round the Public Buildings and back to the Strand road should not be included, and that no sidings, turnouts or tracks necessary to connect the traffic lines with the carriage-sheds, engine-sheds, factories, depôts, yards or other property or properties of the said Grantee shall be included in the mileage on which rent is to be paid, the tramway or tramways more particularly described in this paragraph, and such sidings, turnouts and necessary connecting tracks or lines, being free of rent.

21. The sleepers, rails, materials and implements, and other erections placed and erected by the said Grantee on the streets, bridges or roads under the powers hereby granted shall be and remain the property of the said Grantee, and the said Grantee shall have the exclusive use of his tramway or tramways for carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

22. The prescribed rail is that known as the box rail introduced by Mr. Robinson Souttar, to be made of Bessemer steel of the weight of sixty pounds to the yard, or such other rail of such weight as may be approved by the said Committee.

23. The said Grantee shall have the exclusive right of laying and using tramways within the limit of the Rangoon Municipality on the terms herein stated, but in the event of the said Grantee refusing to lay down any line when the said Committee may consider it necessary, the said Committee shall be at liberty to grant the right of laying and using such line to any other party.

24. Unless the said Grantee shall have commenced the work of laying down the said tramways within twelve months from the date of the execution of these articles of agreement, the said Committee shall be at liberty to cease and determine this contract and to enter into arrangements with any other person or persons for the construction of tramways, it being agreed, however, that these conditions of contract are subject to the sanction of Government, and that, in the event of their being executed prior to such sanction being given, the said 12 months shall date from the day on which notice of such sanction is given to the said Grantee, provided also that any delay in commencing the work beyond 12 months shall not have been due to any cause beyond the control of the said Grantee.

25. If any doubt, difference or dispute shall arise between the said Grantee and the said Committee touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference or dispute shall be referred to the arbitration of two persons, one to be chosen by the said Grantee and the other by the said Committee within one calendar month after either of them shall have made to the other a requisition to that effect, and should the arbitrators fail to agree, they shall refer the question or questions at issue to the decision of an umpire to be chosen by the said arbitrators, and the decision of such arbitrators if they agree, or of such umpire if they disagree, shall be final; and in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a decision alone, and the decision of such arbitrators, umpire or arbitrator, as the case may be, shall be effectual and binding upon both parties.

26. The said Grantee is to be at liberty to form a Company or Limited Liability Company for the purpose of constructing, maintaining and working the tramways authorized by or hereafter to be authorized under the terms of this agreement. The words "the said Grantee" used in this agreement shall include such Company or Limited Liability Company so formed as aforesaid.

27. The words "the said Committee" used in this agreement shall include the present Committee and their successors, and also persons empowered by the said Committee or their successors or by other duly constituted authority to do any act or thing or exercise any powers or authorities which the said Committee are hereinbefore authorized or empowered to do or exercise.

STATEMENT OF OBJECTS AND REASONS.

ON the 22nd June, 1882, the Municipal Committee of Rangoon entered into an agreement with Mr. J. W. Darwood, by which they conferred upon him the exclusive right to construct and work public tramways within the limits of the municipality, and arranged with him for the construction and working of certain specified tramways and of such others as might from time to time be determined on.

2. An agreement of this description, it need hardly be said, requires to be supported and supplemented by legislation. Statutory powers are needed by the grantee of the concession to enable him to exercise with safety the powers over the public streets which the agreement purports to confer on him. Statutory penalties must be provided, in order, on the one hand, to impose an efficient check on the abuse of those powers and enforce the conditions upon which they are conferred, and, on the other, to prevent any improper interference with the exercise of them.

3. It is further desirable to fix by a legislative enactment a maximum limit to the fares to be charged, and to provide a penalty for evading the payment of fares and empower the servants of the grantee in certain cases to arrest persons charged with this offence.

4. Lastly, it is desirable to confer upon the municipal authority and upon the grantee a power to make rules regarding the working and use of the tramways, and to impose a small pecuniary penalty for the breach of such rules.

5. The above are the principal matters provided for in the present Bill, which, it should be stated, has been prepared on the principle of restricting the action of the legislature to those points for which the agreement does not sufficiently provide. The only other matters to which attention need here be directed are, first, that the carriage of goods of a dangerous or offensive nature is placed by the Bill under very much the same species of control as the carriage of dangerous goods is by the Railway Act; and secondly, that, in consideration of the grantee being obliged to keep a considerable portion of the roadways in repair, his premises and rolling-stock are exempted for five years from all municipal taxation, except lighting and water rates.

C. P. ILBERT.

The 20th June, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th June, 1883, and was referred to a Select Committee on the 27th idem :—

No. 17 OF 1883.

A Bill for the protection of Inventions exhibited in the Exhibitions of India.

WHEREAS it is expedient that such protection as is hereinafter mentioned should be afforded to the inventors of new manufactures who are desirous of exhibiting them at Exhibitions to be held in India; It is hereby enacted as follows :—

Preamble.

Short title. Commencement.

1. This Act may be called the Protection of Inventions Act, 1883; and it shall come into force at once.

2. It shall be read with and taken as part of Act XV of 1859 (*for granting exclusive privileges to inventors*).

Act to be read with Act XV of 1859.

3. If, within six months from the time of the opening of an International Exhibition, a person, being the inventor and exhibitor of any manufacture exhibited at that Exhibition, petitions the Governor General in Council under Act XV of 1859, for leave to file a specification of his invention, the circumstance that the invention has at any time after the opening of the Exhibition been publicly used or made publicly known shall not prevent the invention being deemed to have been at the time of presenting the petition a new invention for the purposes of the said Act.

[cf. 33 Vic., c. 2.]

Inventions exhibited when to be deemed new though publicly used or made publicly known.

4. In this Act, "International Exhibition" means the International Exhibition to be held in the year one thousand eight hundred and eighty-four at Calcutta, and any Exhibition to be held in India which the Governor General in Council may, upon the application of any persons desirous of holding the Exhibition, by notification in the *Gazette of India*, declare to be, in the judgment of the Governor General in Council, calculated to promote Indian art or industry, and to prove beneficial to the mercantile, agricultural or industrial classes of Her Majesty's subjects in India.

[cf. 33 Vic., c. 3.]

Meaning of term "International Exhibition."

STATEMENT OF OBJECTS AND REASONS.

THIS Bill has been prepared in view of the forthcoming International Exhibition which it is proposed to hold in Calcutta next cold weather. It has been brought to the notice of Government that the want of some such protection as the Bill affords might probably deter inventors of unpatented inventions from sending them, and thus prevent the exhibition of some interesting exhibits.

2. It has been found necessary in England, and also, it is believed, in the Australian colonies, to legislate on this subject.

The Bill is drawn on the model of the Protection of Inventions Act, 1870 (33 & 34 Vic., cap. 27), but necessarily differs from it in details, inasmuch as the system of protection to inventions in force in this country differs from that in force in England in many respects, and, among others, in permitting an inventor to use his invention, or allow others to use it, publicly for a year without losing his right to protection. The effect of the Bill, if it becomes law, may be shortly stated to be that, if an inventor exhibiting his invention applies within six months from the opening of the exhibition for leave to file a specification, the circumstance of the invention having been publicly used or publicly made known after the opening of the exhibition will not affect his rights.

3. To prevent the necessity for similar legislation in the case of other exhibitions which may hereafter be held, section 4 of the Bill defines the term "International Exhibition" as meaning, not only the contemplated "International Exhibition" to be held at Calcutta, but any exhibition to be held in India which the Governor General in Council may, upon the application of any persons desirous of holding the exhibition, by notification in the *Gazette of India*, declare to be, in the judgment of the Governor General in Council, calculated to promote Indian art or industry, and to prove beneficial to the mercantile, agricultural or industrial classes of Her Majesty's subjects in India.

The 20th June, 1883.

C. P. ILBERT.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 14, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th June, 1883, and was referred to a Select Committee on the 27th idem :—

No. 15 OF 1883.

A Bill to amend the Native Passenger Ships Act, 1876.

[of 1876.

WHEREAS it is expedient to amend the Native Passenger Ships Act, 1876, with a view to provide for the better regulation of the passenger traffic between British India and ports in the Red Sea; It is hereby enacted as follows:—

Preamble.

Short title.

1. This Act may be called the Native Passenger Ships Act, 1883;

Commencement.

and it shall come into force on such day as the Governor General in Council directs by notification in the *Gazette of India*.

1876.

Addition to section 11 of the Native Passenger Ships Act, 1876.

2. After clause (*e*) of section 11 of the Native Passenger Ships Act, 1876, the following clause shall be added:—

"(*ee*) in the case of any ship sailing to any port in the Red Sea, that she is propelled principally by steam, and, if she is carrying more than one hundred passengers being Natives of Asia or Africa, that she has on board a medical officer licensed in accordance with rules to be made under this Act."

Substitution of new section for section 26 of the same Act.

3. For section twenty-six of the same Act, the following section shall be substituted:—

Bond where ship clears for port in Red Sea.

"26. In the case of every ship sailing from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port clearance for any such ship shall not grant the clearance unless and until the owner, agent or master of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of Rs. 5,000, conditioned—

"(*a*) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers; and

"(*b*) that the master and medical officer (if any) of the ship shall comply with on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships sailing between ports in British India and ports in the Red Sea as the Governor General in Council may, from time to time, make under section forty-six."

Amendment of section 27 of same Act.

4. In section twenty-seven of the same Act, for the word "thirty" the word "sixty" shall be substituted.

Addition to section 28 of the same Act.

5. To section twenty-eight of the same Act the following words shall be added:—"and the authority empowered to grant the same may refuse to grant a bill of health in the case of any ship on board of which the requirements of the rules made under section 46 are not complied with."

Addition of new sections after section 28 of same Act.

6. After section twenty-eight of the same Act, the following sections shall be added:—

Certain ships to carry medical officer.

"28A. Every ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers being Natives of Asia or Africa shall have on board a medical officer licensed in accordance with rules to be made under this Act.

Certain ships to be propelled by steam.

"28B. Every ship sailing from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

"28C. *(1)* The Governor General in Council may, from time to time, by notification in the *Gazette of India*, direct that no passenger of such class as may be specified in the notification shall be received on board any ship sailing from any port in British India to any port in the Red Sea unless and until he has obtained a certificate from a medical officer to be appointed by the Local Government in this behalf, to the effect that he has been examined by that officer and is not suffering from any dangerously infectious or contagious disease, and is in a fit state of health to undertake the voyage to the port in the Red Sea for which he is bound.

Power for Governor General in Council to issue notification requiring medical inspection in case of certain passengers.

(2) The Governor General in Council may cancel or alter, either in whole or in part, any notification which may at any time be issued under this section.

Addition of new sections after section 38 of same Act.

7. After section thirty-eight of the same Act, the following sections shall be added:—

"38A. If the master of any such ship as is referred to in section twenty-seven, or any medical officer in charge of any such ship, wilfully breaks, or omits or neglects to obey, any rule with regard to those ships made under section forty-six, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master or medical officer of certain ships disobeying rules.

"38B. If any ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers has not on board a medical officer as required by section 28A, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master of certain ships sailing without medical officer.

"38C. The owner and master of any ship sailing from or to any port in British India to or from any port in the Red Sea and not principally propelled by steam shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on owner and master of certain ships not propelled by steam.

"38D. If the master of any ship, while a notification under section 28C is in force, knowingly receives on board his ship any person in contravention of that notification, he shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees for each person so received, or with both."

Penalty on master receiving passenger in contravention of a notification under section 28C.

8. After clause (*b*) of section forty-six of the same Act, the following clause shall be added:—

Additions to section 46 of same Act.

"(*bb*) the licensing and appointment of medical officers in cases where they are required, under this Act, to be carried";

and after clause (*e*) of the same section the following clauses shall be added:—

"(*ee*) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

"(*eee*) the access of intermediate or between decks passengers to the upper deck.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend the Native Passenger Ships Act, VIII of 1876, with a view to provide for the better regulation of the pilgrim traffic between British India and Arabia. This traffic has formed the subject of correspondence between the Secretary of State, the Government of India and the various local maritime Governments in India. A careful consideration has brought the Government to the conclusion that the importance of the pilgrim traffic makes its detailed regulation imperative, and that, to secure uniformity of procedure, and thereby avoid the friction which must inevitably follow divergence between rules separately framed by different States, it is desirable that, in all the more important points, a common understanding should be come to among the Governments who are chiefly interested in the proper management of that traffic. The establishment of a practical coincidence between the general provisions of the local Turkish regulations and those of the law of India—the country which at present furnishes the largest number of pilgrims to the Hedjaz—can only be effected by diplomatic correspondence between the British and Turkish Governments. But, since experience has shown that the provisions of the Indian law as it at present stands are insufficient to meet the peculiar exigencies of this traffic, and that in some respects they require revision, it seems desirable, before attempting to bring about an assimilation of the British and Turkish laws, to make such amendments of our own law as are necessary to put it in a satisfactory state.

2. The Indian law on this subject is contained partly in the provisions of the Native Passenger Ships Act, 1876, and partly in those of the rules framed under that Act. With a view to the amendment of the latter, the Government of India has already submitted to the Secretary of State a copy of a draft set of rules, which have been framed on the model of those regulating the transport of emigrants from India to the English and French colonies, and which it proposes to issue under the Native Passenger Ships Act, 1876, as rules regulating the conveyance of Native passengers between the ports of India and of the Hedjaz. With a view to the amendment of the former, the present Bill has been prepared.

3. Section 2 adds to section 11 of the Native Passenger Ships Act, 1876, a provision requiring the certificate given under that section to contain in the case of a ship sailing to the Red Sea a declaration that she is propelled principally by steam, and when the ship carries more than 100 Native passengers a declaration that she has on board a licensed medical

officer. The effect of this will be that such ships will not be able to obtain a port-clearance (see section 9) unless they comply with these requirements.

4. Section 3 amends section 26 of the Act, by requiring the bond given under that section to be conditioned for the observance of the provisions of the Act and of such rules with regard to Native passenger ships sailing to the Red Sea as the Governor General in Council may make under section 46 of the Act. The object of this amendment is to enable the Government of India to enforce the observance of its rules beyond the limits of its jurisdiction.

5. The substitution (by section 4 of the Bill) of 60 for 30 as the number of passengers which must be on board a ship in order that section 27 of the Act may apply follows as a necessary consequence of the provision that all ships are to be propelled by steam (see section 2 of the Act).

6. Section 5 empowers the authorities at Aden to refuse a bill of health to a ship if the requirements of the rules are not complied with.

7. The sections (28A, 28B and 28C) which section 6 adds to the Act require every ship sailing to or from the Red Sea and carrying more than 100 Native passengers to have a licensed medical officer, and every Native passenger ship sailing to or from the Red Sea to be propelled principally by steam, and empower the Governor General in Council to issue a notification directing that no passenger of such description as may be specified in the notification shall be received on board any such ship until he has obtained a certificate from a prescribed medical officer certifying that he is not suffering from any infectious or contagious disease, and is in a fit state of health to proceed to the port to which he intends to proceed.

With regard to section 28A, the Government has no doubt that the presence of a medical officer on board will serve to diminish many of the hardships from which pilgrims now suffer, especially if he is by rule made responsible for seeing that the sanitary and dietary arrangements on board are properly managed, and if he is liable to be disqualified for any breach of duty on his own part. It may not always be possible to secure Muhammadan medical men for this service, but endeavours will be made to supply officers of that persuasion in preference to others. Section 28B speaks for itself. Section 28C may have to be enforced, at the instance of the European powers, as a precaution against the possible introduction of epidemic disease by Indian pilgrims into Arabia.

8. Section 7 imposes penalties for breaches of the requirements of the Bill.

9. Lastly, by section 8, certain words are added to section 46 of the Act to enable the Governor General in Council to make rules to regulate the licensing of medical officers and the functions of those officers and of the officers of the ship generally, and ensure to the passengers free access to the upper deck.

The 20th June, 1883.

C. P. ILBERT.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th June, 1883, and was referred to a Select Committee on the 27th idem :—

No. 16 OF 1883.

Note.—B. B. in the margin of this Bill refers to the Bill submitted by the Chief Commissioner.

A Bill to authorize the making and to regulate the working of Street Tramways in Rangoon.

Preamble.

WHEREAS the Municipal Committee of the Town of Rangoon, by an agreement dated the 22nd day of June, 1882, a copy whereof is set forth in the schedule annexed to this Act, granted, for the considerations therein expressed, to John William Darwood, his heirs, executors, administrators and assigns, hereinafter called the grantee, the right to construct, maintain and use a tramway or tramways in Rangoon upon the terms subject to the conditions and in the manner mentioned in the said agreement, but the said agreement was made subject to the confirmation thereof by the Chief Commissioner of British Burma and to the recognition thereof by an Act of the Governor General in Council;

and whereas the said agreement was, on the 13th day of November, 1882, confirmed by the Chief Commissioner of British Burma; and it is now expedient to recognise it and give effect to it, subject to the provisions and limitations hereinafter contained; It is hereby enacted as follows :—

A.—Preliminary.

Short title. Commencement.

1. This Act may be called the Rangoon Tramways Act, 1883; and it shall come into force at once.

Definitions.

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

"Committee" means the Committee for the town of Rangoon appointed under the British Burma Municipal Act, 1874.

VII of 1874.

"Tramway," means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway.

[B. B., s. 2.] "Street" means the way of any street, road, thoroughfare, passage or place along or across which any tramway authorised by this Act is or is intended to be laid, and includes the surface soil and subsoil of any such street, and the footway and drains of any such street, and any bridge, culvert or causeway forming part of any such street.

B.—Powers of Grantee generally.

Power to make, maintain and use tramways.

[B. B., 3, 4, 5, 6.

3. Subject to the provisions of this Act, and to the terms and conditions of the said agreement so far as the same are not inconsistent with this Act, the grantee may make, maintain and use any of the tramways for the construction, maintenance and use of which provision is made in the said agreement:

Provided that any such tramway shall not be opened for public traffic until it has been inspected and certified by the engineer to the Committee to be fit for such traffic.

C.—Construction and Maintenance of Tramways and of Streets on which they are laid.

Power to grantee to break up streets.

[38 & c. [B.

4. Subject to the terms and conditions of the said agreement, the grantee may, from time to time, for the purpose of constructing, maintaining or renewing any tramway under this Act, open and break up any street, and therein or thereon lay sleepers and rails, and repair, alter or remove the same; and may, for the purposes aforesaid, do in and on any such street all other acts which may, from time to time, be necessary for constructing, maintaining or renewing the tramway.

Provided that he shall not, without the consent of the Committee, open or break up at any one time a greater length than one hundred yards of any street which does not exceed a quarter of a mile in length; and in the case of any street exceeding a quarter of a mile in length, he shall leave an interval of at least a quarter of a mile between any two places at which he may open or break up the street, and shall not open or break up at any such place a greater length than one hundred yards.

Grantee to keep the tramways and adjoining part of street in repair.

[33 & c. 78, [B. B.

5. The grantee shall, at his own expense, at all times maintain and keep in good condition and repair, in such manner as the Committee from time to time directs, all tramways constructed by him under this Act, and so much of any street as lies between the rails of any such tramway; and in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway.

5 b

Obligations of grantee when he has broken up street.

6. When the grantee has for the purposes of section 4 or section 5 opened or broken up any portion of a street, he shall be under the following further obligations, namely :—

[33 & 34 Vic., c. 78, s. 27.] [B. B., s. 12.]

(*a*) He shall, with all convenient speed, and in all cases within six weeks at the most, unless the Committee otherwise consent in writing, complete the work for which the street has been broken up, and fill in the ground, and make good the surface, and, to the satisfaction of the Committee, restore the street to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

(*b*) He shall, in the meantime, cause the place where the street is opened or broken up, to be fenced and watched, and to be properly lighted at night, and,

(*c*) He shall make good all damage done to drains, sewers, water-pipes and gas-pipes, and to the wires or other materials or things used for any system of lighting, and whether belonging to the Committee, to the Government, or to private persons, and shall make compensation for any other damage done in the execution of the powers granted to him.

[33 & 34 Vic., c. 78, ss. 32 & 33.] [B. B., s. 28.]

Reservation of Committee's power over streets.

7. *(1)* Nothing in this Act shall prevent the Committee from opening, breaking up, widening, altering, diverting or improving any street traversed by a tramway for the purposes for which they might otherwise under the law for the time being in force lawfully open, break up, widen, alter, divert or improve such street

Provided that—

(*a*) they shall cause as little detriment or inconvenience to the grantee as circumstances admit; and

(*b*) before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantee not less than eighteen hours previous notice of their intention to commence the work, specifying the time at which they will commence it.

(2) The Committee shall not be liable to pay to the grantee any compensation for injury done to the tramway by the execution of any work referred to in sub-section (1) or for loss of traffic occasioned by the reasonable exercise of their powers in connection with the same.

D.—Rights over Tramways and Streets on which they are laid.

[33 & 34 Vic., c. 78, s. 34.] [B. B., ss. 8, 16.]

Grantee's exclusive right over tramways.

8. The grantee shall subject to the provisions of this Act and to the terms and conditions of the said agreement, have the exclusive use of his tramways for carriages with flange wheels or other wheels suitable only to run on a grooved rail.

[33 & 34 Vic., c. 78, s. 62.]

Provided that nothing in this Act shall affect

(*a*) The right of the public to pass along or across any part of any road, along or across which any tramway is laid, whether on or off the tramway with carriages not having flange wheels or wheels suitable to run on a grooved rail; or

(*b*) the right of the Commissioners for the Port of Rangoon, or of any other body or person entitled at the time of the commencement of this Act to work and maintain a tramway, to pass across any tramway constructed under this Act with carriages having flange wheels or wheels suitable to run on a grooved rail.

Grantee to have right of user only.

9. Notwithstanding anything in this Act, the grantee shall not acquire any right other than that of user of any street along or across which he lays any tramway. [33 & 34 Vic., c. 78, s. 57.] [B. B., s. 16.]

Power of Committee and police to regulate traffic on streets.

10. Nothing in this Act shall affect the powers of the Committee or the police to regulate the passage of any traffic along or across any street along or across which any tramway is laid down, and the Committee or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantee as to the traffic of other persons. [33 & 34 Vic., c. 78, s. 61.] [B. B., s. 27.]

E.—Traffic on Tramways.

Rate of fares.

11. The grantee may, from time to time, by a notice published in such languages and in such manner as the Chief Commissioner may prescribe, fix the rates of fares and charges for carrying passengers and goods in his carriages: [B. B., s. 9.] [33 & 34 Vic., c. 78, s. 45.]

Provided that the rates of passenger fares shall not exceed one anna per mile for each passenger in the lower class and two annas per mile for each passenger in the higher or first class.

Mode of payment of fares.

12. The fares and charges by this Act authorized shall be paid to such persons at such places, upon or near to the tramways, and in such manner and under such regulations as the grantee may, by a notice published as aforesaid, from time to time prescribe. [B. B., s. 11.]

Carriage of dangerous or offensive goods.

13. *(1)* No person shall be entitled to carry or to require to be carried on any tramway constructed under this Act any goods of a dangerous or offensive nature. [B. B., s. 22.]

(2) Every person taking such goods with him on any such tramway shall before entering the carriage give notice of their nature to the servant of the grantee in charge of the carriage.

(3) Every person sending such goods by any such tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the book-keeper or other servant of the grantee with whom the same are left at the time of such sending.

(4) The grantee may refuse to take any parcel which he may suspect to contain goods of a dangerous or offensive nature, or require the same to be opened to ascertain the fact.

F.—Offences and Penalties.

Penalty for failure of grantee to comply with provisions of this Act.

14. If the grantee— [33 & 34 Vic., c. 78, s. 27.] [B. B., s. 17.]

(*a*) constructs or maintains any tramway, or runs any car or carriage thereon otherwise than in accordance with the said agreement;

(*b*) opens any tramway for traffic before it has been inspected and certified in manner required by section 3;

(*c*) opens or breaks up any street otherwise than as permitted by this Act, or having opened or broken up a street fails to discharge any of the obligations imposed on him by section 6, clauses (*a*) and (*b*); or

(*d*) fails to keep the rails of any tramway and the portions of the street adjoining the same in repair as required by section 5

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the said agreement or to any other remedy against him), on complaint of the Committee or of any person injuriously affected thereby, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for each day after the first day during which the offence continues to be committed.

[B. B., s. 18.] [32 & 34 Vic., c. 78, s. 49.]

Penalty for obstructing grantee in the exercise of his powers.

15. Any person who wilfully obstructs any person acting under the authority of the grantee in the lawful exercise of his powers in constructing, repairing or renewing a tramway, or injures or destroys any mark, made for the purpose of setting out the line of the tramway, shall be punished with fine which may extend to fifty rupees.

[B. B., s. 19.] [33 & 34 Vic., c. 78, s. 50.]

Penalty for interfering with tramway.

16. Any person who without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely,—

(*a*) interferes with, removes or alters any part of a tramway constructed under this Act or of the works connected therewith;

(*b*) does or causes to be done anything in such a manner as to obstruct any carriage using any such tramway; or

(*c*) knowingly aids or assists in the doing of such thing,

shall be punished with fine which may extend to one hundred rupees.

[B. B., s. 22.] [33 & 34 Vic., c. 78, s. 53.]

Penalty for taking or sending dangerous or offensive goods without giving notice.

17. Any person taking or sending by any tramway any goods of a dangerous or offensive nature without giving the notice required by section 13 shall be punished with fine which may extend to fifty rupees.

[B. B., s. 20.] [33 & 34 Vic., c. 78, s. 51.]

Penalty for avoiding payment of proper fare.

18. If any person travelling or having travelled in any carriage of the grantee avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit the carriage, he shall be punished with fine which may extend to ten rupees.

[B. B., s. 21.] [33 & 34 vic., c. 78, s. 52.]

Power of servant of grantee to arrest persons avoiding payment of fare.

19. Any servant of the Grantee, and any person called in by him for his assistance, may arrest and take to the nearest police-station any person who is discovered either in or after committing or attempting to commit an offence punishable under section 18, and whose name and residence is refused by him and is unknown to such servant or person, and the police-officer in charge of the police-station, on receiving a complaint that such an offence has been committed, shall adopt such legal measures as may be necessary to cause the accused person to be taken before a Magistrate with the least possible delay.

G.—Powers to make Rules.

Powers to make rules.

20. *(1)* The Committee in special meeting may, with the sanction of the Chief Commissioner, from time to time make such rules consistent with this Act as to the rate of speed, number of passengers, and mode of use of the tramways and as to the licensing and control of drivers, conductors and other persons having charge of the carriages of the grantee as the convenience and safety of the public may require. [B. B., ss. 23, 24 & 25.] [33 & 34 Vic., c. 78, ss. 46, 47 & 48.]

(2) The grantee may, with the like sanction, from time to time, make rules consistent with this Act for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to him; and

for regulating the travelling in any carriage belonging to him.

(3) The authority making any rule under this section may prescribe as a punishment for the breach of it a fine which may extend to twenty rupees.

(4) All rules made under this section shall be published in the *British Burma Gazette*.

H.—Miscellaneous.

Construction of clause 15 of agreement.

21. For the purpose of clause 15 of the agreement set forth in the schedule annexed to this Act, the want of sufficient funds shall not be deemed to be a circumstance beyond the control of the grantee. [B. B., s. 29.] [33 & 34 Vic., c. 78, s. 41.]

Exemption from certain municipal taxation.

22. The plant, rolling-stock and other vehicles, yards, workshops engine-sheds and depôts of the grantee shall, for a period of five years from the passing of this Act, be exempt from all municipal taxation except such lighting and water-rates as may from time to time be payable in respect of the yards, workshops, engine-sheds, and depôts. [B. B., s. 13.]

Provisions as to general Acts.

23. Nothing in this Act shall exempt the grantee or any tramway constructed by him under this Act from the provisions of any general enactment relating to tramways now in force or which may hereafter be passed. [Model tramways Bill.]

SCHEDULE.

ARTICLES OF AGREEMENT made this 22nd day of June 1882 BETWEEN THE MUNICIPAL COMMITTEE OF THE CITY OF RANGOON appointed under the British Burma Municipal Act, 1874, hereinafter called the said Committee, of the one part, and JOHN WILLIAM DARWOOD, of Rangoon, hereinafter called the said Grantee, of the other part. WHEREAS the said Committee have, subject to the confirmation thereof by the Chief Commissioner of British Burma and to the recognition of this Agreement by an Act of the Governor General of India in Council, agreed to grant to the said Grantee the right to construct, maintain and use a tramway or

tramways in Rangoon upon the terms and conditions hereinafter contained, NOW THESE PRESENTS WITNESS that in consideration of the covenants and agreements hereinafter contained and on the part of the said Committee to be performed, the said Grantee for himself, his heirs, executors, administrators and assigns doth covenant with the said Committee, so far as the covenants and conditions hereinafter contained are to be performed by the said Grantee and his heirs, executors, administrators and assigns, and the said Committee, for and in consideration of the covenants and agreements hereinafter contained and on the part of the said Grantee, his heirs, executors, administrators and assigns to be performed, do hereby covenant with the said Grantee, his heirs, executors, administrators and assigns so far as the covenants and agreements hereinafter contained are to be performed by the said Committee in manner following, that is to say:—

1. The said Committee grant to the said Grantee and his heirs, executors, administrators and assigns, all which persons are hereinaftar included in the words "the said Grantee," the right to construct, maintain and use a tramway or tramways, with single or double tracks or lines, and with all necessary sidings, turnouts, connections and lines, or tracks of whatever nature which may be required to connect the said tramway or tramways with the depôts of the said Grantee (but in the case of sidings and turnouts, only in such places as the said Committee may sanction), on the following routes and between such other places and by such other routes as may be hereafter approved of by the said Committee:—

The tramways referred to and now authorised for construction subject to such confirmation as aforesaid are:—

I.—A tramway with a double track or line along China Street and Pagoda road from the Strand road at its junction with China street to the Shway Dagone Pagoda.

II.—A tramway with a double track or line along the Strand road from East street to West street.

III.—A tramway with a double track or line along Dalhousie street from East street to the junction of Dalhousie street with the Strand road.

IV.—A tramway with a double track or line along Soolay Pagoda road from the Strand road to Montgomery street and along Montgomery street to the Phayre street railway station and along Montgomery road to the iron bridge near the bazár at Poozoondoung.

V.—A tramway with a double track or line from the Strand road down Barr street to Shafraz road round the Public Buildings back into the Strand road.

2. When approved of and desired by the said Committee, tramways with such tracks or lines as may be approved of by the said Committee from East street to Monkey point and along the Upper and Lower Poozoondoung roads to Monkey point, and along Merchant street, Fraser street and Canal street, and along Lower Kemmendine road from the Strand road, Kemmendine, to the junction of West street with the Strand road.

3. The said tramway or tramways to be constructed and maintained in such form and manner and upon such gradient and with such gauge as the said Committee may approve, and the cars and carriages intended to run on the said rails shall be such as are approved of by the said Committee.

4. The cars and carriages of the Grantee on the tracks or lines of the said tramway shall, unless with the consent of the said Committee, be worked with steam power of the most approved engine of the time only, and the said Committee shall have power at all times to make such regulations as to the rate of speed and mode and use of the said tracks or lines as the convenience and safety of the public using the streets may require.

5. The said Grantee shall have power from time to time to fix the rate of fares for carrying persons and goods in the cars or carriages to be run on the said tramway or tramways, provided that the rates of fares shall for any distance not exceed the rate of one anna per mile for the lower class and two annas per mile for the higher or first class for each passenger.

6. The said Grantee may, for the purpose of constructing and maintaining such tramways under such superintendence as is hereinafter specified, open and break up the soil and metalled way of the several streets, roads and bridges in the city and thereon lay sleepers and rails, and from time to time repair, alter or remove the same, and may, for the purposes aforesaid, remove and use all earth and materials in such streets, roads and bridges, and the said Grantee may, in and on such streets, roads and bridges, do all other acts which he shall from time to time deem necessary for constructing and maintaining street tramways in the said city, doing as little damage as may be in the execution of the powers hereby granted, and shall make good all damage done to drains, sewers, water and gas pipes, or to the wires or other materials or things used for any other system of lighting, and whether belonging to the said municipality or to private individuals, and shall make compensation for any other damage done in the execution of such powers.

7. Before the said Grantee proceeds to open or break up any street, road or bridge other than those referred to in sub-clauses from I to V in clause 1, he shall obtain the approval in writing of the said Committee to the tracks or lines of the said tramway being laid down on the said streets, roads or bridges, and the said Grantee, before opening or breaking up any street, road or bridge, shall give to the said Committee or their Executive Engineer, or other municipal officer duly appointed for that purpose, notice in writing of his intention to open or break up the same not less than three clear days before beginning such work, except in such cases of emergency arising from defects in any of the rails or other work, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

8. No street, road or bridge shall, except in cases of emergency as aforesaid, be opened or broken up, except under the superintendence of the said Committee or of their Executive Engineer or of some other municipal officer duly appointed for that purpose, and according to such plans as shall be approved of by him or them: provided always that if the said Committee or their Engineer or other such officer as aforesaid fail to attend at the time fixed for the opening of any

such street, road or bridge after having had such notice of the said Grantee's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said Grantee may perform the work specified in such notice without such superintendence as aforesaid.

9. When the said Grantee opens or breaks up the roadway or pavement of any street, road or bridge, he shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and make good the roadway or pavement so opened or broken up as aforesaid, and carry away the rubbish occasioned thereby and deposit the same for the use of the said Committee at such place as the Executive Engineer of the said municipality shall direct, and shall at all times whilst any such roadway or pavement shall be so opened or broken up cause the same to be guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such roadway or pavement where the same shall be open or broken up every night during which the same shall continue open or broken up.

10. If the said Grantee opens or breaks up any street, road or bridge without giving such notice as hereinbefore mentioned or in a manner different from that which shall have been approved of or determined as aforesaid except in the cases in which the said Grantee is hereby authorized to perform such work without any superintendence or notice, or if the said Grantee shall make any unnecessary delay in completing any such work or in filling in the ground or reinstating and making good, so far as is consistent with the existence of the said tramway, the roadway or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby, or if he neglect to cause the place where such roadway or pavement has been broken up to be guarded and lighted, he shall forfeit to the said Committee a sum not exceeding fifty (50) rupees for every such offence, and he shall forfeit an additional sum not exceeding fifty (50) rupees for each day during which any such delay or neglect as aforesaid shall continue after he shall have received notice thereof.

11. The said Grantee shall maintain and keep in repair such portion of the streets, roads and bridges in the City of Rangoon as shall be occupied by his tracks or lines, including therein not only the space between his tracks or lines but a space eighteen inches on either side thereof, and in consideration of the maintenance of such streets, roads and bridges as aforesaid, and of the yearly rent hereinafter mentioned to be paid by the Grantee, the plant, rolling-stock and other vehicles, yards, workshops, engine-sheds and depôts of the said Grantee shall be exempt from municipal taxation for a period of five years, except lighting and water-rates for such yards, workshops, engine-sheds and depôts.

12. The said Grantee shall be liable for any loss, damage or injuries that any person or persons may sustain by reason of any defect or want of repairs in any of the plant, rolling-stock or other properties of the said Grantee, or by reason of any carelessness, neglect or misconduct of his agents or servants in the management, construction or use of the said tramways or any portion thereof, or in the exercise of the power given by clauses 6, 7, 8, and 11; the same shall be made good by the said Grantee, and in the event of any suit being instituted against the said Committee in respect of any of the matters hereinbefore mentioned, the said Grantee shall, within fourteen days from the receipt of a notice thereof from the said Committee, settle the same; but if the said Grantee choose to defend such suit, he shall be at liberty to do so upon his undertaking to indemnify the said Committee against all losses, damages and expenses in respect thereof: provided always that, if the said Grantee fail to settle such suit or to indemnify the said Committee as is hereinbefore provided, it shall be lawful for the said Committee to settle the same without any consent or concurrence on the part of the said Grantee, and the sums which they shall have to pay in making such settlement, together with interest thereon at the rate of 8 per cent. per annum from the date of payment, and with all expenses which they may be put to, shall be recoverable as a debt from the said Grantee.

13. Nothing in this agreement shall be construed to prevent the said Committee from taking up any of the public streets or roads traversed by the said tramway for the purposes for which the said Committee may lawfully take up the same, and that the said Grantee shall have no right to claim cost from the said Committee for obstructing the tramway or causing delay in the traffic so long as the delay shall not be unreasonable for the work to be performed.

14. If the said Committee shall hereafter alter the level of any street, road or bridge along or across which any tramway by this agreement authorized is laid or authorized to be laid, the Grantee shall alter or (as the case may be) lay his rails to suit the altered level of such street, road or bridge, provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways, and in any case so as not to stop or prevent the free use or working thereof.

15. If at any time after the opening of any tramway for traffic the said Grantee shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the said Grantee), it shall be lawful for the said Committee, without any previous notice to the said Grantee, to remove the tramway or part of the tramway so discontinued, and the said Grantee shall pay to the said Committee the cost of such removal and of the making good of the street, road or bridge, and the certificate of the said Committee or of their Engineer as to such cost shall be conclusive.

16. The provisions of this agreement shall remain and be in force for a term not less than twenty-one (21) years from the date thereof. The said Committee shall have the right of purchasing the said tramways with the plant, stores, rolling-stock, sheds, depôts and yards, and everything connected therewith after the expiration of the said twenty-one (21) years upon declaring its intention so to do within six months after the expiration of the said twenty-one (21) years; the amount to be paid in the event of such purchase shall be the actual *bonâ fide* value at the termination of this agreement exclusive of any compensation for goodwill, premium on compulsory sale or other consideration whatever of the tramways and of the work and materials connected therewith

and of the lands and buildings and all other the property of the Grantee, such value to be decided by mutual agreement or by arbitration as hereinafter provided.

17. The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said Grantee by any route or routes to be hereafter sanctioned by the said Committee and to the works connected with or incidental to such tramways, it being agreed that in the event of the municipality failing to declare its intention as above provided to purchase the property of the said Grantee the terms of this contract shall continue in force during the period of six months from the date of the determination of these presents and for a further period of six months, and if the said Committee shall not within that time exercise the option of purchase hereby given, the said Committee and the said Grantee shall enter into a fresh agreement.

18. The said Grantee will, if required by the said Committee before opening up the roadway of any street, road or bridge, deposit with the Bank of Bengal in the name of the said Committee the sum of rupees five thousand (5,000) or, in their option, promissory notes of the Government of India of the nominal value of rupees five thousand (5,000), and the same will remain so deposited until the completion by the said Grantee of the abovementioned lines of tramway herein sanctioned for construction. All interest accruing on the said sum, or the said notes, shall be credited to the said Grantee, and, subject as next hereinafter mentioned, be paid to him as the same accrues due. The said Committee shall be entitled to deduct all fines recoverable by the said Committee and all monies to which they may be entitled under any clause or clauses of these presents out of the sum so deposited, or the interest accruing on the said sum or notes, or out of the proceeds of sale of a portion of the said notes on completion of the tramways herein sanctioned for immediate construction.

19. In consideration of the concession herein granted, the said Grantee undertakes on behalf of himself, his heirs, executors, administrators and assigns that he will pay to the said Committee a yearly rent of rupees three thousand (3,000) per mile of double track or line and rupees two thousand (2,000) per mile of single track or line, payable half-yearly; the date on which such rent on each line of tramway shall begin to accrue shall be the date on which such line of tramways is open for public traffic.

20. It is agreed that the tramway or tramways from the Strand road along Barr street and Shafraz road round the Public Buildings and back to the Strand road should not be included, and that no sidings, turnouts or tracks necessary to connect the traffic lines with the carriage-sheds, engine-sheds, factories, depôts, yards or other property or properties of the said Grantee shall be included in the mileage on which rent is to be paid, the tramway or tramways more particularly described in this paragraph, and such sidings, turnouts and necessary connecting tracks or lines, being free of rent.

21. The sleepers, rails, materials and implements, and other erections placed and erected by the said Grantee on the streets, bridges or roads under the powers hereby granted shall be and remain the property of the said Grantee, and the said Grantee shall have the exclusive use of his tramway or tramways for carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

22. The prescribed rail is that known as the box-rail introduced by Mr. Robinson Souttar, to be made of Bessemer steel of the weight of sixty pounds to the yard, or such other rail of such weight as may be approved by the said Committee.

23. The said Grantee shall have the exclusive right of laying and using tramways within the limit of the Rangoon Municipality on the terms herein stated, but in the event of the said Grantee refusing to lay down any line when the said Committee may consider it necessary, the said Committee shall be at liberty to grant the right of laying and using such line to any other party.

24. Unless the said Grantee shall have commenced the work of laying down the said tramways within twelve months from the date of the execution of these articles of agreement, the said Committee shall be at liberty to cease and determine this contract and to enter into arrangements with any other person or persons for the construction of tramways, it being agreed, however, that these conditions of contract are subject to the sanction of Government, and that, in the event of their being executed prior to such sanction being given, the said 12 months shall date from the day on which notice of such sanction is given to the said Grantee, provided also that any delay in commencing the work beyond 12 months shall not have been due to any cause beyond the control of the said Grantee.

25. If any doubt, difference or dispute shall arise between the said Grantee and the said Committee touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference or dispute shall be referred to the arbitration of two persons, one to be chosen by the said Grantee and the other by the said Committee within one calendar month after either of them shall have made to the other a requisition to that effect, and should the arbitrators fail to agree, they shall refer the question or questions at issue to the decision of an umpire to be chosen by the said arbitrators, and the decision of such arbitrators if they agree, or of such umpire if they disagree, shall be final; and in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a decision alone, and the decision of such arbitrators, umpire or arbitrator, as the case may be, shall be effectual and binding upon both parties.

26. The said Grantee is to be at liberty to form a Company or Limited Liability Company for the purpose of constructing, maintaining and working the tramways authorized by or hereafter to be authorized under the terms of this agreement. The words "the said Grantee" used in this agreement shall include such Company or Limited Liability Company so formed as aforesaid.

27. The words "the said Committee" used in this agreement shall include the present Committee and their successors, and also persons empowered by the said Committee or their successors or by other duly constituted authority to do any act or thing or exercise any powers or authorities which the said Committee are hereinbefore authorized or empowered to do or exercise.

STATEMENT OF OBJECTS AND REASONS.

ON the 22nd June, 1882, the Municipal Committee of Rangoon entered into an agreement with Mr. J. W. Darwood, by which they conferred upon him the exclusive right to construct and work public tramways within the limits of the municipality, and arranged with him for the construction and working of certain specified tramways and of such others as might from time to time be determined on.

2. An agreement of this description, it need hardly be said, requires to be supported and supplemented by legislation. Statutory powers are needed by the grantee of the concession to enable him to exercise with safety the powers over the public streets which the agreement purports to confer on him. Statutory penalties must be provided, in order, on the one hand, to impose an efficient check on the abuse of those powers and enforce the conditions upon which they are conferred, and, on the other, to prevent any improper interference with the exercise of them.

3. It is further desirable to fix by a legislative enactment a maximum limit to the fares to be charged, and to provide a penalty for evading the payment of fares and empower the servants of the grantee in certain cases to arrest persons charged with this offence.

4. Lastly, it is desirable to confer upon the municipal authority and upon the grantee a power to make rules regarding the working and use of the tramways, and to impose a small pecuniary penalty for the breach of such rules.

5. The above are the principal matters provided for in the present Bill, which, it should be stated, has been prepared on the principle of restricting the action of the legislature to those points for which the agreement does not sufficiently provide. The only other matters to which attention need here be directed are, first, that the carriage of goods of a dangerous or offensive nature is placed by the Bill under very much the same species of control as the carriage of dangerous goods is by the Railway Act; and secondly, that, in consideration of the grantee being obliged to keep a considerable portion of the roadways in repair, his premises and rolling-stock are exempted for five years from all municipal taxation, except lighting and water rates.

C. P. ILBERT.

The 20th June, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th June, 1883, and was referred to a Select Committee on the 27th idem :—

No. 17 OF 1883.

A Bill for the protection of Inventions exhibited in the Exhibitions of India.

WHEREAS it is expedient that such protection as is hereinafter mentioned should be afforded to the inventors of new manufactures who are desirous of exhibiting them at Exhibitions to be held in India; It is hereby enacted as follows :—

Preamble.

Short title. Commencement.

1. This Act may be called the Protection of Inventions Act, 1883; and it shall come into force at once.

Act to be read with Act XV of 1859.

2. It shall be read with and taken as part of Act XV of 1859 (*for granting exclusive privileges to inventors*).

Inventions exhibited when to be deemed new though publicly used or made publicly known.

[cf. 33 & 34 Vic., c. 27, s. 2.]

3. If, within six months from the time of the opening of an International Exhibition, a person, being the inventor and exhibitor of any manufacture exhibited at that Exhibition, petitions the Governor General in Council under Act XV of 1859, for leave to file a specification of his invention, the circumstance that the invention has at any time after the opening of the Exhibition been publicly used or made publicly known shall not prevent the invention being deemed to have been at the time of presenting the petition a new invention for the purposes of the said Act.

Meaning of term "International Exhibition."

[cf. 33 & 34 Vic., c. 27, s. 3.]

4. In this Act, "International Exhibition" means the International Exhibition to be held in the year one thousand eight hundred and eighty-four at Calcutta, and any Exhibition to be held in India which the Governor General in Council may, upon the application of any persons desirous of holding the Exhibition, by notification in the *Gazette of India*, declare to be, in the judgment of the Governor General in Council, calculated to promote Indian art or industry, and to prove beneficial to the mercantile, agricultural or industrial classes of Her Majesty's subjects in India.

STATEMENT OF OBJECTS AND REASONS.

THIS Bill has been prepared in view of the forthcoming International Exhibition which it is proposed to hold in Calcutta next cold weather. It has been brought to the notice of Government that the want of some such protection as the Bill affords might probably deter inventors of unpatented inventions from sending them, and thus prevent the exhibition of some interesting exhibits.

2. It has been found necessary in England, and also, it is believed, in the Australian colonies, to legislate on this subject.

The Bill is drawn on the model of the Protection of Inventions Act, 1870 (33 & 34 Vic., cap. 27), but necessarily differs from it in details, inasmuch as the system of protection to inventions in force in this country differs from that in force in England in many respects, and, among others, in permitting an inventor to use his invention, or allow others to use it, publicly for a year without losing his right to protection. The effect of the Bill, if it becomes law, may be shortly stated to be that, if an inventor exhibiting his invention applies within six months from the opening of the exhibition for leave to file a specification, the circumstance of the invention having been publicly used or publicly made known after the opening of the exhibition will not affect his rights.

3. To prevent the necessity for similar legislation in the case of other exhibitions which may hereafter be held, section 4 of the Bill defines the term "International Exhibition" as meaning, not only the contemplated "International Exhibition" to be held at Calcutta, but any exhibition to be held in India which the Governor General in Council may, upon the application of any persons desirous of holding the exhibition, by notification in the *Gazette of India*, declare to be, in the judgment of the Governor General in Council, calculated to promote Indian art or industry, and to prove beneficial to the mercantile, agricultural or industrial classes of Her Majesty's subjects in India.

C. P. ILBERT.

The 20th June, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 21, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 18th July, 1883 :—

No. 18 of 1883.

THE BURMA LOCAL SELF-GOVERNMENT BILL, 1883.

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Note.—"B. B." in the margin means the draft Bill submitted by the Chief Commissioner with his letter No. 587, dated 16th November, 1883.

A Bill to amend the law relating to Local Self-government in British Burma.

WHEREAS it is expedient to amend the law relating to local self-government in British Burma; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. *(1)* This Act may be called the Burma Local Self-government Act, 1883. Short title.

(2) It extends to the territories under the administration of the Chief Commissioner of British Burma. Local extent.

(3) And it shall come into force on the first day of November, 1883. Commencement.

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

"Municipality" means any local area constituted a municipality under Chapter II.

"Prescribed" means prescribed by rules made by the Local Government under this Act.

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

3. The Local Government may, from time to time, by notification in the official Gazette, declare its intention to constitute any town or group of towns, and any tract of country adjoining the same, a municipality under this Act: Notification of intention to constitute municipality. [B. B. ss. 3 & 6.] [Act VII of 1874, ss. 3 & 4.]

Provided that a notification under this section shall not, without the previous sanction of the Governor General in Council, comprise any military cantonment.

4. *(1)* Any inhabitant of a local area in respect of which a notification has been published under section 3 may, if he objects to anything therein contained, submit his objection in writing to the Secretary to the Local Government within six weeks from the publication of the notification, and the Local Government shall take his objection into consideration. Notification constituting municipality. [B. B. s. 3.] [Act VII of 1874, s. 3.]

(2) When six weeks from the publication of the notification have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by like notification, constitute the local area a municipality.

5. The Local Government may, by notification in the official Gazette, constitute any local area comprised in a municipality established under the British Burma Municipal Act, 1874, a municipality under this Act. Special power in respect of existing municipalities. VII of 1874.

6. The Local Government shall, within three months from the date on which this Act comes into force, constitute the local area comprised in every municipality established under the British Burma Municipal Act, 1874, a municipality under this Act, unless before the expiration of that period— Obligation to bring existing municipalities under this Act. VII of 1874.

(*a*) it has been included in some local area which has been constituted a municipality under this Act; or

(*b*) the Local Government has declared, by a notification in the official Gazette, that it is unfit to be constituted a municipality under this Act.

Burma Local Self-government Bill, 1883.

(Chapter III.—Organization of Municipal Boards.)

CHAPTER III.

ORGANIZATION OF MUNICIPAL BOARDS.

Constitution of Boards.

7. There shall be established for each municipality a municipal board having authority over that municipality, and consisting of— Board to consist of elected and appointed members. [B. B. ss. 9, 10 & 15.] [Act VII of 1874 ss. 5 and 7.]

(*a*) so many inhabitants of the municipality as may, from time to time, be determined by the Local Government, elected in manner next hereinafter prescribed, to represent wards of the municipality or particular classes of the inhabitants; and

(*b*) such person or persons (if any) not exceeding in number one-fourth of the board, as the Local Government may, from time to time, appoint in this behalf:

Provided that the Local Government may appoint all the members of the board of any municipality for which it considers that a suitable system of election cannot be devised.

8. *(1)* The Local Government, shall for every municipality in which a system of election is introduced, make rules regulating the following matters, namely:— Power to Local Government to make rules regarding election. [B. B. s. 9.] [Act VII of 1874, s. 5.]

(a) the division of the municipality into wards, or of the inhabitants into classes, or both;

(b) the number of representatives proper for each ward or class;

(c) the qualifications of electors and of candidates for election;

(d) the registration of electors;

(e) the nomination of candidates, the time of election and the mode of recording votes; and

(f) any other matters relating to the system of representation and of election for which it may seem expedient to provide.

(2) The Local Government may, after the municipal board has come into existence as hereinafter provided, from time to time amend, after consulting the board, the rules made under this section, but any amendment made under this sub-section shall not take effect until six months after it has been published in the official Gazette.

(3) Elective members of the board shall be elected in accordance with the rules made under this section and for the time being in force.

9. *(1)* The term of office of a member of a municipal board shall, subject to the provisions of sections 10, 11 and 12, be two years. Term of office of member of board. [B. B. s. 9.] [Act VII of 1874, s. 5.]

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

10. A member of a municipal board may resign by notifying in writing to the Local Government his intention to do so, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office. Resignation of member of board. [B. B. s. 14.] [Act VII 1874, s. 6.]

11. The Local Government may, from time to time, remove any member of a municipal board who ceases to reside within the limits of the municipality, or refuses to act, or becomes incapable of acting, or is declared an insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who without sufficient excuse neglects for more than six consecutive months to be present at the meetings of the board. Removal of member. [B. B. s. 14.] [Act VII 1874, s. 6.]

12. If any member of a municipal board is appointed to a salaried office under the board, he shall forthwith cease to be a member: Member to vacate on appointment to salaried office. [B. B. s. 14.]

Provided that—

(*a*) if the board allots a salary to its president or vice-president, he shall not for that reason cease to be a member; and

(*b*) fees allowed under section 29 to members of a board shall not be deemed to be a salary within the meaning of this section.

13. *(1)* When the place of an elected member of a municipal board becomes vacant by the resignation or removal of the member under section 10 or section 11, or by reason of his appointment to a salaried office under section 12, or by his death, a new member shall be elected in manner prescribed to fill the place. Filling of casual vacancies. [B. B. s. 6.] [Act VII 1874, s. 5.]

(2) When the place of an appointed member of a municipal board becomes vacant as aforesaid, the Local Government may, if it thinks fit, appoint a new member to fill the place.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

14. Every municipal board shall be a body corporate by the name of the municipal board of its municipality, shall have perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property, both moveable and immoveable, and to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name: Incorporation of municipal board. [Act VII 1874, s. 22.]

Provided that a board shall not purchase or transfer any immoveable property except in pursuance of a resolution passed at a special meeting and approved by the Local Government. [B. B.

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(Chapter III.—Organization of Municipal Boards.)

15. A municipal board shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Time for boards coming into existence.

16. When a municipal board comes into existence under section 15 for a municipality constituted under this Act, and that municipality comprises within its limits a local area which is a municipality under the British Burma Municipal Act, 1874, the following consequences shall ensue, namely :—

Consequences of establishment of municipal board where municipal committee exists.

II of 1874.

(a) the said Act shall cease to apply to the local area ;

(b) the municipal committee (if any) constituted under that Act for the local area shall cease to exist ;

s 38.] VII of s. 36.] *(c)* all property vested in that committee shall vest in the municipal board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, that property ;

(d) every contract entered into by the committee may be enforced by and against the board in like manner as it might have been enforced by and against the committee if this Act had not been passed ;

(e) a Government officer employed by the committee at the time the board comes into existence shall be deemed to be similarly employed by the board, and shall not be dismissed from that employment without the sanction of the Local Government.

President and Vice-president.

16.] II of 6.] **17.** A municipal board shall, from time to time, at a special meeting, elect one of its members to be president, and may, from time to time, at a like meeting, elect another of its members to be vice-president :

Election of president and vice-president.

Provided that in such municipalities, if any, as the Local Government may, from time to time, by notification in the official Gazette, exempt from the operation of this section, the president shall, from time to time, be appointed by the Local Government.

18. A president or vice-president shall hold office for one year, and on the expiration of that period may be again elected or appointed.

Term of office of president and vice-president.

19. *(1)* If a president elected by the board or a vice-president dies, ceases to be a member of the board, resigns his office or becomes incapable of acting, the board shall, at a special meeting, elect another of its members to be president or vice-president.

Casual vacancies in office of president or vice-president.

(2) If a president appointed by the Local Government dies, resigns his office or becomes incapable of acting, the Local Government shall appoint another president.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may be again elected or appointed.

Notification of elections, appointments and removals.

20. All elections or appointments of presidents and vice-presidents, and all elections, appointments and removals of members of municipal boards, shall be notified in the local official Gazette.

[B. B. s. 16.] [Act VII of 1874, s. 8.]
Notification of appointments, &c.

Joint Committees.

21. *(1)* A municipal board may, from time to time, concur with any other municipal board, or with more than one such board, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the committee, and in delegating to any such committee any power which might be exercised by either or any of the boards, and in framing and modifying regulations as to the proceedings of any such committee, and as to the conduct of correspondence relating to the purpose for which the committee is appointed.

[New.]
Joint committee of two or more boards.

(2) If any difference of opinion arises between boards acting under this section, the decision thereon of the Commissioner of the division if the areas under the authority of the boards are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

22. *(1)* A municipal board shall meet for the transaction of business at least once in every month, on such day as may, from time to time, be fixed by the rules made under section 30.

[B. B. ss. 17 & 18 (*d*).] [Act VII of 1874, ss. 9 & 10.]
Time for holding meetings.

(2) The president, or, in his absence, the vice-president, may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-third of the members of the board, convene a meeting at any other time.

23. *(1)* A meeting of a municipal board shall be either ordinary or special.

[B. B. s. 18 (*e*) & (*g*).] [Act VII of 1874, s. 10.]
Ordinary and special meetings.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

24. *(1)* The quorum necessary for the transaction of business at a special meeting of a municipal board shall be one-half of the whole board :

[B. B. s. 18 (*f*).] [Act VII of 1874, s. 10.]
Quorum.

Provided that, when the board consists of less than six members, the quorum shall be three.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a municipal board shall be such number, not less than three, as may, from time to time, be fixed by the rules made under section 30 :

Provided that, if at any meeting of the board a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before and transacted by the adjourned meeting whether there is a quorum present thereat or not.

[Bombay Act III of 1872, s. 14.]

25. *(1)* At every meeting of a municipal board the president, if present, shall preside as chairman.

[B. B. s. 18 (*a*) & (*b*).] [Act VII of 1875, s. 10.]
Chairman of meeting.

(2) If, when any meeting is held, the office of president is vacant, or the president is absent from the meeting and the vice-president is present, he shall preside as chairman.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

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(Chapter III.—Organization of Municipal Boards.)

[B. B. s. 18 (*h*) & (*i*).] [Act VII of 1874, s. 10.]
26. *(1)* Except as otherwise provided by this Act or by any rule made under this Act, all questions coming before any meeting of a municipal board shall be decided by a majority of the votes of the members present.
Vote of majority decisive.

(2) In case of an equality of votes, the chairman at the meeting shall have a second or casting vote.

[B. B. s. 18 (*j*).] [Act VII of 1874, s. 10.]
27. Every resolution passed by a municipal board at a meeting shall be recorded in a book kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, and shall be published in some local English or Vernacular newspaper, or in such other manner as the Local Government may, from time to time, direct.
Resolutions to be recorded and published.

[B. B. s. 18 (*k*).]
28. The discussions and proceedings of a municipal board shall be conducted and recorded either in English or in Burmese, as the board at a special meeting may, from time to time, decide :
Language of board.

Provided that, if the discussions and proceedings are conducted and recorded in English, the board shall provide for interpreting and translating them into Burmese for the benefit of members who do not understand English.

[B. B. s. 47.]
29. A municipal board may, if it thinks fit, allow to each member thereof for attendance at meetings of the board, or at meetings of committees of the board, fees to such amount and subject to such conditions as the Local Government may, from time to time, approve :
Fees to members of boards.

Provided as follows—

(1) the fees paid under this section shall not exceed ten rupees for each attendance ; and

[B. B. ss. 28 & 31] [Act VII of 1874, ss. 17 and 18.]
(2) no fee shall be paid under this section to a member who is a servant of Government on active duty and in receipt of a salary exceeding Rs. 3,000 a year.

[B.B.s.18 (*e*).]
30. *(1)* A municipal board may, from time to time, at a special meeting, make rules consistent with this Act and any rules made under this Act by the Local Government as to—
Power to make rules as to conduct of business.

[B. B. s. 29.]
(a) the time and place of its meetings ;

(b) the manner in which notice thereof is to be given ;

(c) the quorum necessary for the transaction of business at ordinary meetings ;

(d) the conduct of proceedings at meetings, and the adjournment of meetings ;

(e) the appointment of committees of the board, and the division of duties among them and individual members of the board ;

(f) the persons by whom receipts may be granted on behalf of the board for money paid under this Act ; and

(g) any other similar matters.

(2) A rule made under this section shall not take effect until it has been confirmed by the Local Government and published in such manner as the Local Government may, from time to time, direct.

[B. B. s. 16.] [Act VII of 1874, s. 8.]

Officers and Servants.

31. *(1)* A municipal board shall, from time to time, at a special meeting, appoint one of its members, or some other person, to be its secretary, and may at a like meeting remove any person so appointed.

[New.]
Appointment of secretary.

(2) If a secretary is a member of the board, he shall receive no remuneration in respect of his services. If he is not a member of the board, the board may, with the previous sanction of the Commissioner, assign to him any such pay, leave-allowance, gratuity or pension as it thinks fit.

[B. B. ss. 28 & 29.]

32. *(1)* Subject to the other provisions of this Act, and to such rules as the Local Government may, from time to time, make prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, a municipal board may employ, in addition to its secretary, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to those officers and servants such pay, leave-allowances, gratuities or pensions as it thinks fit.
Employment of other officers and servants.

(2) In the case of an officer whose services are lent wholly or in part by the Government, the board may contribute to any leave-allowance, gratuity or pension to which he may become entitled in accordance with the rules for the time being in force.

Contracts and Transfers of Property.

[B. B. ss. 38 & 43.] [Act VII of 1874, ss. 24 & 31.]
33. *(1)* When a contract made by or on behalf of a municipal board exceeds in value or amount one hundred rupees, it must be in writing, and must be signed by the president or vice-president, and at least one other member of the board.
Mode of executing contracts and transfers.

(2) A transfer of immoveable property belonging to the board must be made by an instrument in writing, executed by the president and vice-president and by at least two members of the board.

(3) If any such contract or transfer is executed or made otherwise than in conformity with the provisions of this section, it shall not be binding on the board.

CHAPTER IV.

TAXATION AND FUNDS.

Taxation.

[B. B. s. 21.] [Act VII of 1874, ss. 11 & 12.]
34. Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, a municipal board may, for the general purposes of this Act, impose, with the sanction hereinafter specified in each case, and in manner prescribed by section 35, any of the following taxes, namely :—
Taxes which may be imposed for general purposes of Act.

(1) with the previous sanction of the Local Government—

(a) a tax on houses, buildings and lands situate within the municipality or any part thereof, not exceeding five per centum of the annual value of the houses, buildings and lands ;

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(*b*) a tax on lands covered by buildings and situate as aforesaid, at a rate not exceeding one pie per square foot per annum;

(*c*) a tax on houses situate as aforesaid according to the number of posts in each, at rates not exceeding the following, namely :—

	Rs.	A.	
For a house having not more than 2 posts ...	0	8	per annum.
For a house having not more than 3 posts ...	1	8	„
For a house having not more than 4 posts ...	2	8	„
For a house having not more than 5 posts ...	4	0	„
For a house having not more than 6 posts ...	7	0	„
For a house having not more than 7 posts ...	10	0	„

and when a house has more than seven posts, four rupees eight annas additional per annum for each post above seven :

(*d*) a tax on carriages, carts, boats, horses, ponies and elephants, or any of them, throughout the municipality or any part thereof :

(2) with the previous sanction of the Local Government and of the Governor General in Council, any other tax:

Provided as follows :—

(1) only one of the taxes mentioned in clauses *(a)*, *(b)* and *(c)* shall be imposed in respect of the same property, and

(2) in assessing a house to the tax mentioned in clause *(c)*, only posts facing a road or street shall be counted, except in the case of bázárs or large buildings extending through from street to street, in which case the posts contained in one row, measured lengthwise, shall be counted.

[B. B. s. 20.] [Act VII of 1874, s. 11.]

35. *(1)* A municipal board may resolve, at a special meeting, to propose the imposition of any tax for the purposes of this Act. Procedure in imposing such taxes.

(2) When a resolution has been passed under sub-section (1), the board shall publish a notice defining the persons or property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any person likely to be directly affected by the proposed tax, and objecting to the same, may, within a fortnight from the publication of the notice, submit his objection in writing to the board, and the board shall, at a special meeting, take his objection into consideration.

(4) If no objection is submitted within the said period of a fortnight, or if the objections received, having been considered as aforesaid, are deemed insufficient, the board may submit its proposals to the Local Government, with the objections (if any) which have been sent in under sub-section (3).

(5) The Local Government, on receiving proposals under sub-section (4), may sanction the same, or refuse to sanction them, or return them to the board for further consideration.

(6) When the Local Government sanctions under sub-section (5) any proposals which, under section 34, sub-section (2), require the further sanction of the Governor General in Council, it shall submit those proposals to the Governor General in Council with the objections (if any) received through the board; and the Governor General in Council may sanction the proposals, or refuse to sanction the same, or return them to the Local Government for further consideration.

(7) When the proposals of a municipal board in respect of a tax have been sanctioned by the Local Government, or by the Local Government and the Governor General in Council, as the case may be, the board may, at a special meeting, direct the imposition of the tax in accordance with those proposals.

[B. B. s. 22.] [Act VII of 1874, s. 13.]

36. *(1)* To provide for the lighting of the public streets, a municipal board may, under a resolution passed at a special meeting and sanctioned by the Local Government, impose, in addition to any taxes imposed under the foregoing sections, an annual lighting-rate on all houses, buildings and lands situate in the municipality or any part thereof not exceeding two per centum of their annual value. Power to impose lighting-rate and water-rate.

(2) To provide for the supply of water, a municipal board may, under a resolution passed and sanctioned as aforesaid, impose, in addition to any taxes imposed as aforesaid, an annual rate on all houses and buildings situate in the municipality or any part thereof not exceeding two per cent. of their annual value.

(3) It shall be at the option of the board, when either of the rates mentioned in this section has been imposed, to levy in lieu thereof on any native house an annual rate not exceeding one pie for every three square feet of the ground covered by the house.

(4) Every tax leviable under this section in respect of any house, building or land shall be payable by the occupier of the same.

[B. B. s. 20.] [Act VII of 1874, ss. 11 & 25.]

37. A municipal board, by a resolution passed at a special meeting and confirmed by the Local Government, or the Local Government, with the previous sanction of the Governor General in Council, may abolish or reduce any tax imposed under the foregoing sections. Power to abolish or reduce tax.

[B. B. s. 25.] [Act VII of 1874, s. 14.]

38. The Local Government may, from time to time, make rules for the assessment and collection of taxes leviable under this Act : Power to make rules for assessment and collection of taxes.

Provided that, in the case of a tax imposed under section 35, every such rule shall be consistent with the proposals sanctioned in respect of the tax under that section.

39. All taxes leviable in any local area under the British Burma Municipal Act, 1874, at the time when a municipal board having authority over that local area comes into existence under this Act, shall be deemed to have been imposed and assessed under this Act. Taxes leviable under Act VII of 1874 to be deemed to be taxes under this Act. VII of 1874.

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(Chapter V.—Duties of Municipal Board.)

Municipal Fund.

[B. B. ss. 39, 40, 42.] [Act VII of 1874, s. 7.]

40. There shall be formed for each municipality a municipal fund, and there shall be credited thereto— Municipal fund constituted.

(*a*) the proceeds of all taxes levied under this Act and all other money received by the board under this Act, except the proceeds of taxes levied under section 36;

(*b*) the proceeds of the cesses and tax levied on lands and houses in the municipality under sections 4, 5 and 6 of the Burma District Cesses and Rural Police Act, 1880, except such portions of those proceeds as may, under section 9 of that Act, be appropriated by the Local Government for the maintenance of rural police or for the maintenance of a local postal service; II of 1880.

(*c*) the surplus accruing in the municipality under section 18 of the Cattle-trespass Act, 1871; I of 1871.

(*d*) the income yielded by any public ferries in the municipality, and, in the case of a ferry on a river forming the boundary of a municipality, such share (if any) of the income of the ferry as the Local Government may assign in this behalf;

[Act VII of 1874, s. 28.]

(*e*) any sums which the Local Government may annually assign, as it is hereby empowered to do, to the municipal fund from the port fund of any port abutting on or within the municipality as being in its opinion a just and reasonable contribution towards the expenditure rendered necessary by the visits to the municipality of seamen from ships lying in the port;

(*f*) all rents and profits accruing from property belonging to or managed by the board;

(*g*) all sums contributed to the fund by the Local Government or by private persons; and

(*h*) when there has been included within the municipality a municipality constituted under the British Burma Municipal Act, 1874, the balance (if any) standing at the credit of the municipal fund of that municipality at the time when the municipal board came into existence. VII of 1874.

41. The municipal fund shall, subject to the provisions of this Act, be applicable at the discretion of the municipal board to all the purposes of this Act within the limits of the municipalty, and, with the previous sanction of the Local Government, to like purposes beyond those limits when such application of the fund is for the benefit of the inhabitants of the municipality. Application of municipal fund.

Lighting and Water-supply Funds.

[B. B. s. 39.] [Act VII of 1874, s. 27.]

42. In every municipality in which a tax is levied under section 36 for the purposes of lighting or water-supply, there shall be established a separate fund to be called the lighting fund or water-supply fund, as the case may be, and there shall be credited to it the proceeds of that tax, all other sums received by the board in connection with the purposes for which the tax is levied, and, when there has been included within the limits of the municipality a municipality constituted under the British Burma Municipal Act, 1874, in which a like tax has been levied, the balance (if any) standing to the credit of the separate account of that tax at the time when the municipal board comes into existence. Lighting and water-supply funds constituted. VII of 1874.

[B. B. s. 39.]

43. The lighting fund or water-supply fund shall, subject to the provisions of this Act, be applicable at the discretion of the municipal board to the lighting of, or supply of water to, the local area in which it is raised (as the case may be), and to no other purpose. Application of these funds.

Custody of, and Disbursements from, Funds.

[B. B. s. 43.] [Act VII of 1874, s. 29.]

44. *(1)* The balances standing to the credit of the funds established under sections 40 and 42 shall, if there is a Government treasury or sub-treasury situate within the municipality, be kept in that treasury or sub-treasury. In any other case, the bulk of the funds shall be kept in the nearest Government treasury or sub-treasury, and such funds as may be required for current expenditure shall be kept by the board in a strong box in such place and under such precautions as the board may, from time to time, direct. Custody of, and disbursements from, funds.

(2) No disbursement of such funds or any part thereof shall be made except under the signature of the president or vice-president and one other member of the board.

CHAPTER V.

DUTIES OF MUNICIPAL BOARD.

General Improvement, Conservancy and Education.

[B. B. ss. 40, 44 & 45.] [Act VII of 1874, s. 30.]

45. The following matters shall, subject to the provisions of this Act and to such exceptions or conditions as the Local Government may, from time to time, make or impose, be under the control and administration of the municipal board within the municipality, namely :— Duties of municipal board generally.

(*a*) the construction, repair and maintenance of roads, streets, river-channels, ferries and other means of communication, and of drains, tanks and water-courses;

(*b*) the establishment, maintenance and administration of schools, hospitals, dispensaries, markets, wharves and resthouses, and the construction and repair of buildings connected with such institutions;

(*c*) the improvement, extension and purification of the local supply of drinking-water for men and animals;

(*d*) the planting and preservation of trees on public ground;

(*e*) the cleansing, watering and lighting of the streets in towns;

[B. B. s. 45.]

(*f*) the maintenance, repair and management of any buildings or other immoveable property vested in the board under this Act or made over to the board by the Local Government for management; and

(*g*) the construction, establishment, maintenance and carrying out of any other local works, institutions or measures likely to promote the health, safety, comfort or convenience of the public.

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(Chapter V.—Duties of Municipal Board.)

[B. B. ss. 40 & 45.]

46. A municipal board may, from time to time, with the previous sanction of the Local Government, undertake beyond the limits of the municipality the control and administration of any of the matters mentioned in section 45, if its undertaking that control and administration is for the benefit of the inhabitants of the municipality.

Undertakings beyond municipal limits.

[B. B. s. 46.]

47. A municipal board shall, so far as its funds available for educational purposes permit, make grants-in-aid of schools in accordance with such rules as the Local Government, with the sanction of the Governor General in Council, may, from time to time, prescribe.

Grants-in-aid of schools.

Prevention of Nuisances.

[B. B. ss. 30 & 32.] [Act VII of 1874, ss. 19, 20 & 21.]

48. *(1)* A municipal board may, from time to time, at a special meeting, make rules—

Power of board to make rules regarding nuisances.

(a) declaring that such acts or omissions within the municipality as may in its opinion cause or tend to cause any common injury, danger or annoyance to the public, or to people in general who dwell or occupy property in the vicinity, or any injury, obstruction, danger or annoyance to persons who may have occasion to use any public right, shall be deemed, within the meaning of the Indian Penal Code and for the purposes of this Act, to be public nuisances; and

XLV of 1860.

(b) defining the cases, manner and times in and at which officers of the board may enter on private property for the detection and abatement of public nuisances.

(2) A rule made under this section shall not come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

[B. B., s. 33.] [Act VII of 1874, s. 22.]

49. *(1)* Subject to any orders which the Local Government may, from time to time, make in this behalf, a municipal board may order any person not to do, or not to omit to do, within the municipality, anything the doing of, or omission to do, which is a public nuisance.

Power to prohibit commission, repetition or continuance of public nuisances.

(2) An order under this section shall be deemed to be, for the purposes of section 291 of the Indian Penal Code, an injunction by a public servant.

XLV of 1860.

[B. B., s. 34.] [Act VII of 1874, s. 23.]

50. *(1)* The Local Government may invest, within the limits of the municipality, a municipal board with the powers of a Magistrate of a district as described in section one hundred and thirty-three of the Code of Criminal Procedure, and with powers to make conditional orders of the nature referred to in that section, in respect of all or any of the acts or omissions which may have been declared to be public nuisances under clause *(a)* of section 48 of this Act.

Power as to conditional orders in respect of nuisances.

X of 1882.

(2) Sections one hundred and thirty-three to one hundred and forty-two (both inclusive) of the Code of Criminal Procedure shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers.

(3) The Local Government may, whenever it thinks fit, withdraw the powers with which it has invested a board under this section.

[B. B., s. 34.]

51. A municipal board may, with the previous sanction of the Local Government, at a special meeting, delegate to one or more committees of its members, or to one or more of its members, any of the powers vested in the board by section 49, or with which the board may have been invested under section 50.

Delegation of powers as to nuisances.

52. Every police-officer in a municipality shall be bound, subject to such instructions as may, from time to time, be issued by the Inspector-General of Police in this behalf, to assist in the prevention of any public nuisance defined to be such by any rule made under this Act.

Police to aid in carrying out orders regarding nuisances.

Additional Powers.

[B. B. ss. 27, 30, 31, 32 and 21 (*f*).] [Act VII of 1874, s. 16.]

53. *(1)* A municipal board may, from time to time, at a special meeting, make rules—

Power to make rules regulating other matters.

(a) rendering licenses necessary for the proprietors or drivers of carriages, carts or boats plying for hire within the limits of the municipality, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked;

(b) for regulating markets, wharves and slaughter-houses within the limits of the municipality, and rendering licenses necessary for the construction or establishment within those limits of new markets, wharves and slaughter-houses, or the keeping of lodging-houses within those limits for the accommodation of persons not being natives of British Burma, and for the holding or keeping open of markets, wharves and slaughter-houses constructed or established within those limits after the date on which this Act or the British Burma Municipal Act, 1874, came into force therein, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked;

VII of 1874.

(c) for securing a proper registration of births, marriages and deaths occurring within the municipality; and

(d) generally for carrying out the purposes of this Act.

[B. B. s. 57.] [Act VII of 1874, s.]

(2) In making any rule under this section, a municipal board may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing one, with a further fine of five rupees for every day after the first during which the breach continues.

(3) A rule made under this section shall not come into force until it has been confirmed by the Local Government, and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

(4) Notwithstanding anything contained in the foregoing portion of this section, the municipal board of a municipality in which the Hackney Carriage Act, 1879, is in force shall not make rules under sub-section (1) with respect to any vehicles to which that Act applies.

XIV of 1879.

Burma Local Self-government Bill, 1883.
(Chapter VI.—Control.)

CHAPTER VI.

CONTROL.

[B. B., s. 36.]

54. *(1)* The Commissioner of the division or the Magistrate of the district may—

Control by Commissioner and Magistrate.

(a) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any municipal board or joint committee, or any work in progress within those limits under the direction of any such board or committee;

(b) call for and inspect any book or document in the possession or under the control of any such board or committee having authority within those limits;

(c) require any such board or committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the board or committee, as he may think fit to call for; and

(d) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(2) When the Magistrate of the district is a member of a board or joint committee, he shall not exercise, in respect of that board or committee, the powers conferred upon him by sub-section (1).

55. *(1)* The Commissioner of the division or the Magistrate of the district may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of a municipal board or joint committee, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

Power to suspend action under Act.

(2) When a Commissioner or Magistrate makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order or direct that it continue in force with or without modification, permanently or for such period as it thinks fit.

56. *(1)* In cases of emergency, the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a municipal board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the board.

Extraordinary powers of Magistrate in case of emergency.

(2) If the expense is not so paid, the Magistrate of the district may make an order directing the person having the custody of the balances of the board's funds to pay the expense, or as much thereof as is, from time to time, possible, from the appropriate balance in priority to any or all other charges against the same.

(3) The Magistrate of the district shall forthwith report to the Commissioner every case in which he uses the powers conferred upon him by this section.

[B. B., s. 36.]

57. *(1)* If at any time it appears to the Local Government that a municipal board has made default in performing any duty imposed on it by or under this or any other Act for the time being in force, the Local Government may, by order in writing, fix a period for the performance of that duty.

Powers of Local Government in case of default of board.

(2) If that duty is not performed within the period so fixed, the Local Government may appoint the Magistrate of the district to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Magistrate by the board.

(3) If the expense is not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balances of the board's funds to pay the expense, or so much thereof as is from time to time possible, from the balance of the appropriate fund in priority to any or all other charges against the same.

58. *(1)* If a municipal board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare that board to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

Power of Local Government to supersede board in case of incompetency, persistent default or excess or abuse of powers.

(2) When a board is so superseded, the following consequences shall ensue:—

(a) All members of the board shall, as from the date of the order, vacate their offices as such members.

(b) All powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as the Local Government, from time to time, appoints in that behalf.

(c) All property vested in the board shall, during the period of supersession, vest in the Local Government.

(3) On the expiration of the period of supersession specified in the order, the board shall be reconstituted, and the persons who vacated their offices under clause *(a)* shall not be deemed disqualified from being members.

Burma Local Self-government Bill, 1883.

(Chapter VII.—Supplementary.)

[B. B. s. 50.] [Act VII of 1874, s. 34.]

59. *(1)* A municipal board shall, at the close of each year or of such other period as may, from time to time, be fixed by the Local Government in this behalf, submit to the Local Government a statement of its receipts and disbursements, and a report of all works executed, or proceedings taken, by it under this Act during that period.

Annual reports and statements to be submitted.

[Act VII of 1874, s. 34.]

(2) Accounts submitted under this section shall be examined or audited in such manner as the Local Government, from time to time, prescribes.

60. *(1)* A municipal board shall submit, before such dates in each year and in such form as may be directed by the Local Government, an estimate of its probable receipts for the financial year next following, with proposals for its expenditure.

Annual estimates of receipts and expenditure.

(2) An abstract of the estimate and proposals shall, on being so submitted, be published in such manner as the Local Government, from time to time, directs.

[B. B. s. 51.] [Act VII of 1874, s. 35.]

61. *(1)* No new work, the estimated cost of which exceeds five hundred rupees, shall be begun by a municipal board, nor shall any contract be entered into by it in respect of any such work, until a plan and estimate thereof has been approved by the board at a meeting.

Sanction to works.

(2) If the estimated cost of any such new work exceeds—

twenty thousand rupees in the case of the municipalities of Rangoon, Maulmain, Bassein, and Akyab, or

ten thousand rupees in the case of any other municipality,

it shall not be begun, nor shall any contract be entered into in respect of it, until the plan and estimate have been submitted to the Local Government, and sanctioned by it in an order published in the official Gazette.

CHAPTER VII.

SUPPLEMENTARY.

[B. B. s. 56.] [Act VII of 1874, s. 41.]

62. If any member, officer or servant of a board is, otherwise than with the permission in writing of the Commissioner of the division, directly or indirectly interested in any contract made with the board, he shall be deemed to have committed an offence under section one hundred and sixty-eight of the Indian Penal Code:

Penalty on member, officer or servant of board being interested in contract made with board.

XLV of 1860.

Provided that no person shall, by reason of being a shareholder in, or member of, any incorporated or registered company, be held to be interested in any contract entered into between such company and the board.

[B. B. s. 55] [Act VII of 1874, s. 40.]

63. In respect of every suit instituted against a municipal board, or against any officer or servant of the board in respect of an act purporting to be done by him in his official capacity, the board, officer or servant shall have, as nearly as may be, all the privileges which the Secretary of State for India in Council or a public officer respectively has under Chapter XXVII of the Code of Civil Procedure.

Suits against boards and their officers and servants.

XIV of 1882.

[B. B. s. 54.] [Act VII of 1874, s. 39.]

64. Every member of a municipal board shall be liable for the loss, waste or misapplication of any money or other property belonging to the board, if the loss, waste or misapplication is a direct consequence of his neglect or misconduct, and a suit for compensation may be instituted against him by the board or by the Secretary of State for India in Council.

Liability of members for loss, waste or misapplication.

[B. B. s. 38.]

65. The Local Government may, from time to time, by notification in the official Gazette, direct that any property, moveable or immoveable, which is vested in Her Majesty and is situate in the territories administered by the Local Government, shall vest in any municipal board; and thereupon the property shall vest in that board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, the property.

Power to vest property in board.

[B. B. s. 52.] [Act VII of 1874, s. 36.]

66. Where any land whether within or without the limits of a municipality is required for the purposes of a municipal board, the Local Government may, at the request of the municipal board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the board of the compensation awarded under that Act, the land shall vest in the board.

Acquisition of land under Act X of 1870.

X of 1870.

67. *(1)* The authority empowered to make rules under sections 8, 38, 47, 48 and 53 shall, before making them, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

Procedure for making rules under sections 8, 38, 47, 48 and 53.

(2) Every rule made under any of those sections shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section.

[B. B. s. 53] [Act VII of 1874, s. 42.]

68. Prosecutions under this Act for infringement of rules may be instituted by the municipal board, or any person authorised by it in this behalf, and not otherwise.

Prosecutions.

[B. B. s. 57] [Act VII of 1874, s. 43.]

69. All fees and all rents and other sums due on account of property for the time being vested in or managed by the municipal board, and all arrears of taxes imposed under this Act, may be recovered as if they were arrears of land-revenue.

Recovery of taxes.

STATEMENT OF OBJECTS AND REASONS.

THE Government of India has for some time had under consideration the question of amending the law relating to municipalities in British Burma, so as to bring it more completely into harmony with the principles of local self-government which have recently been laid down by the Government of India, and are now being generally adopted in other Provinces.

2. The present Bill has been prepared for the purpose of making such amendments in the existing Municipal Act (VII of 1874) as are needed, in order to give effect to this object. It has been thought convenient that it should repeal the existing Act, and the opportunity has been taken to introduce many improvements in matters of minor detail, in arrangement and in drafting, which the experience gained since the year 1874 has suggested. It will, however, be sufficient here to notice such of the proposed amendments as are of substantive importance.

3. Passing over the first chapter of the Bill, which contains preliminary matter, it will be found that Chapter II, relating to the constitution of municipalities, requires the Chief Commissioner (section 6) to bring every existing municipality under the new law within three months from the date on which it comes into force, unless he is in a position to declare by notification in the Gazette that it is unfit to be constituted a municipality under that law.

4. Section 3, it will be observed, enables the Chief Commissioner, subject to the usual procedure of issuing notice and hearing objections, to include within the limits of a municipality not merely a town but also any tract of country adjoining a town. This provision has been inserted on the advice of the Chief Commissioner (Mr. Bernard) and the Officiating Chief Commissioner (Mr. Crosthwaite), in order to meet the requirements of certain rural tracts, until such time as it may be found possible to establish a system of local boards for rural districts.

5. The most important alteration of the existing law proposed in Chapter III, relating to the organization of municipal boards, will be found in section 7, which, instead of leaving it absolutely in the discretion of the Chief Commissioner (as the present Act does) to determine whether the committee, or as it is now to be called, the board, should be appointed or elected, requires that at least three-fourths of the members shall be elective, except where the Chief Commissioner considers that a suitable system of election cannot be devised for them.

6. The only other provisions of this chapter which appear to call for notice are section 12, which requires a member of a board appointed to a salaried office under the board, to vacate his seat on the board; section 28, which empowers the board to determine whether their proceedings shall be conducted in English or Burmese, and provides that, when they are conducted in English, arrangements must be made for translating them into Burmese for the benefit of the native members; and section 29, which provides for the payment of small fees to the members of the board for attendance at meetings of the board or of committees.

7. The only alteration of the law proposed in Chapter IV which seems of sufficient importance to call for notice is in section 40, which provides that the following shall be credited to the municipal fund, namely:—

(*b*) the proceeds of the cesses and tax levied on lands and houses in the municipality under sections 4, 5 and 6 of the Burma District Cesses and Rural Police Act, 1880, except such portions of those proceeds as may, under section 9 of that Act, be appropriated by the Chief Commissioner for the maintenance of rural police or for the maintenance of a local postal service;

(*c*) the surplus accruing in the municipality under section 18 of the Cattle-trespass Act, 1871;

(*d*) the income yielded by any public ferries in the municipality, and, in the case of a ferry on a river forming the boundary of a municipality, such share (if any) of the income of the ferry as the Chief Commissioner may assign in this behalf.

These sources of income, it need hardly be said, will, as a rule, be of little or no importance except when a considerable rural area is included in the municipality. When such an area is included, they will represent the chief contribution from it to the municipal fund.

8. It will be observed that there is nothing in the Bill corresponding to section 32 of the existing Act, which requires the municipality to provide from its funds in the first place such sums as the Chief Commissioner may from time to time fix for the maintenance of the town police. This charge will now be borne by the Government, and thus a considerable amount will be set free for expenditure on general purposes of improvement.

9. The list of duties of a municipal board contained in the first section of Chapter V is necessarily somewhat more extensive than the corresponding list in the existing Act, as under the new system some of the boards will have under them considerable rural areas, entailing duties somewhat different from those arising in connection with towns.

10. Section 47 requires a board, so far as its funds available for educational purposes will permit, to make grants-in-aid of schools in accordance with such rules as the Chief Commissioner, with the sanction of the Governor General in Council, may from time to time prescribe.

11. Section 25 of the existing Act gives the Chief Commissioner absolute power to cancel, suspend or limit any of the acts, proceedings or rules of any municipal committee. For this Chapter VI of the Bill proposes to substitute a carefully moderated system of control similar to that established by the Local Self-government Bills recently introduced for other provinces.

12. The last section of the chapter relating to the sanction requisite for undertaking works corresponds to section 35 of the existing Act, but instead of leaving it, as that section does, to the Chief Commissioner to determine the limit of the powers of the committee or board, it directly provides that the four largest municipalities may, on their own authority, undertake works the estimate for which does not exceed Rs. 20,000, and that the others may similarly undertake works the estimate for which does not exceed Rs. 10,000.

13. Section 67, though new as applied to Burma municipalities, has of late become a usual provision in Acts conferring a power to make rules. It provides that, before any rules are made under certain sections of the Act, they shall be published, that a certain time shall be allowed for the public or those concerned to put forward objections to them, and that any objections received shall be duly considered.

The 17th July, 1883.

C. P. ILBERT.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 28, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 18th July, 1883:—

No. 18 of 1883.

[illegible] LOCAL SELF-GOVERNMENT BILL, 1883.

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Note.—"B. B." in the margin means the draft Bill submitted by the Chief Commissioner with his letter No. 387, dated 16th November, 1883.

A Bill to amend the law relating to Local Self-government in British Burma.

WHEREAS it is expedient to amend the law relating to local self-government in British Burma; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. *(1)* This Act may be called the Burma Local Self-government Act, 1883. Short title.

(2) It extends to the territories under the administration of the Chief Commissioner of British Burma. Local extent.

(3) And it shall come into force on the first day of November, 1883. Commencement.

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

"Municipality" means any local area constituted a municipality under Chapter II.

"Prescribed" means prescribed by rules made by the Local Government under this Act.

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

3. The Local Government may, from time to time, by notification in the official Gazette, declare its intention to constitute any town or group of towns, and any tract of country adjoining the same, a municipality under this Act: [B. B. ss. 3 & 6.] [Act VII of 1874, ss. 3 & 4.] Notification of intention to constitute municipality.

Provided that a notification under this section shall not, without the previous sanction of the Governor General in Council, comprise any military cantonment.

4. *(1)* Any inhabitant of a local area in respect of which a notification has been published under section 3 may, if he objects to anything therein contained, submit his objection in writing to the Secretary to the Local Government within six weeks from the publication of the notification, and the Local Government shall take his objection into consideration. [B. B. s. 3.] [Act VII of 1874, s. 3.] Notification constituting municipality.

(2) When six weeks from the publication of the notification have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by like notification, constitute the local area a municipality.

5. The Local Government may, by notification in the official Gazette, constitute any local area comprised in a municipality established under the British Burma Municipal Act, 1874, a municipality under this Act. Special power in respect of existing municipalities. VII of 1874.

6. The Local Government shall, within three months from the date on which this Act comes into force, [illegible] the local Obligation to bring existing municipalities under this Act.

Burma Local Self-government Bill, 1883.
(Chapter III.—Organization of Municipal Boards.)

VII of 1874. comprised in every municipality established under the British Burma Municipal Act, 1874, a municipality under this Act, unless before the expiration of that period—

(*a*) it has been included in some local area which has been constituted a municipality under this Act; or

(*b*) the Local Government has declared, by a notification in the official Gazette, that it is unfit to be constituted a municipality under this Act.

CHAPTER III.

ORGANIZATION OF MUNICIPAL BOARDS.

Constitution of Boards.

[B. B. ss. 9, 10 & 15.] [Act VII of 1874 ss. 5 and 7.] 7. There shall be established for each municipality a municipal board having authority over that municipality, and consisting of— Board to consist of elected and appointed members.

(*a*) so many inhabitants of the municipality as may, from time to time, be determined by the Local Government, elected in manner next hereinafter prescribed, to represent wards of the municipality or particular classes of the inhabitants; and

(*b*) such person or persons (if any) not exceeding in number one-fourth of the board, as the Local Government may, from time to time, appoint in this behalf:

Provided that the Local Government may appoint all the members of the board of any municipality for which it considers that a suitable system of election cannot be devised.

[B. B. s. 9.] [Act VII of 1874, s. 5.] 8. *(1)* The Local Government, shall for every municipality in which a system of election is introduced, make rules regulating the following matters, namely:— Power to Local Government to make rules regarding election.

(*a*) the division of the municipality into wards, or of the inhabitants into classes, or both;

(*b*) the number of representatives proper for each ward or class;

(*c*) the qualifications of electors and of candidates for election;

(*d*) the registration of electors;

(*e*) the nomination of candidates, the time of election and the mode of recording votes; and

(*f*) any other matters relating to the system of representation and of election for which it may seem expedient to provide.

(2) The Local Government may, after the municipal board has come into existence as hereinafter provided, from time to time amend, after consulting the board, the rules made under this section, but any amendment made under this sub-section shall not take effect until six months after it has been published in the official Gazette.

(3) Elective members of the board shall be elected in accordance with the rules made under this section and for the time being in force.

[B. B. s. 9.] [Act VII of 1874, s. 5.] Term of office of [illegible] ber of board. The term of office of a member of a municipal board shall, subject to the provisions of sections 10, 11 and 12, be two years.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

[B. B. s. 14.] [Act VII of 1874, s. 6.] 10. A member of a municipal board may resign by notifying in writing to the Local Government his intention to do so, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office. Resignation of member of board.

[B. B. s. 14.] [Act VII of 1874, s. 6.] 11. The Local Government may, from time to time, remove any member of a municipal board who ceases to reside within the limits of the municipality, or refuses to act, or becomes incapable of acting, or is declared an insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who without sufficient excuse neglects for more than six consecutive months to be present at the meetings of the board. Removal of member.

[B. B. s. 14.] 12. If any member of a municipal board is appointed to a salaried office under the board, he shall forthwith cease to be a member: Member to vacate on appointment to salaried office.

Provided that—

(*a*) if the board allots a salary to its president or vice-president, he shall not for that reason cease to be a member; and

(*b*) fees allowed under section [illegible] of a board shall not be deemed [illegible] within the meaning of this section.

[B. B. s. 9.] [Act VII of 1874, s. 5.] 13. *(1)* When the place of an elected member of a municipal board becomes vacant by the resignation or removal of the member under section 10 or section 11, or by reason of his appointment to a salaried office under section 12, or by his death, a new member shall be elected in manner prescribed to fill the place. Filling of casual vacancies.

(2) When the place of an appointed member of a municipal board becomes vacant as aforesaid, the Local Government may, if it thinks fit, appoint a new member to fill the place.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would have left or have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

[Act VII of 1874, s. 37.] 14. Every municipal board shall be a body corporate by the name of the municipal board of its municipality, shall have perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property, both moveable and immoveable, and to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name: Incorporation of municipal board.

Provided that a board shall not purchase or transfer [illegible] moveable property in pursuance of a resolution passed at a meeting and approved by the Local [illegible]

Burma Local Self-government Bill, 1883.

(Chapter III.—Organization of Municipal Boards.)

15. A municipal board shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Time for boards coming into existence.

16. When a municipal board comes into existence under section 15 for a municipality constituted under this Act, and that municipality comprises within its limits a local area which is a municipality under the British Burma Municipal Act, 1874, the following consequences shall ensue, namely:—

Consequences of establishment of municipal board where municipal committee exists.

VII of 1874.

(a) the said Act shall cease to apply to the local area;

(b) the municipal committee (if any) constituted under that Act for the local area shall cease to exist;

[B. B. s. 38.] [Act VII of 1874, s. 26.]

(c) all property vested in that committee shall vest in the municipal board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, that property;

(d) every contract entered into by the committee may be enforced by and against the board in like manner as it might have been enforced by and against the committee if this Act had not been passed;

a Government officer employed by the committee at the time the board comes into existence shall be deemed to be similarly employed by the board, and shall not be dismissed from that employment without the sanction of the Local Government.

President and Vice-president.

A municipal board shall, from time to time, at a special meeting, elect one of its members to be president, and may, from time to time, at a like meeting, elect another of its members to be vice-president:

Provided that in such municipalities, if any, as the Local Government may, from time to time, by notification in the official Gazette, exempt from the operation of this section, the president shall, from time to time, be appointed by the Local Government.

Term of office of president or vice-president.

A president or vice-president shall hold office for one year, and on the expiration of that period may be again elected or appointed.

Casual vacancies in the office of president or vice-president.

(1) If a president elected by the board or appointed by the Local Government or a vice-president dies, ceases to be a member of the board, resigns his office or becomes incapable of acting, the board shall, at a special meeting, elect another of its members to be president or vice-president.

(2) If a president appointed by the Local Government dies, resigns his office or becomes incapable of acting, the Local Government shall appoint another person to that office.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office for the time for which the person whose place he is elected or appointed to fill would have been entitled to hold office, but may be removed by the authority which elected or appointed him.

Notification of elections, appointments and removals.

20. All elections or appointments of presidents and vice-presidents, and all elections, appointments and removals of members of municipal boards, shall be notified in the local official Gazette.

[B. B. s. 16.] [Act VII of 1874, s. 8.]

Notification of appointments, &c.

Joint Committees.

21. *(1)* A municipal board may, from time to time, concur with any other municipal board, or with more than one such board, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the committee, and in delegating to any such committee any power which might be exercised by either or any of the boards, and in framing and modifying regulations as to the proceedings of any such committee, and as to the conduct of correspondence relating to the purpose for which the committee is appointed.

[New.]

Joint committee of two or more boards.

(2) If any difference of opinion arises between boards acting under this section, the decision thereon of the Commissioner of the division if the areas under the authority of the boards are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

22. *(1)* A municipal board shall meet for the transaction of business at least once in every month, on such day as may, from time to time, be fixed by the rules made under section 30.

[B. B. ss. 17 & 18 (d).] [Act VII of 1874, ss. 9 & 10.]

Time for holding meetings.

(2) The president, or, in his absence, the vice-president, may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-third of the members of the board, convene a meeting at any other time.

23. *(1)* A meeting of a municipal board shall be either ordinary or special.

[B. B. s. 18 (e) & (g).] [Act VII of 1874, s. 10.]

Ordinary and special meetings.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

24. *(1)* The quorum necessary for the transaction of business at a special meeting of a municipal board shall be one-half of the whole board:

[B. B. s. 18 (f).] [Act VII of 1874, s. 10.]

Quorum.

Provided that, when the board consists of less than six members, the quorum shall be three.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a municipal board shall be such number, not less than three, as may, from time to time, be fixed by the rules made under section 30:

[Bombay Act III of 1872, s. 14.]

Provided that, if at any meeting of the board a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before the meeting [illegible] by the adjournment [illegible] a quorum present.

25. *(1)* At [illegible] board

[B. B. s. 18 (b) & (b).] [Act VII 1874, s. 10.]

Chairman at [illegible]

(2) [illegible]

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(Chapter III.—Organization of Municipal Boards.)

the meeting and the vice-president is present, he shall preside as chairman.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

[B. B. s. 18 (h) & (i).] [Act VII of 1874, s. 10.]

Vote of majority decisive.

26. *(1)* Except as otherwise provided by this Act or by any rule made under this Act, all questions coming before any meeting of a municipal board shall be decided by a majority of the votes of the members present.

(2) In case of an equality of votes, the chairman at the meeting shall have a second or casting vote.

[B. B. s. 18 (j).] [Act VII of 1874, s. 10.]

Resolutions to be recorded and published.

27. Every resolution passed by a municipal board at a meeting shall be recorded in a book kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, and shall be published in some local English or Vernacular newspaper, or in such other manner as the Local Government may, from time to time, direct.

[B. B. s. 18 (k).]

Language of board.

28. The discussions and proceedings of a municipal board shall be conducted and recorded either in English or in Burmese, as the board at a special meeting may, from time to time, decide:

Provided that, if the discussions and proceedings are conducted and recorded in English, the board shall provide for interpreting and translating them into Burmese for the benefit of members who do not understand English.

[B. B. s. 47.]

Fees to members of boards.

29. A municipal board may, if it thinks fit, allow to each member thereof for attendance at meetings of the board, or at meetings of committees of the board, fees to such amount and subject to such conditions as the Local Government may, from time to time, approve:

Provided as follows—

(1) the fees paid under this section shall not exceed ten rupees for each attendance; and

[B. B. ss. 28 & 31] [Act VII of 1874, ss. 17 and 18.]

(2) no fee shall be paid under this section to a member who is a servant of Government on active duty and in receipt of a salary exceeding Rs. 3,000 a year.

[B.B.s.18 (e).]

Power to make rules as to conduct of business.

30. *(1)* A municipal board may, from time to time, at a special meeting, make rules consistent with this Act and any rules made under this Act by the Local Government as to—

(a) the time and place of its meetings;

[B. B. s. 29.]

(b) the manner in which notice thereof is to be given;

(c) the quorum necessary for the transaction of business at ordinary meetings;

(d) the conduct of proceedings at meetings, and the adjournment of meetings;

(e) the appointment of committees of the board, and the division of duties among them and individual members of the board;

(f) [illegible] receipts may be granted [illegible] for money paid

(g) [illegible] tion shall not take [illegible] by the Local Government and published in such manner as the Local Government may, from time to time, direct.

[B. B. s. 16.] [Act VII of 1874, s. 8.]

Officers and Servants.

31. *(1)* A municipal board shall, from time to time, at a special meeting, appoint one of its members, or some other person, to be its secretary, and may at a like meeting remove any person so appointed.

[New.]

Appointment of secretary.

(2) If a secretary is a member of the board, he shall receive no remuneration in respect of his services. If he is not a member of the board, the board may, with the previous sanction of the Commissioner, assign to him any such pay, leave-allowance, gratuity or pension as it thinks fit.

[B. B. ss. 28 & 29.]

32. *(1)* Subject to the other provisions of this Act, and to such rules as the Local Government may, from time to time, make prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, a municipal board may employ, in addition to its secretary, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to those officers and servants such pay, leave-allowances, gratuities or pensions as it thinks fit.

Employment of other officers and servants.

(2) In the case of an officer whose services are lent wholly or in part by the Government, the board may contribute to any leave-allowance, gratuity or pension to which he may become entitled in accordance with the rules for the time being in force.

Contracts and Transfers of Property.

33. *(1)* When a contract made by or on behalf of a municipal board exceeds in value or amount one hundred rupees, it must be in writing, and must be signed by the president or vice-president and at least one other member of the board.

[B. B. ss. 35 & 48.] [Act VII of 1874, ss. 24 & 31.]

Mode of executing contracts and transfers.

(2) A transfer of immoveable property belonging to the board must be made by an instrument in writing, executed by the president and vice-president and by at least two members of the board.

(3) If any such contract or transfer is executed or made otherwise than in conformity with the provisions of this section, it shall not be binding on the board.

CHAPTER IV.

TAXATION AND FUNDS.

Taxation.

34. Subject to any general rules or special orders which the Governor-General in Council may, from time to time, make in this behalf, a municipal board may, for the general purposes of this Act, impose, with the sanction hereinafter specified in each case, and in manner prescribed by section 35, any of the following taxes, namely:—

[B. B. s. 41.] [Act VII of 1874, s. 11.]

Taxes which may be imposed for general purposes of Act.

(1) with the previous sanction of the Local Government—

(a) a tax on houses, buildings and lands situate within the municipality, or any part thereof, not exceeding five per centum of the annual value of the buildings and lands,

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(*b*) a tax on lands covered by buildings and situate as aforesaid, at a rate not exceeding one pie per square foot per annum;

(*c*) a tax on houses situate as aforesaid according to the number of posts in each, at rates not exceeding the following, namely:—

	Rs.	A.	
For a house having not more than 2 posts ...	0	8	per annum.
For a house having not more than 3 posts ...	1	8	„
For a house having not more than 4 posts ...	2	8	„
For a house having not more than 5 posts ...	4	0	„
For a house having not more than 6 posts ...	7	0	„
For a house having not more than 7 posts ...	10	0	„

and when a house has more than seven posts, four rupees eight annas additional per annum for each post above seven:

(*d*) a tax on carriages, carts, boats, horses, ponies and elephants, or any of them, throughout the municipality or any part thereof:

(*2*) with the previous sanction of the Local Government and of the Governor General in Council, any other tax:

Provided as follows:—

(*1*) only one of the taxes mentioned in clauses (*a*), (*b*) and (*c*) shall be imposed in respect of the same property, and

(*2*) in assessing a house to the tax mentioned in clause (*c*), only posts facing a road or street shall be counted, except in the case of bázárs or large buildings extending through from street to street, in which case the posts contained in one row, measured lengthwise, shall be counted.

[B. B. s. 20.] [Act VII of 1874, s. 11.]

35. Procedure in imposing such taxes.

(*1*) A municipal board may resolve, at a special meeting, to propose the imposition of any tax for the purposes of this Act.

(*2*) When a resolution has been passed under sub-section (1), the board shall publish a notice defining the persons or property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(*3*) Any person likely to be directly affected by the proposed tax, and objecting to the same, may, within a fortnight from the publication of the notice, submit his objection in writing to the board, and the board shall, at a special meeting, take his objection into consideration.

(*4*) If no objection is submitted within the said period of a fortnight, or if the objections received, having been considered as aforesaid, are deemed insufficient, the board may submit its proposals to the Local Government, with the objections (if any) which have been sent in under sub-section (3).

(*5*) The Local Government, on receiving proposals under sub-section (4), may sanction the same, or refuse to sanction them, or return them to the board for further consideration.

(*6*) When the Local Government sanctions under sub-section (5) any proposals which, under section 34, sub-section (2), require the further sanction of the Governor General in Council, it shall submit those proposals to the Governor General in Council with the objections (if any) received through the board; and the Governor General in Council may sanction the proposals, or refuse to sanction the same, or return them to the Local Government for further consideration.

(*7*) When the proposals of a municipal board in respect of a tax have been sanctioned by the Local Government, or by the Local Government and the Governor General in Council, as the case may be, the board may, at a special meeting, direct the imposition of the tax in accordance with those proposals.

[B. B. s. 22.] [Act VII of 1874, s. 13.]

36. Power to impose lighting-rate and water-rate.

(*1*) To provide for the lighting of the public streets, a municipal board may, under a resolution passed at a special meeting and sanctioned by the Local Government, impose, in addition to any taxes imposed under the foregoing sections, an annual lighting-rate on all houses, buildings and lands situate in the municipality or any part thereof not exceeding two per centum of their annual value.

(*2*) To provide for the supply of water, a municipal board may, under a resolution passed and sanctioned as aforesaid, impose, in addition to any taxes imposed as aforesaid, an annual rate on all houses and buildings situate in the municipality or any part thereof not exceeding two per cent. of their annual value.

(*3*) It shall be at the option of the board, when either of the rates mentioned in this section has been imposed, to levy in lieu thereof on any native house an annual rate not exceeding one pie for every three square feet of the ground covered by the house.

(*4*) Every tax leviable under this section in respect of any house, building or land shall be payable by the occupier of the same.

[B. B. s. 20.] [Act VII of 1874, ss. 11 & 25.]

37. Power to abolish or reduce tax.

A municipal board, by a resolution passed at a special meeting and confirmed by the Local Government, or the Local Government, with the previous sanction of the Governor General in Council, may abolish or reduce any tax imposed under the foregoing sections.

[B. B. s. 25.] [Act VII of 1874, s. 14.]

38. Power to make rules for assessment and collection of taxes.

The Local Government may, from time to time, make rules for the assessment and collection of taxes leviable under this Act:

Provided that, in the case of a tax imposed under section 35, every such rule shall be consistent with the proposals sanctioned in respect of the tax under that section.

VII of 1874.

39. Taxes leviable under Act VII of 1874 to be deemed to be taxes under this Act.

All taxes leviable in any local area under the British Burma Municipal Act, 1874, at the time when a municipality having [illegible] comes into existence, shall be deemed to have been [illegible] under

Burma Local Self-government Bill, 1883.
(Chapter V.—Duties of Municipal Board.)

Municipal Fund.

[B. B. ss. 39, 40, 42]. [Act VII of 1874, s. 7]

40. Municipal fund constituted.

There shall be formed for each municipality a municipal fund, and there shall be credited thereto—

(*a*) the proceeds of all taxes levied under this Act and all other money received by the board under this Act, except the proceeds of taxes levied under section 36;

(*b*) the proceeds of the cesses and tax levied on lands and houses in the municipality under sections 4, 5 and 6 of the Burma District Cesses and Rural Police Act, 1880, except such portions of those proceeds as may, under section 9 of that Act, be appropriated by the Local Government for the maintenance of rural police or for the maintenance of a local postal service;

II of 1880.

(*c*) the surplus accruing in the municipality under section 18 of the Cattle-trespass Act, 1871;

I of 1871.

(*d*) the income yielded by any public ferries in the municipality, and, in the case of a ferry on a river forming the boundary of a municipality, such share (if any) of the income of the ferry as the Local Government may assign in this behalf;

[Act VII of 1874, s. 28.]

(*e*) any sums which the Local Government may annually assign, as it is hereby empowered to do, to the municipal fund from the port fund of any port abutting on or within the municipality as being in its opinion a just and reasonable contribution towards the expenditure rendered necessary by the visits to the municipality of seamen from ships lying in the port;

(*f*) all rents and profits accruing from property belonging to or managed by the board;

(*g*) all sums contributed to the fund by the Local Government or by private persons; and

(*h*) when there has been included within the municipality a municipality constituted under the British Burma Municipal Act, 1874, the balance (if any) standing at the credit of the municipal fund of that municipality at the time when the municipal board came into existence.

VII of 1874.

41. Application of municipal fund.

The municipal fund shall, subject to the provisions of this Act, be applicable at the discretion of the municipal board to all the purposes of this Act within the limits of the municipality, and, with the previous sanction of the Local Government, to like purposes beyond those limits when such application of the fund is for the benefit of the inhabitants of the municipality.

Lighting and Water-supply Funds.

[B. B. s. 39.] [Act VII of 1874, s. 27.]

42. Lighting and water-supply funds constituted.

In every municipality in which a tax is levied under section 36 for the purposes of lighting or water-supply, there shall be established a separate fund to be called the lighting fund or water-supply fund, as the case may be, and there shall be credited to [illegible] proceeds of that tax, all other sums received by the board in connection with the purposes for which the tax is levied, and, when there [illegible] within the limits of the municipality a municipality constituted under the British Burma Municipal Act, 1874, in which a like tax has been levied, the balance (if any) standing to the credit of the separate account of that tax at the time when the municipal board comes into existence. VII of 1874.

[B. B. s. 39.]

43. Application of these funds.

The lighting fund or water-supply fund shall, subject to the provisions of this Act, be applicable at the discretion of the municipal board to the lighting of, or supply of water to, the local area in which it is raised (as the case may be), and to no other purpose.

Custody of, and Disbursements from, Funds.

[B. B. s. 43.] [Act VII of 1874, s. 29.]

44. Custody of, and disbursements from, funds.

(*1*) The balances standing to the credit of the funds established under sections 40 and 42 shall, if there is a Government treasury or sub-treasury situate within the municipality, be kept in that treasury or sub-treasury. In any other case, the bulk of the funds shall be kept in the nearest Government treasury or sub-treasury, and such funds as may be required for current expenditure shall be kept by the board in a strong box in such place and under such precautions as the board may, from time to time, direct.

(*2*) No disbursement of such funds or any part thereof shall be made except under the signature of the president or vice-president and one other member of the board.

CHAPTER V.

DUTIES OF MUNICIPAL BOARDS.

General Improvement, Conservancy and Education.

[B. B. ss. 40, 44 & 48.] [Act VII of 1874, s. 30.]

45. Duties of municipal board generally.

The following matters shall, subject to the provisions of this Act and to such exceptions or conditions as the Local Government may, from time to time, make or impose, be under the control and administration of the municipal board within the municipality, namely:—

(*a*) the construction, repair and maintenance of roads, streets, river-channels, ferries and other means of communication, and of drains, tanks and water-courses;

(*b*) the establishment, maintenance and administration of schools, hospitals, dispensaries, markets, wharves and resthouses, and the construction and repair of buildings connected with such institutions;

(*c*) the improvement, extension and purification of the local supply of drinking-water for men and animals;

(*d*) the planting and preservation of trees on public ground;

(*e*) the cleansing, watering and lighting of the streets in towns;

[B. B. s. 38.]

(*f*) the maintenance, repair and management of any buildings or other immoveable property vested in the board under this Act or made over to the board by the Local Government for management; and

(*g*) the construction, establishment, maintenance and carrying out of any other local works, institutions or measures likely to promote the health, safety, comfort or convenience of the public.

Burma Local Self-government Bill, 1883.
(Chapter V.—Duties of Municipal Board.)

[B. B. ss. 40 & 45.]

46. A municipal board may, from time to time, with the previous sanction of the Local Government, undertake beyond the limits of the municipality the control and administration of any of the matters mentioned in section 45, if its undertaking that control and administration is for the benefit of the inhabitants of the municipality.

Undertakings beyond municipal limits.

[B. B. s. 46.]

47. A municipal board shall, so far as its funds available for educational purposes permit, make grants-in-aid of schools in accordance with such rules as the Local Government, with the sanction of the Governor General in Council, may, from time to ime, prescribe.

Grants-in-aid of schools.

Prevention of Nuisances.

[B. B. ss. 30 31 & 32.] [Act VII of 1874, ss. 19, 20 & 21.]

48. *(1)* A municipal board may, from time to time, at a special meeting, make rules—

Power of board to make rules regarding nuisances.

(a) declaring that such acts or omissions within the municipality as may in its opinion cause or tend to cause any common injury, danger or annoyance to the public, or to people in general who dwell or occupy property in the vicinity, or any injury, obstruction, danger or annoyance to persons who may have occasion to use any public right, shall be deemed, within the meaning of the Indian Penal Code and for the purposes of this Act, to be public nuisances; and

XLV of 1860.

(b) defining the cases, manner and times in and at which officers of the board may enter on private property for the detection and abatement of public nuisances.

(2) A rule made under this section shall not come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

[B. B., s. 33.] [Act VII of 1874, s. 22.]

49. *(1)* Subject to any orders which the Local Government may, from time to time, make in this behalf, a municipal board may order any person not to do, or not to omit to do, within the municipality, anything the doing of, or omission to do, which is a public nuisance.

Power to prohibit commission, repetition or continuance of public nuisances.

(2) An order under this section shall be deemed to be, for the purposes of section 291 of the Indian Penal Code, an injunction by a public servant.

XLV of 1860.

[B. B., s. 34.] [Act VII of 1874, s. 23.]

50. *(1)* The Local Government may invest, within the limits of the municipality, a municipal board with the powers of a Magistrate of a district as described in section one hundred and thirty-three of the Code of Criminal Procedure, and with powers to make conditional orders of the nature referred to in that section, in respect of all or any of the acts or omissions which may have been declared to be public nuisances under clause *(a)* of section 48 of this Act.

Power as to conditional orders in respect of nuisances.

X of 1882.

(2) Sections one hundred and thirty-three to one hundred and forty-two (both inclusive) of the Code of Criminal Procedure shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers.

X of 1882.

(3) The Local Government may, whenever it thinks fit, withdraw the powers with which it has invested a board under this section.

[B. B., s. 34.]

51. A municipal board may, with the previous sanction of the Local Government, at a special meeting, delegate to one or more committees of its members, or to one or more of its members, any of the powers vested in the board by section 49, or with which the board may have been invested under section 50.

Delegation of powers as to nuisances.

52. Every police-officer in a municipality shall be bound, subject to such instructions as may, from time to time, be issued by the Inspector-General of Police in this behalf, to assist in the prevention of any public nuisance defined to be such by any rule made under this Act.

Police to aid in carrying out orders regarding nuisances.

Additional Powers.

[B. B. ss. 27, 30, 31, 32 and 21 *(f)*.] [Act VII of 1874, s. 16.]

53. *(1)* A municipal board may, from time to time, at a special meeting, make rules—

Power to make rules regulating other matters.

(a) rendering licenses necessary for the proprietors or drivers of carriages, carts or boats plying for hire within the limits of the municipality, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked;

(b) for regulating markets, wharves and slaughter-houses within the limits of the municipality, and rendering licenses necessary for the construction or establishment within those limits of new markets, wharves and slaughter-houses, or the keeping of lodging-houses within those limits for the accommodation of persons not being natives of British Burma, and for the holding or keeping open of markets, wharves and slaughter-houses constructed or established within those limits after the date on which this Act or the British Burma Municipal Act, 1874, came into force therein, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked;

VII of 1874.

(c) for securing a proper registration of births, marriages and deaths occurring within the municipality; and

(d) generally for carrying out the purposes of this Act.

[B. B. s. 57.] [Act VII of 1874, s. 42.]

(2) In making any rule under this section, a municipal board may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing one, with a further fine of five rupees for every day after the first during which the breach continues.

(3) A rule made under this section shall not come into force until it has been confirmed by the Local Government, and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

(4) Notwithstanding anything contained in the foregoing portion of this section, the municipal board of a municipality in which the Hackney Carriage Act, 1879, is in force shall not make rules under sub-section (1) with respect to any vehicles to which that Act applies.

XIV of 1879.

Burma Local Self-government Bill, 1883.
(Chapter VI.—Control.)

CHAPTER VI.

CONTROL.

[B. B., s. 34.]

54. *(1)* The Commissioner of the division or the Magistrate of the district may—

Control by Commissioner and Magistrate.

(a) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any municipal board or joint committee; or any work in progress within those limits under the direction of any such board or committee;

(b) call for and inspect any book or document in the possession or under the control of any such board or committee having authority within those limits;

(c) require any such board or committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the board or committee, as he may think fit to call for; and

(d) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(2) When the Magistrate of the district is a member of a board or joint committee, he shall not exercise, in respect of that board or committee, the powers conferred upon him by sub-section (1).

55. *(1)* The Commissioner of the division or the Magistrate of the district may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of a municipal board or joint committee, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

Power to suspend action under Act.

(2) When a Commissioner or Magistrate makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order or direct that it continue in force with or without modification, permanently or for such period as it thinks fit.

56. *(1)* In cases of emergency, the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a municipal board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the board.

Extraordinary powers of Magistrate in case of emergency.

(2) If the expense is not so paid, the Magistrate of the district may make an order directing the person having the custody of the balances of the board's funds to pay the expense, or as much thereof as is, from time to time, possible, from the appropriate balance in priority to any or all other charges against the same.

(3) The Magistrate of the district shall forthwith report to the Commissioner every case in which he uses the powers conferred upon him by this section.

[B. B., s. 36.]

57. *(1)* If at any time it appears to the Local Government that a municipal board has made default in performing any duty imposed on it by or under this or any other Act for the time being in force, the Local Government may, by order in writing, fix a period for the performance of that duty.

Powers of Local Government in case of default of board.

(2) If that duty is not performed within the period so fixed, the Local Government may appoint the Magistrate of the district to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Magistrate by the board.

(3) If the expense is not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balances of the board's funds to pay the expense, or so much thereof as is from time to time possible, from the balance of the appropriate fund in priority to any or all other charges against the same.

58. *(1)* If a municipal board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare that board to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

Power of Local Government to supersede board in case of incompetency, persistent default or excess or abuse of powers.

(2) When a board is so superseded, the following consequences shall ensue:—

(a) All members of the board shall, as from the date of the order, vacate their offices as such members.

(b) All powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as the Local Government, from time to time, appoints in that behalf.

(c) All property vested in the board shall, during the period of supersession, vest in the Local Government.

(3) On the expiration of the period of supersession specified in the order, the board shall be reconstituted, and the persons who vacated their offices under clause *(a)* shall not be deemed disqualified from being members.

Burma Local Self-government Bill, 1883.
(Chapter VII.—Supplementary.)

[B. B., s. 50.] [Act VII of 1874, s. 34.]

59. *(1)* A municipal board shall, at the close of each year or of such other period as may, from time to time, be fixed by the Local Government in this behalf, submit to the Local Government a statement of its receipts and disbursements, and a report of all works executed, or proceedings taken, by it under this Act during that period.

Annual reports and statements to be submitted.

[Act VII of 1874, s. 34.] *(2)* Accounts submitted under this section shall be examined or audited in such manner as the Local Government, from time to time, prescribes.

60. *(1)* A municipal board shall submit, before such dates in each year and in such form as may be directed by the Local Government, an estimate of its probable receipts for the financial year next following, with proposals for its expenditure.

Annual estimates of receipts and expenditure.

(2) An abstract of the estimate and proposals shall, on being so submitted, be published in such manner as the Local Government, from time to time, directs.

[B. B. s. 51.] [Act VII of 1874, s. 35.]

61. *(1)* No new work, the estimated cost of which exceeds five hundred rupees, shall be begun by a municipal board, nor shall any contract be entered into by it in respect of any such work, until a plan and estimate thereof has been approved by the board at a meeting.

Sanction to works.

(2) If the estimated cost of any such new work exceeds—

twenty thousand rupees in the case of the municipalities of Rangoon, Maulmain, Bassein, and Akyab, or

ten thousand rupees in the case of any other municipality,

it shall not be begun, nor shall any contract be entered into in respect of it, until the plan and estimate have been submitted to the Local Government, and sanctioned by it in an order published in the official Gazette.

CHAPTER VII.

SUPPLEMENTARY.

[B. B. s. 56.] [Act VII of 1874, s. 41.]

62. If any member, officer or servant of a board is, otherwise than with the permission in writing of the Commissioner of the division, directly or indirectly interested in any contract made with the board, he shall be deemed to have committed an offence under section one hundred and sixty-eight of the Indian Penal Code.

Penalty on member, officer or servant of board being interested in contract made with board.

XLV of 1860.

Provided that no person shall, by reason of being a shareholder in, or member of, any incorporated or registered company, be held to be interested in any contract entered into between such company and the board.

[B. B. s. 55] [Act VII of 1874, s. 40.]

63. In respect of every suit instituted against a municipal board, or against any officer or servant of the board in respect of an act purporting to be done by him in his official capacity, the board, officer or servant shall have, as nearly as may be, all the privileges which the Secretary of State for India in Council or a public officer respectively has under Chapter XXVII of the Code of Civil Procedure.

Suits against boards and their officers and servants.

XIV of 1882.

[B. B. s. 54.] [Act VII of 1874 s. 39.]

64. Every member of a municipal board shall be liable for the loss, waste or misapplication of any money or other property belonging to the board, if the loss, waste or misapplication is a direct consequence of his neglect or misconduct, and a suit for compensation may be instituted against him by the board or by the Secretary of State for India in Council.

Liability of members for loss, waste or misapplication.

[B. B. s. 38.]

65. The Local Government may, from time to time, by notification in the official Gazette, direct that any property, moveable or immoveable, which is vested in Her Majesty and is situate in the territories administered by the Local Government, shall vest in any municipal board; and thereupon the property shall vest in that board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, the property.

Power to vest property in board.

[B. B. s. 52.] [Act VII of 1874, s. 36.]

66. Where any land whether within or without the limits of a municipality is required for the purposes of a municipal board, the Local Government may, at the request of the municipal board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the board of the compensation awarded under that Act, the land shall vest in the board.

Acquisition of land under Act X of 1870.

X of 1870.

67. *(1)* The authority empowered to make rules under sections 8, 38, 47, 48 and 53 shall, before making them, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

Procedure for making rules under sections 8, 38, 47, 48 and 53.

(2) Every rule made under any of those sections shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section.

[B. B. s. 5[illegible] [Act VII [illegible] 1874, s. 43.]

68. Prosecutions under this Act for infringement of rules may be instituted by the municipal board, or any person authorised by it in this behalf, and not otherwise.

Prosecutions.

[illegible] Act [illegible] 1874, [illegible]

69. All fees and all rents and other sums due on account of property for the time being vested in or managed by the municipal board, and all arrears of taxes imposed under this Act, may be recovered as if they were arrears of land-revenue.

Recovery of taxes.

STATEMENT OF OBJECTS AND REASONS.

THE Government of India has for some time had under consideration the question of amending the law relating to municipalities in British Burma, so as to bring it more completely into harmony with the principles of local self-government which have recently been laid down by the Government of India, and are now being generally adopted in other provinces.

2. The present Bill has been prepared for the purpose of making such amendments in the existing Municipal Act (VII of 1874) as are needed, in order to give effect to this object. It has been thought convenient that it should repeal the existing Act, and the opportunity has been taken to introduce many improvements in matters of minor detail, in arrangement and in drafting, which the experience gained since the year 1874 has suggested. It will, however, be sufficient here to notice such of the proposed amendments as are of substantive importance.

3. Passing over the first chapter of the Bill, which contains preliminary matter, it will be found that Chapter II, relating to the constitution of municipalities, requires the Chief Commissioner (section 6) to bring every existing municipality under the new law within three months from the date on which it comes into force, unless he is in a position to declare by notification in the Gazette that it is unfit to be constituted a municipality under that law.

4. Section 3, it will be observed, enables the Chief Commissioner, subject to the usual procedure of issuing notice and hearing objections, to include within the limits of a municipality not merely a town but also any tract of country adjoining a town. This provision has been inserted on the advice of the Chief Commissioner (Mr. Bernard) and the Officiating Chief Commissioner (Mr. Crosthwaite), in order to meet the requirements of certain rural tracts, until such time as it may be found possible to establish a system of local boards for rural districts.

5. The most important alteration of the existing law proposed in Chapter III, relating to the organization of municipal boards, will be found in section 7, which, instead of leaving it absolutely in the discretion of the Chief Commissioner (as the present Act does) to determine whether the committee, or as it is now to be called, the board, should be appointed or elected, requires that at least three-fourths of the members shall be elective, except where the Chief Commissioner considers that a suitable system of election cannot be devised for them.

6. The only other provisions of this chapter which appear to call for notice are section 12, which requires a member of a board appointed to a salaried office under the board, to vacate his seat on the board; section 28, which empowers the board to determine whether their proceedings shall be conducted in English or Burmese and provides that, when they are conducted in English, [illegible] must be made for translating them into Burmese for the benefit of the native members; and section 29, which provides for the payment of small fees to the members of the board for attendance at meetings of the board or of committees.

7. The only alteration of the law proposed in Chapter IV which seems of sufficient importance to call for notice is in section 40, which provides that the following shall be credited to the municipal fund, namely:—

(*b*) the proceeds of the cesses and taxes levied on lands and houses in the municipality under sections 4, 5 and 6 of the Burma District Cesses and Rural Police Act, 1880, except such portions of those proceeds as may, under section 9 of that Act, be appropriated by the Chief Commissioner for the maintenance of rural police or for the maintenance of a local postal service;

(*c*) the surplus accruing in the municipality under section 18 of the Cattle-trespass Act, 1871;

(*d*) the income yielded by any public ferries in the municipality, and, in the case of a ferry on a river forming the boundary of a municipality, such share (if any) of the income of the ferry as the Chief Commissioner may assign in this behalf.

These sources of income, it need hardly be said, will, as a rule, be of little or no importance except when a considerable rural area is included in the municipality. When such an area is included, they will represent the chief contribution from it to the municipal fund.

8. It will be observed that there is nothing in the Bill corresponding to section 32 of the existing Act, which requires the municipality to provide from its funds in the first place such sums as the Chief Commissioner may from time to time fix for the maintenance of the town police. This charge will now be borne by the Government, and thus a considerable amount will be set free for expenditure on general purposes of improvement.

9. The list of duties of a municipal board contained in the first section of Chapter V is necessarily somewhat more extensive than the corresponding list in the existing Act, as under the new system some of the boards will have under them considerable rural areas, entailing duties somewhat different from those arising in connection with towns.

10. Section 47 requires a board, so far as its funds available for educational purposes will permit, to make grants-in-aid of schools in accordance with such rules as the Chief Commissioner, with the sanction of the Governor General in Council, may from time to time prescribe.

11. Section 25 of the existing Act gives the Chief Commissioner absolute power to cancel, suspend or limit any of the acts, proceedings or rules of any municipal committee. For this Chapter VI of the Bill proposes to substitute a carefully moderated system of control similar to that established by the Local Self-government Bills recently introduced for other provinces.

12. The last section of the chapter relating to the sanction requisite for undertaking works corresponds to section 35 of the existing Act, but instead of leaving it, as that section does, to the Chief Commissioner to determine the limit of the powers of the committee or board, it directly provides that the four largest municipalities may, on their own authority, undertake works the estimate for which does not exceed Rs. 20,000, and that the others may similarly undertake works the estimate for which does not exceed Rs. 10,000.

13. Section 67, though new as applied to Burma municipalities, has of late become a usual provision in Acts conferring a power to make rules. It provides that, before any rules are made under certain sections of the Act, they shall be published, that a certain time shall be allowed for the public or those concerned to put forward objections to them, and that any objections received shall be duly considered.

The 17th July, 1883.

C. P. ILBERT,

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 4, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 18th July, 1883:—

No. 18 OF 1883.

THE BURMA LOCAL SELF-GOVERNMENT BILL, 1883.

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Note.—"B. B." in the margin means the draft Bill submitted by the Chief Commissioner with his letter No. 387, dated 16th November, 1883.

A Bill to amend the law relating to Local Self-government in British Burma.

WHEREAS it is expedient to amend the law relating to local self-government in British Burma; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. *(1)* This Act may be called the Burma Local Self-government Act, 1883. Short title.

(2) It extends to the territories under the administration of the Chief Commissioner of British Burma. Local extent.

(3) And it shall come into force on the first day of November, 1883. Commencement.

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

"Municipality" means any local area constituted a municipality under Chapter II.

"Prescribed" means prescribed by rules made by the Local Government under this Act.

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

3. The Local Government may, from time to time, by notification in the official Gazette, declare its intention to constitute any town or group of towns, and any tract of country adjoining the same, a municipality under this Act: Notification of intention to constitute municipality. [B. B. ss. 3 & 8.] [Act VII of 1874, ss. 3 & 4.]

Provided that a notification under this section shall not, without the previous sanction of the Governor General in Council, comprise any military cantonment.

4. *(1)* Any inhabitant of a local area in respect of which a notification has been published under section 3 may, if he objects to anything therein contained, submit his objection in writing to the Secretary to the Local Government within six weeks from the publication of the notification, and the Local Government shall take his objection into consideration. Notification constituting municipality. [B. B. s. 3.] [Act VII of 1874, s. 3.]

(2) When six weeks from the publication of the notification have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by like notification, constitute the local area a municipality.

5. The Local Government may, by notification in the official Gazette, constitute any local area comprised in a municipality established under the British Burma Municipal Act, 1874, a municipality under this Act. Special power in respect of existing municipalities. VII of 1874.

6. The Local Government shall, within three months from the date on which this Act comes into force, constitute the local area comprised in every municipality established under the British Burma Municipal Act, 1874, a municipality under this Act, unless before the expiration of that period— Obligation to bring existing municipalities under this Act. VII of 1874.

(*a*) it has been included in some local area which has been constituted a municipality under this Act; or

(*b*) the Local Government has declared, by a notification in the official Gazette, that it is unfit to be constituted a municipality under this Act.

Burma Local Self-government Bill, 1883.

(Chapter III.—Organization of Municipal Boards.)

CHAPTER III.

ORGANIZATION OF MUNICIPAL BOARDS.

Constitution of Boards.

7. There shall be established for each municipality a municipal board having authority over that municipality, and consisting of— Board to consist of elected and appointed members. [B. B. ss. 9, 10 & 15.] [Act VII of 1874 ss. 5 and 7.]

(*a*) so many inhabitants of the municipality as may, from time to time, be determined by the Local Government, elected in manner next hereinafter prescribed, to represent wards of the municipality or particular classes of the inhabitants; and

(*b*) such person or persons (if any) not exceeding in number one-fourth of the board, as the Local Government may, from time to time, appoint in this behalf:

Provided that the Local Government may appoint all the members of the board of any municipality for which it considers that a suitable system of election cannot be devised.

8. *(1)* The Local Government, shall for every municipality in which a system of election is introduced, make rules regulating the following matters, namely:— Power to Local Government to make rules regarding election. [B. B. s. 9.] [Act VII of 1874, s. 5.]

(a) the division of the municipality into wards, or of the inhabitants into classes, or both;

(b) the number of representatives proper for each ward or class;

(c) the qualifications of electors and of candidates for election;

(d) the registration of electors;

(e) the nomination of candidates, the time of election and the mode of recording votes; and

(f) any other matters relating to the system of representation and of election for which it may seem expedient to provide.

(2) The Local Government may, after the municipal board has come into existence as hereinafter provided, from time to time amend, after consulting the board, the rules made under this section, but any amendment made under this sub-section shall not take effect until six months after it has been published in the official Gazette.

(3) Elective members of the board shall be elected in accordance with the rules made under this section and for the time being in force.

9. *(1)* The term of office of a member of a municipal board shall, subject to the provisions of sections 10, 11 and 12, be two years. Term of office of member of board. [B. B. s. 9.] [Act VII of 1874, s. 5.]

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

10. A member of a municipal board may resign by notifying in writing to the Local Government his intention to do so, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office. Resignation of member of board. [B. B. s. 14.] [Act VII of 1874, s. 6.]

11. The Local Government may, from time to time, remove any member of a municipal board who ceases to reside within the limits of the municipality, or refuses to act, or becomes incapable of acting, or is declared an insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who without sufficient excuse neglects for more than six consecutive months to be present at the meetings of the board. Removal of members. [B. B. s. 14.] [Act VII of 1874, s. 6.]

12. If any member of a municipal board is appointed to a salaried office under the board, he shall forthwith cease to be a member: Member to vacate on appointment to salaried office. [B. B. s. 14.]

Provided that—

(*a*) if the board allots a salary to its president or vice-president, he shall not for that reason cease to be a member; and

(*b*) fees allowed under section 29 to members of a board shall not be deemed to be a salary within the meaning of this section.

13. *(1)* When the place of an elected member of a municipal board becomes vacant by the resignation or removal of the member under section 10 or section 11, or by reason of his appointment to a salaried office under section 12, or by his death, a new member shall be elected in manner prescribed to fill the place. Filling of casual vacancies. [B. B. s. 9.] [Act VII of 1874, s. 5.]

(2) When the place of an appointed member of a municipal board becomes vacant as aforesaid, the Local Government may, if it thinks fit, appoint a new member to fill the place.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

14. Every municipal board shall be a body corporate by the name of the municipal board of its municipality, shall have perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property, both moveable and immoveable, and to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name: Incorporation of municipal board. [Act VII of 1874, s. 37.]

Provided that a board shall not purchase or transfer any immoveable property except in pursuance of a resolution passed at a special meeting and approved by the Local Government. [B. B. s. 35]

Burma Local Self-government Bill, 1883.
(Chapter III.—Organization of Municipal Boards.)

15. A municipal board shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Time for boards coming into existence.

16. When a municipal board comes into existence under section 15 for a municipality constituted under this Act, and that municipality comprises within its limits a local area which is a municipality under the British Burma Municipal Act, 1874, the following consequences shall ensue, namely:—

Consequences of establishment of municipal board where municipal committee exists.

VII of 1874.

(a) the said Act shall cease to apply to the local area;

(b) the municipal committee (if any) constituted under that Act for the local area shall cease to exist;

[B. B. s 38.] Act VII of 1874, s. 26.] *(c)* all property vested in that committee shall vest in the municipal board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, that property;

(d) every contract entered into by the committee may be enforced by and against the board in like manner as it might have been enforced by and against the committee if this Act had not been passed;

(e) a Government officer employed by the committee at the time the board comes into existence shall be deemed to be similarly employed by the board, and shall not be dismissed from that employment without the sanction of the Local Government.

President and Vice-president.

[B. B. s. 16.] [Act VII of 1874, s. 8.] **17.** A municipal board shall, from time to time, at a special meeting, elect one of its members to be president, and may, from time to time, at a like meeting, elect another of its members to be vice-president:

Election of president and vice-president.

Provided that in such municipalities, if any, as the Local Government may, from time to time, by notification in the official Gazette, exempt from the operation of this section, the president shall, from time to time, be appointed by the Local Government.

18. A president or vice-president shall hold office for one year, and on the expiration of that period may be again elected or appointed.

Term of office of president and vice-president.

[New.] **19.** *(1)* If a president elected by the board or a vice-president dies, ceases to be a member of the board, resigns his office or becomes incapable of acting, the board shall, at a special meeting, elect another of its members to be president or vice-president.

Casual vacancies in office of president or vice-president.

(2) If a president appointed by the Local Government dies, resigns his office or becomes incapable of acting, the Local Government shall appoint another president.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may be again elected or appointed.

Notification of elections, appointments and removals.

20. All elections or appointments of presidents and vice-presidents, and all elections, appointments and removals of members of municipal boards, shall be notified in the local official Gazette.

[B. B. s. 16.] [Act VII of 1874, s. 8.] Notification of appointments, &c.

Joint Committees.

[New.] **21.** *(1)* A municipal board may, from time to time, concur with any other municipal board, or with more than one such board, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the committee, and in delegating to any such committee any power which might be exercised by either or any of the boards, and in framing and modifying regulations as to the proceedings of any such committee, and as to the conduct of correspondence relating to the purpose for which the committee is appointed.

Joint committee of two or more boards.

(2) If any difference of opinion arises between boards acting under this section, the decision thereon of the Commissioner of the division if the areas under the authority of the boards are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

[B. B. ss. 17 & 18 *(d)*.] [Act VII of 1874, ss. 9 & 10.] **22.** *(1)* A municipal board shall meet for the transaction of business at least once in every month, on such day as may, from time to time, be fixed by the rules made under section 30.

Time for holding meetings.

(2) The president, or, in his absence, the vice-president, may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-third of the members of the board, convene a meeting at any other time.

[B. B. s. 18 *(c)* & *(g)*.] [Act VII of 1874, s. 10.] **23.** *(1)* A meeting of a municipal board shall be either ordinary or special.

Ordinary and special meetings.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

[B. B. s. 18 *(f)*.] [Act VII of 1874, s. 10.] **24.** *(1)* The quorum necessary for the transaction of business at a special meeting of a municipal board shall be one-half of the whole board:

Quorum.

Provided that, when the board consists of less than six members, the quorum shall be three.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a municipal board shall be such number, not less than three, as may, from time to time, be fixed by the rules made under section 30:

[Bombay Act III of 1873, s. 14.] Provided that, if at any meeting of the board a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before and transacted by the adjourned meeting whether there is a quorum present thereat or not.

[B. B. s. 18 *(e)* & *(b)*.] [Act VII of 1875, s. 10.] **25.** *(1)* At every meeting of a municipal board the president, if present, shall preside as chairman.

Chairman of meeting.

(2) If, when any meeting is held, the office of president is vacant, or the president is absent from the meeting and the vice-president is present, he shall preside as chairman.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

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(Chapter III.—Organization of Municipal Boards.)

[B. B. s. 18 *(h)* & *(i)*.] [Act VII of 1874, s. 10.] **26.** *(1)* Except as otherwise provided by this Act or by any rule made under this Act, all questions coming before any meeting of a municipal board shall be decided by a majority of the votes of the members present.

Vote of majority decisive.

(2) In case of an equality of votes, the chairman at the meeting shall have a second or casting vote.

[B. B. s. 18 *(j)*.] [Act VII of 1874, s. 10.] **27.** Every resolution passed by a municipal board at a meeting shall be recorded in a book kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, and shall be published in some local English or Vernacular newspaper, or in such other manner as the Local Government may, from time to time, direct.

Resolutions to be recorded and published.

[B. B. s. 18 *(k)*.] **28.** The discussions and proceedings of a municipal board shall be conducted and recorded either in English or in Burmese, as the board at a special meeting may, from time to time, decide:

Language of board.

Provided that, if the discussions and proceedings are conducted and recorded in English, the board shall provide for interpreting and translating them into Burmese for the benefit of members who do not understand English.

[B. B. s. 47.] **29.** A municipal board may, if it thinks fit, allow to each member thereof for attendance at meetings of the board, or at meetings of committees of the board, fees to such amount and subject to such conditions as the Local Government may, from time to time, approve:

Fees to members of boards.

Provided as follows—

(1) the fees paid under this section shall not exceed ten rupees for each attendance; and

[B. B. ss. 28 & 31] [Act VII of 1874, ss. 17 and 18.] *(2)* no fee shall be paid under this section to a member who is a servant of Government on active duty and in receipt of a salary exceeding Rs. 3,000 a year.

[B. B. s. 18 *(c)*.] **30.** *(1)* A municipal board may, from time to time, at a special meeting, make rules consistent with this Act and any rules made under this Act by the Local Government as to—

Power to make rules as to conduct of business.

(a) the time and place of its meetings;

[B. B. s. 29.] *(b)* the manner in which notice thereof is to be given;

(c) the quorum necessary for the transaction of business at ordinary meetings;

(d) the conduct of proceedings at meetings, and the adjournment of meetings;

(e) the appointment of committees of the board, and the division of duties among them and individual members of the board;

(f) the persons to whom receipts may be granted on behalf of the board for money paid under this Act; and

(g) any other similar matters.

(2) A rule made under this section shall not take effect until it has been confirmed by the Local Government and published in such manner as the Local Government may, from time to time, direct.

[B. B. s. 16.] [Act VII of 1874, s. 8.]

Officers and Servants.

[New.] **31.** *(1)* A municipal board shall, from time to time, at a special meeting, appoint one of its members, or some other person, to be its secretary, and may at a like meeting remove any person so appointed.

Appointment of secretary.

(2) If a secretary is a member of the board, he shall receive no remuneration in respect of his services. If he is not a member of the board, the board may, with the previous sanction of the Commissioner, assign to him any such pay, leave-allowance, gratuity or pension as it thinks fit.

[B. B. ss. 28 & 29.]

32. *(1)* Subject to the other provisions of this Act, and to such rules as the Local Government may, from time to time, make prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, a municipal board may employ, in addition to its secretary, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to those officers and servants such pay, leave-allowances, gratuities or pensions as it thinks fit.

Employment of other officers and servants.

(2) In the case of an officer whose services are lent wholly or in part by the Government, the board may contribute to any leave-allowance, gratuity or pension to which he may become entitled in accordance with the rules for the time being in force.

Contracts and Transfers of Property.

[B. B. ss. 35 & 48.] [Act VII of 1874, ss. 24 & 31.] **33.** *(1)* When a contract made by or on behalf of a municipal board exceeds in value or amount one hundred rupees, it must be in writing, and must be signed by the president or vice-president, and at least one other member of the board.

Mode of executing contracts and transfers.

(2) A transfer of immoveable property belonging to the board must be made by an instrument in writing, executed by the president and vice-president and by at least two members of the board.

(3) If any such contract or transfer is executed or made otherwise than in conformity with the provisions of this section, it shall not be binding on the board.

CHAPTER IV.

TAXATION AND FUNDS.

Taxation.

[B. B. s. 21.] [Act VII of 1874, ss. 11 & 12.] **34.** Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, a municipal board may, for the general purposes of this Act, impose, with the sanction hereinafter specified in each case, and in manner prescribed by section 35, any of the following taxes, namely:—

Taxes which may be imposed for general purposes of Act.

(1) with the previous sanction of the Local Government—

(a) a tax on houses, buildings and lands situate within the municipality or any part thereof, not exceeding five per centum of the annual value of the houses, buildings and lands;

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Burma Local Self-government Bill, 1883.
(Chapter IV.—Taxation and Funds.)

(*b*) a tax on lands covered by buildings and situate as aforesaid, at a rate not exceeding one pie per square foot per annum;

(*c*) a tax on houses situate as aforesaid according to the number of posts in each, at rates not exceeding the following, namely:—

	Rs.	A.	
For a house having not more than 2 posts ...	0	8	per annum.
For a house having not more than 3 posts ...	1	8	„
For a house having not more than 4 posts ...	2	8	„
For a house having not more than 5 posts ...	4	0	„
For a house having not more than 6 posts ...	7	0	„
For a house having not more than 7 posts ...	10	0	„

and when a house has more than seven posts, four rupees eight annas additional per annum for each post above seven:

(*d*) a tax on carriages, carts, boats, horses, ponies and elephants, or any of them, throughout the municipality or any part thereof:

(2) with the previous sanction of the Local Government and of the Governor General in Council, any other tax:

Provided as follows:—

(1) only one of the taxes mentioned in clauses *(a)*, *(b)* and *(c)* shall be imposed in respect of the same property, and

(2) in assessing a house to the tax mentioned in clause *(c)*, only posts facing a road or street shall be counted, except in the case of bázárs or large buildings extending through from street to street, in which case the posts contained in one row, measured lengthwise, shall be counted.

[B. B. s. 20.] [Act VII of 1874, s. 11.]

35. *(1)* A municipal board may resolve, at a special meeting, to propose the imposition of any tax for the purposes of this Act. Procedure in imposing such taxes.

(2) When a resolution has been passed under sub-section (1), the board shall publish a notice defining the persons or property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any person likely to be directly affected by the proposed tax, and objecting to the same, may, within a fortnight from the publication of the notice, submit his objection in writing to the board, and the board shall, at a special meeting, take his objection into consideration.

(4) If no objection is submitted within the said period of a fortnight, or if the objections received, having been considered as aforesaid, are deemed insufficient, the board may submit its proposals to the Local Government, with the objections (if any) which have been sent in under sub-section (3).

(5) The Local Government, on receiving proposals under sub-section (4), may sanction the same, or refuse to sanction them, or return them to the board for further consideration.

(6) When the Local Government sanctions under sub-section (5) any proposals which, under section 34, sub-section (2), require the further sanction of the Governor General in Council, it shall submit those proposals to the Governor General in Council with the objections (if any) received through the board; and the Governor General in Council may sanction the proposals, or refuse to sanction the same, or return them to the Local Government for further consideration.

(7) When the proposals of a municipal board in respect of a tax have been sanctioned by the Local Government, or by the Local Government and the Governor General in Council, as the case may be, the board may, at a special meeting, direct the imposition of the tax in accordance with those proposals.

[B. B. s. 22.] [Act VII of 1874, s. 13.]

36. *(1)* To provide for the lighting of the public streets, a municipal board may, under a resolution passed at a special meeting and sanctioned by the Local Government, impose, in addition to any taxes imposed under the foregoing sections, an annual lighting-rate on all houses, buildings and lands situate in the municipality or any part thereof not exceeding two per centum of their annual value. Power to impose lighting-rate and water-rate.

(2) To provide for the supply of water, a municipal board may, under a resolution passed and sanctioned as aforesaid, impose, in addition to any taxes imposed as aforesaid, an annual rate on all houses and buildings situate in the municipality or any part thereof not exceeding two per cent. of their annual value.

(3) It shall be at the option of the board, when either of the rates mentioned in this section has been imposed, to levy in lieu thereof on any native house an annual rate not exceeding one pie for every three square feet of the ground covered by the house.

(4) Every tax leviable under this section in respect of any house, building or land shall be payable by the occupier of the same.

[B. B. s. 20.] [Act VII of 1874, ss. 12 & 25.]

37. A municipal board, by a resolution passed at a special meeting and confirmed by the Local Government, or the Local Government, with the previous sanction of the Governor General in Council, may abolish or reduce any tax imposed under the foregoing sections. Power to abolish or reduce tax.

[B. B. s. 23.] [Act VII of 1874, s. 14.]

38. The Local Government may, from time to time, make rules for the assessment and collection of taxes leviable under this Act: Power to make rules for assessment and collection of taxes.

Provided that, in the case of a tax imposed under section 35, every such rule shall be consistent with the proposals sanctioned in respect of the tax under that section.

39. All taxes leviable in any local area under the British Burma Municipal Act, 1874, at the time when a municipal board having authority over that local area comes into existence under this Act, shall be deemed to have been imposed and assessed under this Act. Taxes leviable under Act VII of 1874 to be deemed to be taxes under this Act.

VII of 1874.

Burma Local Self-government Bill, 1883.
(Chapter V.—Duties of Municipal Board.)

Municipal Fund.

[B. B. ss. 39, 40, 42]. [Act VII of 1874, s. 7]

40. There shall be formed for each municipality a municipal fund, and there shall be credited thereto— Municipal fund constituted.

(*a*) the proceeds of all taxes levied under this Act and all other money received by the board under this Act, except the proceeds of taxes levied under section 36;

(*b*) the proceeds of the cesses and tax levied on lands and houses in the municipality under sections 4, 5 and 6 of the Burma District Cesses and Rural Police Act, 1880, except such portions of those proceeds as may, under section 9 of that Act, be appropriated by the Local Government for the maintenance of rural police or for the maintenance of a local postal service;

II of 1880.

(*c*) the surplus accruing in the municipality under section 18 of the Cattle-trespass Act, 1871;

I of 1871.

(*d*) the income yielded by any public ferries in the municipality, and, in the case of a ferry on a river forming the boundary of a municipality, such share (if any) of the income of the ferry as the Local Government may assign in this behalf;

[Act VII of 1874, s. 28.]

(*e*) any sums which the Local Government may annually assign, as it is hereby empowered to do, to the municipal fund from the port fund of any port abutting on or within the municipality as being in its opinion a just and reasonable contribution towards the expenditure rendered necessary by the visits to the municipality of seamen from ships lying in the port;

(*f*) all rents and profits accruing from property belonging to or managed by the board;

(*g*) all sums contributed to the fund by the Local Government or by private persons; and

(*h*) when there has been included within the municipality a municipality constituted under the British Burma Municipal Act, 1874, the balance (if any) standing at the credit of the municipal fund of that municipality at the time when the municipal board came into existence.

VII of 1874.

41. The municipal fund shall, subject to the provisions of this Act, be applicable at the discretion of the municipal board to all the purposes of this Act within the limits of the municipalty, and, with the previous sanction of the Local Government, to like purposes beyond those limits when such application of the fund is for the benefit of the inhabitants of the municipality. Application of municipal fund.

Lighting and Water-supply Funds.

[B. B. s. 39.] [Act VII of 1874, s. 27.]

42. In every municipality in which a tax is levied under section 36 for the purposes of lighting or water-supply, there shall be established a separate fund to be called the lighting fund or water-supply fund, as the case may be, and there shall be credited to it the proceeds of that tax, all other sums received by the board in connection with the purposes for which the tax is levied, and, when there has been included within the limits of the municipality a municipality constituted under the British Burma Municipal Act, 1874, in which a like tax has been levied, the balance (if any) standing to the credit of the separate account of that tax at the time when the municipal board comes into existence. Lighting and water-supply funds constituted.

VII of 1874.

[B. B. s. 39.]

43. The lighting fund or water-supply fund shall, subject to the provisions of this Act, be applicable at the discretion of the municipal board to the lighting of, or supply of water to, the local area in which it is raised (as the case may be), and to no other purpose. Application of these funds.

Custody of, and Disbursements from, Funds.

[B. B. s. 43.] [Act VII of 1874, s. 29.]

44. *(1)* The balances standing to the credit of the funds established under sections 40 and 42 shall, if there is a Government treasury or sub-treasury situate within the municipality, be kept in that treasury or sub-treasury. In any other case, the bulk of the funds shall be kept in the nearest Government treasury or sub-treasury, and such funds as may be required for current expenditure shall be kept by the board in a strong box in such place and under such precautions as the board may, from time to time, direct. Custody of, and disbursements from, funds.

(2) No disbursement of such funds or any part thereof shall be made except under the signature of the president or vice-president and one other member of the board.

CHAPTER V.

DUTIES OF MUNICIPAL BOARD.

General Improvement, Conservancy and Education.

[B. B. ss. 5, 40, 44 & 45.] [Act VII of 1874, s. 30.]

45. The following matters shall, subject to the provisions of this Act and to such exceptions or conditions as the Local Government may, from time to time, make or impose, be under the control and administration of the municipal board within the municipality, namely:— Duties of municipal board generally.

(*a*) the construction, repair and maintenance of roads, streets, river-channels, ferries and other means of communication, and of drains, tanks and water-courses;

(*b*) the establishment, maintenance and administration of schools, hospitals, dispensaries, markets, wharves and resthouses, and the construction and repair of buildings connected with such institutions;

(*c*) the improvement, extension and purification of the local supply of drinking-water for men and animals;

(*d*) the planting and preservation of trees on public ground;

(*e*) the cleansing, watering and lighting of the streets in towns;

(*f*) the maintenance, repair and management of any buildings or other immoveable property vested in the board under this Act or made over to the board by the Local Government for management; and

[B. B. s. 45.]

(*g*) the construction, establishment, maintenance and carrying out of all other local works, institutions or measures likely to promote the health, safety, comfort or convenience of the public.

Burma Local Self-government Bill, 1883.
(Chapter V.—Duties of Municipal Board.)

[B. B. ss. 40 & 45.]

46. A municipal board may, from time to time, with the previous sanction of the Local Government, undertake beyond the limits of the municipality the control and administration of any of the matters mentioned in section 45, if its undertaking that control and administration is for the benefit of the inhabitants of the municipality.

Undertakings beyond municipal limits.

[B. B. s. 46.]

47. A municipal board shall, so far as its funds available for educational purposes permit, make grants-in-aid of schools in accordance with such rules as the Local Government, with the sanction of the Governor General in Council, may, from time to time, prescribe.

Grants-in-aid of schools.

Prevention of Nuisances.

[B. B. ss. 30 31 & 32.] [Act VII of 1874, ss. 19, 20 & 21.]

48. *(1)* A municipal board may, from time to time, at a special meeting, make rules—

Power of board to make rules regarding nuisances.

(a) declaring that such acts or omissions within the municipality as may in its opinion cause or tend to cause any common injury, danger or annoyance to the public, or to people in general who dwell or occupy property in the vicinity, or any injury, obstruction, danger or annoyance to persons who may have occasion to use any public right, shall be deemed, within the meaning of the Indian Penal Code and for the purposes of this Act, to be public nuisances; and

XLV of 1860.

(b) defining the cases, manner and times in and at which officers of the board may enter on private property for the detection and abatement of public nuisances.

(2) A rule made under this section shall not come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

[B. B., s. 33.] [Act VII of 1874, s. 22.]

49. *(1)* Subject to any orders which the Local Government may, from time to time, make in this behalf, a municipal board may order any person not to do, or not to omit to do, within the municipality, anything the doing of, or omission to do, which is a public nuisance.

Power to prohibit commission or repetition of continuance of public nuisances.

(2) An order under this section shall be deemed to be, for the purposes of section 291 of the Indian Penal Code, an injunction by a public servant.

XLV of 1860.

[B. B., s. 34.] [Act VII of 1874, s. 23.]

50. *(1)* The Local Government may invest, as to conditions in respect within the limits of the municipality, a municipal board with the powers of a Magistrate of the district as described in section one hundred and thirty-three of the Code of Criminal Procedure, and with powers to make conditional orders of the nature referred to in that section, in respect of all or any of the acts or omissions which may have been declared to be public nuisances under clause *(a)* of section 48 of this Act.

(2) Sections one hundred and thirty-three to one hundred and forty-two (both inclusive) of the Code of Criminal Procedure shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers.

V of 1882.

(3) The Local Government may, whenever it thinks fit, withdraw the powers with which it has invested a board under this section.

[B. B., s. 34.]

51. A municipal board may, with the previous sanction of the Local Government, at a special meeting, delegate to one or more committees of its members, or to one or more of its members, any of the powers vested in the board by section 49, or with which the board may have been invested under section 50.

Delegation of powers as to nuisances.

52. Every police-officer in a municipality shall be bound, subject to such instructions as may, from time to time, be issued by the Inspector-General of Police in this behalf, to assist in the prevention of any public nuisance defined to be such by any rule made under this Act.

Police to aid in carrying out orders regarding nuisances.

Additional Powers.

[B. B. ss. 27, 30, 31, 32 and 21 *(f)*.] [Act VII of 1874, s. 16.]

53. *(1)* A municipal board may, from time to time, at a special meeting, make rules—

Power to make rules regulating other matters.

(a) rendering licenses necessary for the proprietors or drivers of carriages, carts or boats plying for hire within the limits of the municipality, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked;

(b) for regulating markets, wharves and slaughter-houses within the limits of the municipality, and rendering licenses necessary for the construction or establishment within those limits of new markets, wharves and slaughter-houses, or the keeping of lodging-houses within those limits for the accommodation of persons not being natives of British Burma, and for the holding or keeping open of markets, wharves and slaughter-houses constructed or established within those limits after the date on which this Act or the British Burma Municipal Act, 1874, came into force therein, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked;

VII of 1874.

(c) for securing a proper registration of births, marriages and deaths occurring within the municipality; and

(d) generally for carrying out the purposes of this Act.

[B. B. s. 57.] [Act VII of 1874, s. 42.]

(2) In making any rule under this section, a municipal board may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing one, with a further fine of five rupees for every day after the first during which the breach continues.

(3) A rule made under this section shall not come into force until it has been confirmed by the Local Government, and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

(4) Notwithstanding anything contained in the foregoing portion of this section, the municipal board of a municipality in which the Hackney Carriage Act, 1879, is in force shall not make rules under sub-section (1) with respect to any vehicles to which that Act applies.

XIV of 1879.

Burma Local Self-government Bill, 1883.
(Chapter VI.—Control.)

CHAPTER VI.

CONTROL.

Control by Commissioner and Magistrate.

54. *(1)* The Commissioner of the division or the Magistrate of the district may—

(a) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any municipal board or joint committee, or any work in progress within those limits under the direction of any such board or committee;

(b) call for and inspect any book or document in the possession or under the control of any such board or committee having authority within those limits;

(c) require any such board or committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the board or committee, as he may think fit to call for; and

(d) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(2) When the Magistrate of the district is a [illegible] committee, he shall [illegible] conferred upon him by sub-section [illegible].

Power to suspend action under Act.

55. *(1)* The Commissioner of the division or the Magistrate of the district may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of a municipal board or joint committee, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

(2) When a Commissioner or Magistrate makes any order under this section, he shall [illegible] with forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order or direct that it continue in force with or without modification, permanently or for such period as it thinks fit.

Extraordinary powers of Magistrate in case of emergency.

56. *(1)* In cases of emergency, the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a municipal board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the board.

(2) If the expense is not so paid, the Magistrate of the district may make an order directing the person having the custody of the balances of the board's funds to pay the expense, or as much thereof as is, from time to time, possible, from the appropriate balance in priority to any or all other charges against the same.

(3) The Magistrate of the district shall forthwith report to the Commissioner every case in which he uses the powers conferred upon him by this section.

[B. B., s. 38.]

57. *(1)* If at any time it appears to the Local Government that a municipal board has made default in performing any duty imposed on it by or under this or any other Act for the time being in force, the Local Government may, by order in writing, fix a period for the performance of that duty.

Powers of Local Government in case of default of board.

(2) If that duty is not performed within the period so fixed, the Local Government may appoint the Magistrate of the district to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Magistrate by the board.

(3) If the expense is not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balances of the board's funds to pay the expense, or such thereof as is from time to time possible, from the balance of the appropriate [illegible] to any or all other charges against the same.

Power of Local Government to supersede board in case of incompetency, persistent default or excess or abuse of powers.

58. *(1)* If a municipal board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare that board to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(2) When a board is so superseded, the following consequences shall ensue:—

[illegible] the date [illegible] as such members.

(b) All powers and duties of the board may during the period of supersession be exercised and performed by such person or persons as the Local Government may from time to time, appoints in that behalf.

(c) All property vested in the board shall during the period of supersession, vest in the Local Government.

(3) On the expiration of the period of supersession specified in the order, the board shall be reconstituted, and the persons who vacated their offices under clause *(a)* shall not be disqualified from being members.

Burma Local Self-government Bill, 1883.
(Chapter VII.—Supplementary.)

[B. B. s. 50.] [Act VII of 1874, s. 34.]

59. *(1)* A municipal board shall, at the close of each year or of such other period as may, from time to time, be fixed by the Local Government in this behalf, submit to the Local Government a statement of its receipts and disbursements, and a report of all works executed, or proceedings taken, by it under this Act during that period.

Annual reports and statements to be submitted.

[Act VII of 1874, s. 34.]

(2) Accounts submitted under this section shall be examined or audited in such manner as the Local Government, from time to time, prescribes.

60. *(1)* A municipal board shall submit, before such dates in each year and in such form as may be directed by the Local Government, an estimate of its probable receipts for the financial year next following, with proposals for its expenditure.

Annual estimates of receipts and expenditure.

(2) An abstract of the estimate and proposals shall, on being so submitted, be published in such manner as the Local Government, from time to time, directs.

[B. B. s. 51.] [Act VII of 1874, s. 35.]

61. *(1)* No new work, the estimated cost of which exceeds five hundred rupees, shall be begun by a municipal board, nor shall any contract be entered into by it in respect of any such work, until a plan and estimate thereof has been approved by the board at a meeting.

Sanction to works.

(2) If the estimated cost of any such new work exceeds—

twenty thousand rupees in the case of the municipalities of Rangoon, Maulmain, Bassein, and Akyab, or

ten thousand rupees in the case of any other municipality,

it shall not be begun, nor shall any contract be entered into in respect of it, until the plan and estimate have been submitted to the Local Government, and sanctioned by it in an order published in the official Gazette.

CHAPTER VII.

SUPPLEMENTARY.

[B. B. s. 53.]

62. If any member, officer or servant of a board is, otherwise than with the [illegible] servant of permission in writing of the board being interested, Commissioner of the division, [illegible] directly or indirectly interested in any contract made [illegible] he shall be deemed to have committed an offence under section one hundred and sixty-eight of the Indian Penal Code:

Penalty on member, officer or servant of board interested in contract.

Provided that no person shall, by reason of being a shareholder in, or member of, any incorporated or registered company, be held to be interested in any contract entered into between such company and the board.

[B. B. s. 55] [Act VII of 1874, s. 40.]

63. In respect of every suit instituted against a [illegible] boards municipal board, or against and their [illegible] and any officer or servant of the servants. board in respect of an act purporting to be done by him in his official capacity, the board, officer or servant shall have, as nearly as may be, all the privileges which the Secretary of State for India in Council or a public officer respectively has under Chapter XXVII of the Code of Civil Procedure. XIV of 1882.

[B. B. s. 54.] [Act VII of 1874, s. 39.]

64. Every member of a municipal board shall be liable for the loss, waste or misapplication of any money or other property belonging to the board, if the loss, waste or misapplication is a direct consequence of his neglect or misconduct, and a suit for compensation may be instituted against him by the board or by the Secretary of State for India in Council.

Liability of members for loss, waste or misapplication.

[B. B. s. 38.]

65. The Local Government may, from time to time, by notification in the official Gazette, direct that any property, moveable or immoveable, which is vested in Her Majesty and is situate in the territories administered by the Local Government, shall vest in any municipal board; and thereupon the property shall vest in that board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, the property.

Power to vest property in board.

[B. B. s. 52.] [Act VII of 1874, s. 36.]

66. Where any land whether within or without the limits of a municipality is required for the purposes of a municipal board, the Local Government may, at the request of the municipal board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the board of the compensation awarded under that Act, the land shall vest in the board.

Acquisition of land under Act X of 1870. X of 1870.

67. *(1)* The authority empowered to make rules under sections 8, 38, 47, 48 and 53 shall, before making them, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

Procedure for making rules under sections 8, 38, 47, 48 and 53.

(2) Every rule made under any of those sections shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section.

[B. B. s. [illegible] Act VII [illegible] 1874, s. 4[illegible]

68. Prosecutions under this Act for infringement of rules may be instituted by the municipal board, or any person authorised by it in this behalf, and not otherwise.

Prosecutions.

[B. B. s. [illegible] Act VII [illegible] 1874, s. [illegible]

69. All fees and all rents and other sums due on account of property for the time being vested in or managed by the municipal board, and all arrears of taxes imposed under this Act, may be recovered as if they were arrears of land-revenue.

Recovery of taxes.

STATEMENT OF OBJECTS AND REASONS.

THE Government of India has for some time had under consideration the question of amending the law relating to municipalities in British Burma, so as to bring it more completely into harmony with the principles of local self-government which have recently been laid down by the Government of India, and are now being generally adopted in other Provinces.

2. The present Bill has been prepared for the purpose of making such amendments in the existing Municipal Act (VII of 1874) as are needed, in order to give effect to this object. It has been thought convenient that it should repeal the existing Act, and the opportunity has been taken to introduce many improvements in matters of minor detail, in arrangement and in drafting, which the experience gained since the year 1874 has suggested. It will, however, be sufficient here to notice such of the proposed amendments as are of substantive importance.

3. Passing over the first chapter of the Bill, which contains preliminary [illegible] it will be found that Chapter II, relating to the constitution of municipalities, requires the Chief Commissioner (section 6) to bring every existing municipality under the new law within three months from the date on which it comes into force, unless he is in a position to declare by notification in the Gazette that it is unfit to be constituted a municipality under that law.

4. Section 3, it will be observed, enables the Chief Commissioner, subject to the usual procedure of issuing notice and hearing objections, to include within the limits of a municipality not merely a town but also any tract of country adjoining a town. This provision has been inserted on the advice of the Chief Commissioner (Mr. Bernard) and the Officiating Chief Commissioner (Mr. Crosthwaite), in order to meet the requirements of certain rural tracts, until such time as it may be found possible to establish a system of local boards for rural districts.

5. The most important alteration of the existing law proposed in Chapter III, relating to the organization of municipal boards, will be found in section 7, which, instead of leaving it absolutely in the discretion of the Chief Commissioner (as the present Act does) to determine whether the committee, or as it is now to be called, the board, should be appointed or elected, requires that at least three-fourths of the members shall be elective, except where the Chief Commissioner considers that a suitable system of election cannot be devised for them.

6. The only other provisions of this chapter which appear to call for notice are section 12, which requires a member of a board appointed to a salaried [illegible] under the board, [illegible] empowers the board to determine whether their proceedings shall be conducted in English or Burmese, and provides that, when they are conducted in English, arrangements must be made for translating them into Burmese for the benefit of the native members; and section 29, which provides for the payment of small fees to the members of the board for attendance at meetings of the board or of committees.

7. The only alteration of the law proposed in Chapter IV which seems of sufficient importance to call for notice is in section 40, which provides that the following shall be credited to the municipal fund, namely:—

(*b*) the proceeds of the cesses and tax levied on lands and houses in the municipality under sections 4, 5 and 6 of the Burma District Cesses and Rural Police Act, 1880, except such portions of those proceeds as may, under section 9 of that Act, be appropriated by the Chief Commissioner for the maintenance of rural police or for the maintenance of a local postal service;

(*c*) the surplus accruing in the municipality under section 18 [illegible] Act, 1871;

(*d*) the income yielded by any pub[illegible] in the municipality, and in the case of a ferry on a river forming the boundary of a municipality, such share (if any) of the income of the ferry as the Chief Commissioner may assign in this behalf.

[illegible] an area is included, they will represent [illegible] contribution from [illegible] municipal fund.

8. It will be observed that there is nothing in the Bill corresponding to section 32 of the existing Act, which requires the municipality to provide from its funds in the first place such sums as the Chief Commissioner may from time to time fix for the maintenance of the town police. This charge will now be borne by the Government, and thus a considerable amount will be set free for expenditure on general purposes of improvement.

9. The list of duties of a municipal board contained in the first section of Chapter V is necessarily somewhat more extensive than the corresponding list in the existing Act, as under the new system some of the boards will have under them considerable rural areas, entailing duties somewhat different from those arising in connection with towns.

10. Section 47 requires a board, so far as its funds available for educational purposes will permit, to make grants-in-aid of schools in accordance with such rules as the Chief Commissioner, with the sanction of the Governor General in Council, may from time to time prescribe.

11. Section 25 of the existing Act gives the Chief Commissioner absolute power to cancel, suspend or limit any of the acts, proceedings or rules of any municipal committee. For this Chapter VI of the Bill proposes to substitute a carefully moderated system of control similar to that established by the Local Self-government Bills recently introduced for other provinces.

12. The last section of the chapter relating to the sanction requisite for undertaking works corresponds to section 36 of the existing Act, but instead of leaving it, as that section does, to the Chief Commissioner to determine the limit of the powers of the committee or board, it directly provides that the four largest municipalities may, on their own authority, undertake works the estimate for which does not exceed Rs. 20,000, and that the others may similarly undertake works the estimate for which does not exceed Rs. 10,000.

13. Section 67, though new as applied to Burma municipalities, has of late become a usual provision in Acts conferring a power to make rules. It provides that, before any rules are made under certain sections of the Act, they shall be published, that a certain time shall be allowed for the public or those concerned to put forward objections to them, and that any objections received shall be duly considered.

The 17th July, 1883.

C. P. ILBERT,

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 8, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th September, 1883 :—

No. 19 OF 1883.

A Bill to declare the law in force in certain lands which have been or hereafter may be ceded by the Baháwalpur State for occupation by the Indus Valley State Railway.

WHEREAS Act X of 1880 (*to declare the law in force in certain lands annexed to the Multán District*) provides that all enactments which, on the second day of September, 1879, were in force in the Multán district and not in force in the lands occupied by the Indus Valley State Railway, and the works, premises and stations thereof, within the limits of the Baháwalpur State which have been ceded to the British Government in full sovereignty by that State, and have been declared by the Governor General in Council to be subject to the Lieutenant-Governorship of the Panjáb, and have by the Lieutenant-Governor of the Panjáb been annexed to the Multán district, shall be deemed to have come into force in the said lands on that day;

and whereas it is expedient to make like provision for certain other lands occupied by the same Railway, and the works, premises and stations thereof, within the limits of the same State, which have, since the second day of September, 1879, been ceded to the British Government in full sovereignty by the same State, and have been declared by the Governor General in Council to be subject to the same Lieutenant-Governorship and have by the same Lieutenant-Governor been annexed to the same district;

and whereas it is also expedient to make like provision for any lands to be hereafter occupied by the same Railway, and the works, premises and stations thereof, within the limits of the same State which may be ceded to the British Government in full sovereignty by the same State and may be declared by the Governor General in Council to be subject to the same Lieutenant-Governorship, and may by the same Lieutenant-Governor be annexed to the same or some other district;

It is hereby enacted as follows :—

Repeal of Act X of 1880.

1. Act X of 1880 is hereby repealed.

Law in force in Multán or other district to apply to ceded lands occupied by Indus Valley State Railway.

2. All enactments which, on the date on which any such lands as are referred to in the preamble to this Act have been, or may hereafter be, annexed to the Multán or any other district, were, or shall be, in force in that district, and not in the said lands, shall be deemed to have come, or, as the case may be, shall come, into force in the said lands on that date.

STATEMENT OF OBJECTS AND REASONS.

ACT X of 1880 (*to declare the law in force in certain lands annexed to the Multán District*) provides that all enactments which, on the second day of September, 1879, were in force in the Multán district and not in force in the lands occupied by the Indus Valley State Railway, and the works, stations and premises thereof within the limits of the Bahawulpur State which have been ceded in full sovereignty by that State to the British Government and have been declared by the Governor General in Council to be subject to the Lieutenant-Governorship of the Panjáb and have by the Lieutenant-Governor of the Panjáb been annexed to the Multán district, shall be deemed to have come into force in the said lands on that date.

2. But since the second day of September, 1879, certain other lands occupied by the same Railway within the limits of the same State have also been ceded to the British Government, and have in like manner been declared by the Governor General in Council to be subject to the same Lieutenant-Governorship, and have by the same Lieutenant-Governor been annexed to the same district. It is obvious that the Act of 1880, which is limited to the lands which were annexed to the Multán district on the second day of September, 1879, does not provide for these lands. It is further possible that other lands may hereafter be ceded by the same State for occupation by the same Railway and may be annexed to the same or some other district of the Panjáb. Under these circumstances, it has been thought desirable to repeal the special enactment of 1880, and to pass a general enactment on the same lines declaring the law in force in all the lands within the Bahawulpur State which may have been, or may hereafter be, ceded to the British Government for occupation by the Indus Valley State Railway, and which may have been, or may hereafter be, annexed to the Multán or any other district of the Panjáb.

C. P. ILBERT.

The 20th August, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th September, 1883:—

No. 20 OF 1883.

THE PANJÁB MUNICIPAL BILL, 1883.

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Panjáb Municipal Bill, 1883.
(Chapter I.—Preliminary.)

A Bill to make better provision for the organization and administration of Municipalities in the Panjáb.

WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the Panjáb; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

[Act IV of 1873, section 1.]

1. (*1*) This Act may be called the Panjáb Municipal Act, 1883:

Short title.

(*2*) It extends only to the territories under the Government of the Lieutenant-Governor of the Panjáb;

Local extent.

Commencement.

(*3*) And it shall come into force on the passing thereof.

[Act IV of 1873, section 2.]

2. (*1*) Act IV of 1873 (the Panjáb Municipal Act, 1873) is hereby repealed.

Repeal of Act IV of 1873.

(*2*) But all extensions and appointments made, and all limits defined, under the said Act shall be deemed to be respectively made and defined under this Act, and an extension of any particular provision of the said Act shall be deemed to be an extension of the corresponding provision of this Act:

Provided that, when a first election is held under this Act in any municipality, the term of office of any member of committee appointed before this Act comes into force shall cease when the elected members take office, unless the Local Government shall otherwise direct.

(*3*) And all taxes imposed and sanctioned under the said Act shall be deemed to have been imposed and sanctioned under this Act.

(*4*) And all assessments, bye-laws, rules and regulations of any kind, relating to matters provided for by this Act, which may heretofore have been made or approved by the Local Government, shall be deemed to have been made under this Act.

(*5*) And all proceedings taken under any such assessment, bye-law, rule or regulation shall be deemed to be as valid as if they had been taken under this Act.

3. 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 group of towns to which this Act is applied:

"Inhabitant" means any person ordinarily residing or carrying on business, or possessing immoveable property, and any person declared by the Local Government to be an inhabitant, in any town to which this Act applies, or to which the Local Government has by notification declared its intention to apply it:

"Street" means any way, road, street, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way; and also the roadway and footway over any public bridge or causeway:

"Owner" includes the person for the time being receiving the rent of lands and buildings, or either of them, whether on his own account or as agent or trustee for any other person or society, or for any religious or charitable purpose, or who would receive the same if the land or building were let to a tenant:

Provided that no such agent or trustee shall be liable to do anything required by this Act to be done by the owner unless he has in his possession sufficient funds belonging to the owner to pay for the same; nor shall he be subject to any penalty for omitting to do such act if he can prove that he had not in his possession funds belonging to the owner sufficient for the purpose:

"Casual vacancy" means a vacancy occurring in a committee by the death, resignation or removal of a member of committee:

"Notification" means a notification published by authority of the Local Government in the *Panjáb Government Gazette*:

"Prescribed" means prescribed by rules made by the Local Government under this Act.

4. (*1*) The Local Government may, from time to time, by notification, declare its intention to apply this Act or any of its provisions to any town or group of towns in the territories under such Government. [Act IV of 1873, section 4, sub-section 1, and section 5; N.-W. P. Bill, section 3.]

Notification of intention to apply Act.

(*2*) Every such notification shall define the limits of the town or group of towns to which it relates, and may include within those limits any railway-station, village, building or land in the vicinity of any such town:

Provided that it shall not, without the consent of the Governor General in Council, so include any military cantonment.

(*3*) A copy of every notification under this section, together with a translation of the same in the local vernacular, shall be affixed in some conspicuous place in the court-house of the district in which the town or group of towns to which it relates is situate, and in one or more conspicuous places in such town or group of towns; and the Deputy Commissioner shall certify to the Local Government the date on which the copy and translation aforesaid were so affixed. The date so certified shall be deemed to be the date of publication of the notification. [New.]

Publication of notification.

5. (*1*) If any inhabitant objects to the application of the Act, or of the provisions thereof specified in the notification, he may, within six weeks from the date of publication of the notification, submit his objection in writing through the Deputy Commissioner to the Local Government; and the Local Government shall take his objection into consideration. [Act IV of 1873, section 4, sub-sections 2 & 3; N.-W. P. Bill, section 4.]

Objection to such application.

(*2*) When six weeks from the date of the said publication have expired, and the Local Government has considered and passed orders upon any such objections which may have been submitted to it, the Local Government may, by notification, declare such town or group of towns to be, for the purposes of this Act, a municipality of the first or second class, and apply this Act or the provisions thereof specified in the notification to such municipality.

Procedure thereon.

[Bengal Act V of 1876, s. 10; Panjáb Local Self-government Bill, s. 5.]

6. The Local Government may, at any time, by notification, alter the limits of any municipality, or order that it be transferred from one class to another, or withdraw any local area to which this Act or any of its provisions may have been applied or extended from the operation of this Act or of the said provisions:

Alteration of limits of municipalities, transfer from one class to another, and withdrawal from operation of the Act.

Provided that, when such notification applies this Act or any of its provisions to any local area not previously subject thereto, it shall not be published unless and until the provisions of section 4 and section 5, sub-section (1), have been complied with, and the period specified in section 5, sub-section (2), has expired, and all objections submitted to the Local Government have been disposed of as in that sub-section provided.

CHAPTER II.

ORGANIZATION OF COMMITTEES.

Constitution of Committees.

[Act IV of 1876, s. 6; Panjáb Local Self-government Bill, ss. 3 and 6.]

7. *(1)* There shall be established by notification for each municipality a committee having authority over such municipality, and consisting of such number of members, not less than six, as the Local Government may direct.

Constitution of committees, and number, appointment and election of members.

(2) Such members may be appointed by the Local Government, either by name or by official designation, or may be elected from among the inhabitants in accordance with rules made under this Act, or some may be appointed and some elected as the Local Government may direct:

Provided that—

(1) when the Local Government has directed that all or any of the members shall be elected, they shall not be appointed by the Local Government unless—

(a) the electors do not elect a sufficient number of members; or

(b) a sufficient number of candidates do not present themselves for election; or

(c) a majority of the electors declare that they so desire; or

(d) by order of the Local Government, subject to the sanction of the Governor General in Council, for any other good and sufficient reason affecting the public interests:

(2) except with the approval of the Governor General in Council, not less than two-thirds of the members of every committee shall be persons other than salaried officers of Government unless such officers are elected as members.

[Ibid.]

8. If the Local Government is satisfied that any candidate elected as member of committee has been guilty of corrupt practices at his election, the election of such candidate shall be cancelled.

Disqualification for corrupt practices.

[N.-W. P. Bill, section 11; Madras Act III of 1871, section 7.]

9. *(1)* Members of committee, except those who have been appointed by official designation, shall hold office for such term, not exceeding three years, as shall be fixed by the Local Government, or until their successors have been elected or appointed.

Term of office.

(2) When the Local Government has directed that the members of a committee or any of them shall be elected and shall hold office for a term of three years, one-third, as nearly as may be, of the members elected at the first election thereafter held shall vacate office at the end of one year, and one-third, as nearly as may be, at the end of two years from the date of assuming office.

(3) The members who shall vacate office at the end of the first and of the second year, respectively, shall be determined either by voluntary arrangement among the members or by lot:

Provided that, if an elected member be chairman of the committee, he shall not be required to vacate office as member by lot during his term of office as chairman.

(4) An outgoing member shall, if otherwise qualified, be eligible for re-election or re-appointment.

[Pajnáb Local Self-government Bill, section 7; N.-W. section 13.]

10. *(1)* The Local Government may at any time remove any member of committee appointed by name or by his official designation.

Removal of member.

(2) The Local Government may remove any member of committee chosen by election—

(a) if such member refuses to act, or becomes, in the opinion of the Local Government, incapable of acting;

(b) if he is declared an insolvent, or is proscribed from employment under Government, or is convicted of any such offence, or subjected by a criminal Court to any such order as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member;

(c) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace or order, or, when he is a salaried officer of Government, inconsistent with the proper discharge of his official functions;

(d) if for three consecutive months he is absent from the meetings of the committee unless with its permission.

(3) Members removed under clauses *(b)* and *(c)* shall be disqualified for election unless with the previous sanction of the Local Government.

[N.-W. P. Bill, section 12.]

11. Any member of committee may signify to the Local Government in writing his intention or wish to resign his office; and, on such resignation being accepted by the Local Government, his office shall become vacant.

Resignation of members.

[Panjáb Local Self-government Bill, section 7, sub-section (4).]

12. *(1)* The Local Government may either empower committees to fill up casual vacancies among the members or, subject to the provisions of section 7, appoint members to fill such vacancies or cause them to be filled up by election.

Filling up casual vacancies.

[N.-W. P. Bill, section 14, sub-section (3).]

(2) Every member of committee so chosen shall be deemed to be an elected member, and shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office; but shall, if otherwise qualified, be eligible for re-election.

[Panjáb Local Self-government Bill, section 9; N.-W. P. Bill, section 10; Madras Act III of 1871, s. 86; Bombay Act VI of 1873, s. 26.]

13. Every committee shall be a body corporate by the name of the municipal committee of its municipality, and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to rules from time to time made by the Local Government in this behalf, to transfer any property held by it, to invest any sums not required for current charges in Government securities or in any other form of security which may be approved by the Local Government, and from time to time to dispose of such securities as may be necessary, and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Incorporation of committee.

[N.W. P. Bill, section 1.]

14. A committee shall come into existence at such time as the Local Government may, by notification, appoint in this behalf.

Time when committee shall come into existence.

Chairman and Vice-Chairman.

[N.W. P. Bill, sections 18 & 20.]

15. *(1)* Every committee shall, from time to time, elect one of its members to be chairman, and such member shall, after the election is approved by the Local Government, become chairman of the committee:

Election or appointment of chairman or vice-chairman.

Provided that the committee, instead of electing, may apply to the Local Government to appoint a chairman from among its members, and that the Local Government may, by notification, exclude any committee from the operation of this clause; and that in either of these cases, or if no election is made within one month from the occurrence of a vacancy in the office of chairman, or if the person elected is not approved, the Local Government may, if it thinks fit, appoint one of the members of the committee to be chairman.

(2) Every committee may also, from time to time, elect one or two of its members to be vice-chairman or vice-chairmen.

16. *(1)* A chairman shall hold office for three years, and a vice-chairman shall hold office for such term as the committee may, by rule, determine.

Term of office of chairman and vice-chairman.

(2) A chairman or vice-chairman shall vacate office as such when he ceases to be a member of committee, or tenders in writing to the committee his resignation of his office as chairman or vice-chairman, or becomes, in the opinion of the Local Government, incapable of acting; and he may be removed from such office by the Local Government if moved to do so by resolution passed by two-thirds of the members present at a special meeting.

Determination of office.

(3) Every resignation of office tendered under this section shall be reported, as soon as may be, to the Deputy Commissioner.

17. If a chairman or vice-chairman refuses to act, or vacates or is removed from his office as such, another chairman or vice-chairman shall be elected or appointed, as the case may be.

Casual vacancies in office of chairman or vice-chairman.

Notification of Elections, Appointments, &c.

[N. W. P. Bill, section 23; Act IV of 1873, section 6.]

18. All elections and appointments of members of committees and of chairmen of committees, and all determinations of the office of such members otherwise than by the expiration of their term of office, shall be notified in the *Panjáb Government Gazette*. No such election or appointment shall take effect until it is so notified.

Notification of elections, appointments, &c.

Conduct of Business.

[N. W. P. Bill, section 28.]

19. At every meeting of committee the chairman, if present, shall preside. If the office of chairman is vacant, or the chairman is absent from the meeting, and there is a vice-chairman, the vice-chairman, if present, shall preside. If neither chairman nor vice-chairman be present, the members present shall elect one of their number to be chairman of the meeting.

Chairman of meeting.

[N. W. P. Bill, section 25; Bengal Act V of 1876, s. 40, clause 2.]

20. *(1)* Every committee shall meet for the transaction of business, at least once in every month, at such time as may be fixed by its rules of business, and also at the time to which any such meeting may be adjourned under such rules:

Time of meeting.

Provided that, if there be no business to be laid before a committee at any monthly meeting; the chairman may give notice of the same to each member of committee three days before the time appointed for such meeting, and, when such notice is given, the meeting shall not be held.

(2) The chairman, or, in his absence, the vice-chairman, if any, may, whenever he thinks fit, and shall, upon a requisition made in writing by not less than one-fourth of the members of the committee, convene a meeting at any other reasonable time.

[N. W. P. Bill, section 26.]

21. *(1)* Meetings of committee shall be either ordinary or special.

Ordinary and special meetings.

(2) All business may be transacted at an ordinary meeting which is not required by this Act or by any rules made thereunder to be transacted at a special meeting.

[N. W. P. Bill, section 27.]

22. *(1)* The quorum necessary for the transaction of business at a special meeting of committee shall be one-half of the members of committee for the time being.

Quorum.

(2) The quorum necessary for the transaction of business at an ordinary meeting of committee shall be such number of the members of committee, not less than three, as may from time to time be fixed by its rules of business.

(3) If at any meeting of committee a quorum is not present, the chairman, or in his absence the vice-chairman, may adjourn the meeting to such other day as he thinks fit. Notice of such adjourned meeting shall be given in the manner required by the rules of business, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting, whether there is a quorum present thereat or not.

Panjáb Municipal Bill, 1883.
(Chapter II.—Organization of Committees.)

[N. W. P. Bill, section 29.]

23. Except as otherwise provided by this Act or by rules made under this Act, all questions which may come before any meeting of committee shall be decided by a majority of the votes of the members present, the chairman of the meeting, in case of an equality of votes, having a second or casting vote.

Vote of majority decisive.

[Madras Act III of 1871, section 25; N. W. P. Bill, section 31.]

24. *(1)* Minutes of the proceedings at each meeting of committee shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the chairman of the meeting or of the next ensuing meeting, and shall be published in such manner as the Local Government may, from time to time, direct, and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant who pays any tax under this Act.

Record and publication of proceedings.

(2) A copy of all such minutes shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner of the district.

[Madras Act III of 1871, s. 27; Bengal Act V of 1876, ss. 46 and 47.]

25. In case of emergency, the chairman of the committee, or in his absence the vice-chairman, shall exercise all powers vested in the committee by this Act or by any rules made thereunder, unless it is by this Act expressly declared that such power shall be exercised by the committee at a meeting:

Exercise by chairman or vice-chairman of powers of committee.

Provided that the chairman or vice-chairman shall not act in opposition to, or in contravention of, any order of the committee at a meeting.

[N. W. P. Bill, section 33; Act IV of 1873, section 18.]

26. *(1)* Every committee may, from time to time, at a special meeting, make rules consistent with this Act and with any rules made by the Local Government as to—

Rules of business.

(a) the time and place of its meetings;

(b) the manner in which notice of ordinary and special meetings and adjourned meetings shall be given;

(c) the quorum necessary for the transaction of business at ordinary meetings;

(d) the conduct of proceedings at meetings and the adjournment of meetings;

(e) the custody of the common seal and the purposes for which it shall be used;

(f) the division of duties among the members of the committee;

(g) the powers to be exercised by sub-committees or members to whom particular duties have been assigned;

(h) the persons by whom receipts may be granted on behalf of the committee for money paid under this Act;

(i) the appointment, leave, suspension and removal of its officers and servants;

(j) the term for which the vice-chairman shall hold office; and

(k) all other similar matters.

(2) Every rule made under this section shall be published in such manner as the Local Government may, from time to time, direct.

Joint Committees.

[N. W. P. Bill, section 24; Panjáb Local Self-government Bill, section 46.]

27. *(1)* A committee may, from time to time, concur with any other local authority in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such joint committee, and in delegating to such joint committee any power which might be exercised by either or any of the local authorities so concurring, and in framing and modifying regulations as to the proceedings of such joint committee, and as to the conduct of correspondence relating to the purpose for which such joint committee is appointed.

Joint committees.

[N. W. P. Bill, section 24; Panjáb Local Self-government Bill, section 45.]

(2) If any difference of opinion arises between local authorities acting under this section, it shall be referred to—

(a) the Deputy Commissioner, if the local authorities are in the same district,

(b) the Commissioner of the division, if the local authorities are in different districts in the same division, or if they are in different divisions, the Commissioners of such divisions, when they can agree as to the decision of the case, and

(c) the Local Government, if the local authorities are in different divisions, and the Commissioners of such divisions cannot agree as to the decision of the case;

and when such reference is made, the decision thereupon of the Deputy Commissioner, Commissioner or Local Government shall be final.

Explanation.—In this section "local authority" means a municipal committee, district committee, local board or cantonment authority.

Officers and Servants.

[N. W. P. Bill, section 33.]

28. *(1)* Every committee shall, from time to time, at a special meeting, appoint one or more of its members, or, with the sanction of the Commissioner of the division, any other person, to be its secretary, and may, at a like meeting, with the same sanction, remove any person so appointed.

Appointment of secretary.

(2) A member of committee appointed as secretary shall receive no remuneration in respect of his services. When any other person is appointed to be secretary, the committee may, with the previous sanction of the Commissioner, assign to him such pay as it thinks fit.

[Panjáb Local Self-government Bill, section 46; N. W. P. Bill, section 34.]

29. *(1)* Subject to the other provisions of this Act and to any rules made in this behalf, every committee may employ and pay such other officers and servants not being members of the committee as may be necessary and proper for the efficient execution of its duties:

Employment of other officers and servants.

Provided that if, at any time, in the opinion of the Deputy Commissioner,

(a) the number of persons employed by the committee, or the remuneration assigned to those persons, or to any of them, is excessive, or

(b) any such person is unfit for his employment,

the committee shall, on the requirement of the Deputy Commissioner, reduce the number or

Panjáb Municipal Bill, 1883.
Chapter III.—Taxation and Municipal Fund.)

remuneration of such persons, or, as the case may be, dismiss the unfit person.

(2) If the committee is dissatisfied with such requirement, it may appeal against it to the Commissioner of the division, whose decision shall be final.

[Panjáb Local Self-government Bill, sections 47 and 48; Act I of 1883, section 4.]

Pensions to establishments.

30. *(1)* In the case of Government officials, any committee may—

[New.]

(a) if the services of such officials are wholly lent to it, contribute to their pensions, gratuities and leave-allowances in accordance with the Government Leave and Pension Code for the time being in force; and

(b) if such officials devote only a part of their time to the performance of duties in behalf of the committee, contribute to their pensions, gratuities and leave-allowances in such proportion as may be determined by the Government.

(2) In the case of servants, not being Government officials, any committee may—

(1) grant leave-allowances, and, in the case of servants appointed before the passing of this Act and not entitled to pension, and of servants drawing less then ten rupees a month, gratuities to such servants; and

(2) if empowered in this behalf by the Local Government—

(a) subscribe in behalf of such servants for pensions, gratuities and leave-allowances under the Government Leave and Pension Code for the time being in force;

(b) purchase from the Government or otherwise annuities for such servants on their retirement:

Provided that such pensions, gratuities, leave-allowances and annuities shall in no case exceed the sum to which, under the Government Leave and Pension Code for the time being in force, such servants would be entitled if the service had been service under Government.

Contracts.

P. Bill, 35.]

31. *(1)* The committee of a municipality of the first class may delegate to one or more of its members the power of entering, on its behalf, into any contract whereof the value or amount does not exceed two hundred rupees.

Authority to contract.

(2) No contract whereof the value or amount exceeds two hundred rupees shall be executed until it has been sanctioned at a meeting of the committee.

W. P. Bill, ion 36; IV of 73, section

32. *(1)* Every contract made by or on behalf of a committee whereof the value or amount exceeds twenty rupees shall be in writing, and shall be signed by the chairman or vice-chairman and the secretary, if he is a member of committee, and, if the secretary is not a member of committee, by another member:

Mode of executing contracts.

Provided that, when the power of entering into any contract on behalf of the committee has been delegated under the preceding section, the members so empowered may execute such contract.

(2) A transfer of immoveable property belonging to the committee must be made by an instrument in writing, executed by the chairman or vice-chairman, and by at least two other members of the committee.

(3) No contract or transfer executed otherwise than in conformity with the provisions of this section shall be binding on the committee:

Provided that this shall not affect any liability of the committee under section 70 of the Indian Contract Act to make compensation for any benefit received. IX of 1872.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

[Act XV of 1873, section 16; Act VII of 1874, section 12; N. W. P. Bill, section 37.]

33. Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, a committee may, for the purposes of this Act, in the manner hereinafter provided, impose any of the following taxes, namely:—

Taxes which may be imposed.

(1) with the previous sanction of the Local Government—

(a) a tax on houses, buildings and lands, either

(i) not exceeding 7½ per cent. on the annual value thereof; or

(ii) not exceeding one anna per square yard; or

(iii) not exceeding three rupees per running foot of frontage in streets or bázárs;

(b) a tax on persons practising arts or professions or carrying on trades or callings in the municipality;

(c) a tax on vehicles, boats, animals used for riding, driving, draught or burden, and dogs, kept within the municipality;

(d) a tax on menial and domestic servants;

(e) an octroi on animals for slaughter and goods brought within the octroi limits for consumption or use therein; and

(2) with the previous sanction of the Local Government and of the Governor General in Council, any other tax.

[Act VII of 1874, section 13.]

34. *(1)* To provide further funds for the following purposes, or any of them, namely:—

Additional taxes for special objects.

(a) the lighting of streets, roads and public thoroughfares;

(b) the supply, storage and preservation from pollution of water for drinking and cooking purposes;

(c) any special work approved by the Local Government for promoting the health, comfort or convenience of the inhabitants;

a committee may (subject to the rules or orders last aforesaid) in the manner hereinafter provided, and with the previous sanction of the Local

Government, impose, in addition to any taxes imposed under section 33, a tax on houses, buildings and lands, either

(i) not exceeding 2½ per cent. on the annual value thereof; or

(ii) not exceeding 4 pies per square yard; or

(iii) not exceeding one rupee per running foot of frontage in streets or bázárs.

(2) A separate account shall be kept of the receipts and expenditure of every tax levied under this section.

[Madras Act III of 1871, s. 41; Bengal Act V of 1876, s. 92.]

Annual value.

Explanation.—In this and the last preceding section, "annual value" means the annual rent for which houses, buildings and lands liable to taxation may reasonably be expected to let:

Provided that—

(1) In municipalities where houses are usually let furnished, it shall not be necessary, in estimating the rental, to make any deduction on account of the furniture, unless the Local Government shall otherwise order:

(2) In the case of land assessed to the land-revenue or of which the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, if the Local Government shall so direct, the annual value shall be deemed to be double the land-revenue for the time being assessed on the land, whether such assessment is leviable or not; and, when the land-revenue has been wholly or in part compounded for or redeemed, double the amount which, but for such composition or redemption, would have been leviable; and also, when the improvement of the land due to canal irrigation has been excluded from account in assessing the land-revenue, double the amount of the owner's rate or water-advantage rate or other rate imposed in respect of such improvement.

35. With the previous sanction of the Local Government, or of such officer as the Local Government may authorize in this behalf, a committee may, from time to time, by resolution at a special meeting, impose and fix the rate of, or abolish, the following tolls and fees, namely:—

Tolls and fees.

(a) where no octroi is levied, a toll on vehicles and animals entering the municipality, and on boats moored therein;

(b) fees on licenses to the proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality;

(c) school-fees;

[Panjáb Local Self-government Bill, section 20.]

(d) fees for the use of, or benefits derived from, hospitals, dispensaries, rest-houses, saráis, slaughter-houses, markets and other public institutions;

(e) fees at fairs, agricultural shows and industrial exhibitions held within the municipality and under its control;

[Madras Act III of 1871, sections 52 & 55.]

(f) fees for notices of demand of any tax, toll or fee due under the Act;

Ibid, sections 130 & 153.]

(g) fees for licenses to carry on offensive or dangerous trades;

[Bombay Act VI of 1873, section 22.]

(h) fees for permission to make any temporary erection, or for the temporary occupation of any street or other land vested in the committee.

[N. W. P. Bill, section 38; Act IV of 1873, section 7.]

Procedure in imposing taxes.

36. *(1)* A committee may, at a special meeting, pass a resolution to propose the imposition of any tax under section 33 or section 34, or any toll under section 35 *(a)*, within the whole or any part of the municipality for the purposes of this Act.

(2) When such resolution has been passed, the committee shall publish a notice, defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(3) Any inhabitant objecting to the proposed tax may, within thirty days from the publication of the notice, submit his objection in writing to the committee, and the committee shall, at a special meeting, take such objection into consideration.

(4) If no such objection is received, or if such objection, having been considered as aforesaid, is deemed insufficient, the committee may forward its proposals to the Local Government, together with the objections (if any) which have been submitted as aforesaid, and with its decision thereupon.

(5) The Local Government, on receiving such proposals, may sanction the same, or refuse to sanction them, or return them to the committee for further consideration.

(6) When the Local Government sanctions any such proposals which require the further sanction of the Governor General in Council, it shall submit the same to the Governor General in Council, together with the objections (if any) received through the committee; and the Governor General in Council may sanction the proposals, or refuse to sanction them, or return them to the Local Government for further consideration.

(7) When the proposals of a committee have been sanctioned by the Local Government, or by the Local Government and the Governor General in Council, as the case may be, the committee may, at a special meeting, direct the imposition of the tax in accordance with such proposals. In giving such direction the committee shall fix a date, not less than one month after the meeting, from which the tax shall come into force:

Provided that no tax shall come into force until it has been notified in the *Panjáb Government Gazette*, and such notification shall be conclusive evidence that it has been imposed in the manner provided by this section.

(8) The Local Government may, by notification, and the committee may, at a special meeting, with the sanction of the Local Government, abolish or reduce in amount any tax so imposed.

[Madras Act III of 1871, section 46.]

Power to exempt from taxation.

37. *(1)* A committee may at a meeting exempt, in whole or in part, from the payment of any tax, toll or fee imposed under this Act, any person who by reason of poverty may be deemed to be unable to pay the same.

(2) The Local Government may, by notification, and the committee may, by resolution passed at a special meeting and confirmed by the Local Government, exempt from the payment of any tax, toll or fee imposed under this Act, any person or class of persons or any description of property.

[Act XV of 1873, section 19; Act VII of 1874, section 15; Bengal Act V of 1876, section 369.]

Taxes, &c., not invalid for defect of form.

38. No tax, toll or fee imposed under this Act, and no proceedings of committee at any ordinary or special meeting, shall be invalid merely for defect of form; and it shall be enough in any such tax on property, or any assessment of value for the purpose of making such tax, if the property taxed or assessed be so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

[Madras Act III of 1871, s. 41.]

Tax on houses, buildings and lands when payable.

39. Any tax imposed under section 33, sub-section *(1)*, clause *(a)*, or under section 34, shall be due and payable by the owner of the house, building and land, respectively, from and after the end of the first quarter of the year for which it is assessed.

[Madras Act III of 1871, s. 43; Bengal Act V of 1876, s. 94.]

Preparation of valuation lists.

40. The committee shall cause a valuation-list of all houses, buildings and lands on which such tax is imposed to be prepared, containing the name of the street or division in which such property is situate, the designation of the property, either by name or number, sufficient to identify the same, the name of the owner, or if the occupier, and not the owner, is the person liable to pay the tax, the name of the occupier, the annual value, area or length of frontage upon which the property is assessed, and the amount of the tax assessed thereon by the committee.

[Madras Act III of 1871, section 45.]

Owner or occupier how to be designated, if name unknown.

41. When the name of the owner or occupier is not known, it shall be sufficient to designate him in the said list, and also in any notice or other proceeding under this Act, as the "owner" or the "occupier" of the property on which the tax is assessed, without further description.

[Madras Act III of 1871, section 46; Bengal Act V of 1876, section 103.]

Publication of notice of assessments.

42. When the valuation has been completed, the committee shall give public notice thereof, and of the place where the list or copy thereof may be inspected, and every person claiming to be the owner or occupier of property included in the assessment, or the agent of such person, shall be at liberty to inspect the entries in such list or copy relating to such property, and to make extracts thereof without charge.

[Madras Act III of 1871, section 47.]

Public notice of time fixed for revising assessment.

43. *(1)* The committee shall at the same time give public notice of a day and hour, not less than one month from the publication of such notice, when they will proceed to revise the said valuation and assessment; and in all cases in which any property is for the first time assessed, or the assessment is increased, shall give special notice thereof to the owners or occupiers of such property.

(2) All objections to such valuation and assessment shall be made at or before the time fixed in the notice.

[Madras Act III of 1871, section 48.]

Verification of list after disposal of objections.

44. After the objections have been enquired into and the revision of the valuation and assessment has been completed, the amendments made in the list shall be authenticated by the signatures of not less than two members of the committee, who shall at the same time certify that no valid objection has been made to the valuation and assessment contained in the list, except in the cases in which amendments have been entered therein; and, subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the whole year for which the assessment is made.

[Madras Act III of 1871, ss. 48; Bengal Act V of 1876, ss. 99, 100.]

Further amendments of valuation-list.

45. The committee may at any time amend the list by inserting the name of any person whose name ought to be inserted, or by inserting any property liable to the tax, or by altering the assessment on any property which has been insufficiently valued or assessed through mistake or fraud, or the value of which has been increased by the construction of any new building or by additions to or alterations in any building thereon, after giving notice to any person interested in such amendment of a day, not less than fifteen days from the date of service of such notice, on which the amendment is to be made;

and any person interested in such amendment may tender his objection to the committee by application in writing at or before the time fixed in the notice.

[Madras Act III of 1871, s. 49.]

New list need not be prepared every year.

46. It shall not be necessary to prepare a new valuation-list every year; but the committee may adopt the valuation and assessment contained in the list for the preceding year, with such alterations as may in particular cases be deemed necessary, as the valuation and assessment for the year following, giving the same public notice of such valuation and assessment as if a new valuation-list had been prepared.

[Madras Act III of 1871, ss. 51 and 52; Bengal Act V of 1876, s. 111.]

Presentation of bill and issue of notice of demand.

47. *(1)* When any sum is due for any tax leviable under section 33, sub-section (1), clause *(a)*, or under section 34, the committee shall cause a bill for the amount, stating the property and the period for which the charge is made, to be presented to the person liable to pay the same.

(2) If the bill be not paid within ten days from the presentation thereof, the committee may cause a notice of demand to be served upon such person;

and if such person do not, within seven days from the service of such notice, pay the sum due, with any fee leviable for the notice, or show sufficient cause for non-payment of the same, the sum due, together with such fee, shall be deemed to be an arrear of tax.

[Madras Act III of 1871, s. 53; Bengal Act V of 1876, s. 96.]

Liability of occupier if tax not paid by owner after notice of demand.

48. If the sum due from the owner of the house, building or land remains unpaid after notice of demand has been duly served, the committee may demand the amount from the occupier for the time being, and may proceed against him in all respects as if he were the owner; and if the amount is paid by, or recovered from, the occupier, he may deduct the amount so paid or recovered from the next and following payments of rent:

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Provided that no arrear which has remained due from the owner for more than one year shall be so recovered from the occupier.

[N. W. P. Bill section 41.]

49. *(1)* Arrears of any tax imposed under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property belonging to the defaulter within those limits.

Recovery of taxes.

[Madras Act III of 1871, section 79; Bengal Act V of 1876, section 154.]

(2) In case of non-payment of any octroi tax or of any toll on demand, the person empowered to collect the same may seize any goods on which such octroi is chargeable, or any conveyance, boat or animal on which such toll is chargeable or any part of its burden of sufficient value to satisfy the demand. The committee may cause any property so seized or so much thereof as is necessary to be sold by auction to satisfy such demand, together with the expenses occasioned by the seizure, custody and sale thereof, unless such demand and expenses are in the meantime paid, after the lapse of *five* days from the seizure, and after the issue of a proclamation fixing the time and place of sale, a copy of which shall be served upon the person entitled to the property at least 48 hours before the sale:

Provided that, by order of the chairman or vice-chairman, articles of a perishable nature which could not be kept for five days without serious risk of damage may be sold after the lapse of twenty-four hours.

[Mr. Plowden's draft bye-law, No. III.]

50. *(1)* Every person bringing within the octroi limits of any municipality any articles upon which an octroi tax has been imposed shall, when required by any person authorized by the committee to assess the octroi tax chargeable, or to collect the tax assessed thereon, and so far as may be necessary for ascertaining the amount of tax chargeable,—

Power to examine articles liable to octroi tax.

(a) permit such person to inspect, examine, weigh and otherwise deal with such articles;

(b) permit such person to separate taxable articles from articles not taxable;

(c) communicate to such person any information and exhibit to him any document he may possess relating to such taxable articles.

[Plowden's draft bye-law, No.

(2) Every person assessing octroi tax by the authority of the committee shall, on request by the person introducing taxable articles on which such tax is claimed, present him with a bill specifying the articles taxable, the amount claimed, and the rate at which the tax is calculated; and any person receiving payment of the whole or any part of the tax claimed shall on request receipt the said bill accordingly.

Presentation of bill for octroi tax and receipt for payment.

[Madras Act III of 1871, section 78.]

51. The collection of any octroi tax or toll may be leased by the committee, with the previous sanction of the Commissioner of the division, for any period not exceeding one year; and the lessee and all persons employed by him in the management and collection of such octroi tax or toll shall be bound by any rules made by the committee for their guidance, and shall have the same powers, and be subject to the same responsibilities, as if they were employed by the committee for the management and collection of such octroi tax or toll. Any dispute between the lessee and any person from whom such tax or toll is demanded shall be referred to the committee, whose decision thereupon shall be final.

Power to lease the collection of octroi or tolls.

[Madras Act III of 1871, section 46.]

52. *(1)* The committee may require the owners or occupiers of houses, buildings or lands to furnish them with returns of the measurements and of the rent or annual value thereof; and the committee or any person appointed by them for that purpose may, at any time between sunrise and sunset, enter, inspect and measure any such houses, buildings or lands, after having given 48 hours previous notice in writing to the occupiers thereof.

Returns for purposes of valuation.

Power to enter houses, &c.

[*Ib.*, section 72.]

(2) The committee, or any person authorized by them in writing for that purpose, may also, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein they may have reason to believe that there is any vehicle or animal liable to taxation under this Act, for which a license has not been duly taken out

[Bengal Act V of 1866, s. 107; Madras Act III of 1871, s. 85.]

53. No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than in this Act is provided.

Assessments not to be questioned except under this Act.

[Bengal Act V of 1856, s. 110.]

54. For all sums paid on account of any tax under this Act, a receipt, stating the amount and the tax on account of which it is paid, shall be given by the person receiving the same, on request by the person making the payment.

Receipts to be given.

Appeals.

[Cf. Madras III of 1871, s. 85.]

55. Appeals against any tax, toll or fee, other than octroi tax or fees under section 35, clauses *(c)*, *(d)*, *(e)* and *(f)*, assessed or levied under this Act shall lie to the Deputy Commissioner, unless when he is a member of the committee, in which case the appeal shall lie to the Commissioner of the division.

Appeals against assessments.

[Cf. Madras III of 1871, s. 86.]

56. No appeal shall lie against any assessment on any house, land or building, unless it be preferred within one month after the confirmation of the assessment by the committee, and no appeal shall lie against any other tax, toll or fee, unless preferred within one month from the time of such tax, toll or fee being charged:

Limitation of appeal.

Provided that no appeal shall be entertained unless the amount of the assessment, tax, toll or fee to which it relates is deposited with the committee on or before the day on which the appeal is lodged.

Deposit of amount.

57. No appeal shall lie against any assessment of octroi tax or the levy of any fee under section 35, clauses *(c)*, *(d)*, *(e)* and *(f)*, but the decision of the committee on any objection thereto shall be final.

No appeal in certain cases.

Municipal Fund.

[N.-W. P. Bill, section 42; Act IV of 1873, section 10.]

Municipal fund constituted.

58. There shall be for each municipality a municipal fund, to the credit of which shall be placed all sums received by or on behalf of the committee and any balances standing at the credit of the municipality when this Act came into force.

[N.W.P. Bill, section 43.]

Custody of municipal fund.

59. *(1)* Where there is a Government treasury or sub-treasury, the municipal fund shall be kept in the treasury or sub-treasury, or in the bank, if any, to which the Government treasury business has been made over.

(2) In places where there is no such treasury or sub-treasury, or bank, the municipal fund may be deposited with any banker or person acting as a banker who has given such security for the safe custody of the fund and repayment thereof on demand as the Local Government may in each case think sufficient.

CHAPTER IV.

POWERS AND DUTIES OF COMMITTEES.

Municipal Police.

[Act IV of 1873, section 42; Act VII of 1874, section 32.]

Police-establishment.

60. *(1)* Every committee shall, unless it is relieved of this obligation by the Local Government, make such provision for the maintenance of the establishment ordinarily employed on police-duty within the limits of the municipality as the Local Government may consider necessary.

III of 1860.

(2) Subject, in case this Act is made applicable to any military cantonment, to the provisions of section 9 of the Cantonments Act, 1880, the establishment so entertained, whether enrolled under Act V of 1861 or not, shall be under the orders of the District Superintendent of Police, subject to the general control of the Magistrate of the district; and the watch and ward of the municipality, the prevention and suppression of nuisances therein, and the enforcement of the rules and orders of the committee shall be included among its duties.

Relief of committee from police charges.

61. *(1)* The Local Government may relieve any committee of the whole or part of the cost of such establishment, and may enter into an agreement with the committee that, as an equivalent for such relief for any term of years, the committee shall, during the same term, undertake any services within the municipality to which the municipal fund can properly be applied, and which are estimated to cost not more than the cost of the police-establishment of which the committee is so relieved. When a committee is relieved under this section of the whole or part of the cost of the police-establishment which it is required to maintain, the Local Government shall maintain such police-establishment as it considers necessary, and the establishment so maintained shall perform the same duties as if its cost were defrayed from the municipal funds.

Composition for police with poor municipalities.

(2) The Inspector General of Police may, with the previous sanction of the Local Government, enter into an agreement with any committee, which is unable to provide the entire cost of the police-establishment which the Local Government considers necessary, that, on the committee making such payment as may be agreed upon, or undertaking any services within the municipality, approved by the Local Government, to which the municipal fund can properly be applied, and which are estimated to cost not more than the amount of such payment, he will provide a sufficient police-establishment for the service of the municipality.

Termination of such composition.

(3) The Local Government or the committee may determine such agreement, after twelve months' notice of an intention to do so has been given by the Local Government to the committee or by the committee to the Inspector General of Police; and on the expiration of such notice the agreement shall cease to operate.

Constitution of police-establishment.

62. *(1)* Except in the case of any military cantonment to which this Act is made applicable, the establishment maintained under section 60 or section 61 shall be either part of the general police force enrolled under Act V of 1861 or a body of watchmen, as the Local Government may determine.

Duties when part of the general police force.

(2) When it is part of the general police force, the Local Government may, notwithstanding anything contained in Act V of 1861 or in any other Act for the time being in force, define the duties which the officers and men of the establishment may or may not be required to perform.

Powers, duties, protection, responsibilities and penalties when a body of watchmen.

(3) When it is a body of watchmen, it shall be of such strength and the persons of whom it consists shall be of such grades, and shall receive such rates of pay, as the Local Government shall fix, and they shall possess such powers, perform such duties, enjoy such protection, be subject to such responsibilities and be liable to such penalties as Police-officers enrolled under Act V of 1861 possess, perform, enjoy and are subject and liable to.

Command of such body.

(4) Police-officers enrolled under Act V of 1861 may be appointed to command such body of watchmen when the Local Government thinks fit.

Obligation to assist watchmen.

63. *(1)* Every person shall be bound to render to any municipal watchman, or officer of such watchmen, when discharging the duties of a Police-officer all the assistance which he is bound to render to a Police-officer.

Arrest of persons obstructing watchmen.

(2) Any person obstructing such watchman or officer in the discharge of such duties may be arrested without warrant by a Police-officer or by any person belonging to such body of watchmen.

Appointment, promotion, suspension and punishment of watchmen.

64. The appointment, promotion, suspension and punishment of municipal watchmen and officers of such watchmen shall rest with the District Superintendent of Police, subject to the general control of the Magistrate of the district.

Police-protection of saráis, &c., for the use of which fees are charged by committee.

65. When a committee imposes fees under section 35, clauses *(d)*, and *(e)*, for the use of saráis, markets, and other public institutions for which special police-pro-

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tection is required, or at fairs, agricultural shows and industrial exhibitions, it shall pay such police-charges, if any, as may be sanctioned by the Local Government for the protection of the saráis, markets, public institutions, fairs, agricultural shows and industrial exhibitions from which such fees are derived.

Conservancy and General Improvement.

[Act IV of 1873, section 11; N. W. P. Bill, section 49.]

66. Every committee, so far as the municipal fund at its disposal will permit, shall, after providing for the repayment of, and interest due on, loans raised in accordance with law on the security of its funds or any portion thereof, and for the maintenance of any police-establishment which it is required to maintain under the provisions of this Act, and subject to any agreement between it and the Local Government in respect of any of the following matters,

Duties of committee generally.

provide for the construction, maintenance, cleansing and repair of the public streets, bridges, embankments, drains, latrines, tanks and watercourses of the municipality;

and may cause such streets or any of them to be watered and lighted;

and may provide for the construction, establishment and maintenance of schools, hospitals and dispensaries, and other institutons for the promotion of education or for the benefit of the public health, and of rest-houses, saráis, poor-houses, markets and other works of public utility, and control and administer all public institutions of any of these descriptions within the municipality, except when, by special order, the Local Government may otherwise direct;

and may make grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper asylums and other educational or charitable institutions;

and may provide for the training of teachers and the establishment of scholarships;

and may provide for the establishment and maintenance of relief and relief-works in time of famine or scarcity;

and may provide for the supply, storage and preservation from pollution of water for the use of men or animals;

and may provide for the taking of a census, the registration of births, marriages and deaths, public vaccination and any lawful sanitary measure;

and may also do all acts and things likely to promote the safety, health, comfort, convenience or interests of the inhabitants.

Prevention of Nuisances.

[N.-W.P. Bill, section 50.]

67. *(1)* A committee may, from time to time, at a special meeting, make rules—

Power to make rules creating offences.

(a) for prohibiting, preventing and punishing such acts or omissions within the municipality as may, in its opinion, cause or tend to cause any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, injury, obstruction, danger or annoyance to persons who may have occasion to use any public right, or may, in its opinion, be prejudicial to the public health, safety and convenience, or be offences against public decency;

(b) for defining the cases, manner and times in and at which officers of the committee may enter upon private property for the detection and abatement of public nuisances, or the enforcement of rules made under this section.

(2) A rule made under this section shall not come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

[N. W. P. Bill, section 51; Act XV of 1873, section 25; Act VII of 1874, section 22.]

68. *(1)* Subject to any orders which the Local Government may, from time to time, make in this behalf, a committee may enjoin any person not to do, or not to omit to do, within the municipality, anything the doing of, or the omission to do, which is a public nuisance, or an offence created by clause *(a)* of section 67.

Power to prohibit commission of public nuisances.

(2) Every such injunction shall be deemed, for the purposes of section 291 of the Indian Penal Code, to have been made by a public servant. XLV of 1860.

[N.-W.P. Bill, section 52; Act XV of 1873, section 26.]

69. *(1)* The Local Government may invest within the limits of the municipality, a committee with the powers of a Magistrate of a district as described in section 133 of the Code of Criminal Procedure, and with power to make conditional orders under that section, in respect of all or any of the acts or omissions punishable under rules made in exercise of the power conferred by clause *(a)* of section 67 of this Act; X of 1882.

Power to make conditional orders for removal of nuisances.

and may, whenever it thinks fit, withdraw the powers so conferred:

Provided that the conditional order shall specify a Magistrate of the first or second class, other than the committee so invested, before whom the person against whom it is made may appear and move to have it set aside or modified.

(2) Sections 133 to 142 (both inclusive) of the Code of Criminal Procedure shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers. X of 1882.

[N.-W. P. Bill section 53; Act VII of 1874, section 23.]

70. A committee may, at a special meeting, delegate to one or more sub-committees of its members any of the powers vested in it by section 68, or with which it may have been invested under section 69, and may at a like meeting withdraw the powers so delegated.

Delegation of powers as to nuisances.

Additional power to make Rules.

[Act IV of 1873, section 14; N. W. P. Bill, section 54; Act VII of 1874, section 19; Bombay Act VI of 1873, ss. 70 & 73.]

71. *(1)* A committee may, from time to time, at a special meeting, make rules—

Additional power to make rules.

(a) rendering licenses necessary for the proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality, and fixing the conditions on which such licenses are to be granted and may be revoked;

(b) limiting the rate of hire which may be demanded for, and the loads to be carried by, such vehicles, boats or animals, or for

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and by persons hired to carry loads within the limits of the municipality;

(c) to secure a proper registration of births, marriages and deaths, and to provide for the taking of a census;

(d) to provide for the inspection and proper regulation of lodging-houses, markets and slaughter-houses, burial and burning places;

(e) to provide for the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use;

(f) to regulate all matters connected with conservancy;

(g) to regulate for sanitary reasons the crops which may be grown in any place within the limits of the municipality;

(h) where the collection of an octroi tax has been sanctioned, to fix octroi limits for the purpose of collecting that tax; and

(i) generally to carry out the purposes of this Act:

Provided that the committee of a municipality in which the Hackney Carriage Act, 1879, is in force shall not make rules in respect to any vehicles to which that Act applies. XIV of 1879.

[New.]

72. *(1)* In the case of municipalities in mountainous and sub-montane tracts, the committee may, from time to time, at a special meeting, make rules for the maintenance of a water-supply in streams and springs, for the preservation of the soil on the ridges and slopes of the hills and in the valleys, for the prevention of landslips and of the formation of ravines and torrents, and for the protection of land from erosion or the deposit thereon of sand, gravel or stones; and may prohibit all persons from doing any acts the prohibition of which it may consider necessary for these purposes.

Special power to make rules in all municipalities.

[See Act VII of 1878, section 35.]

Examples.—Cutting down forest trees on private grounds, unless with the previous sanction of the committee, and quarrying or making excavations in such grounds unless with the like sanction, may be prohibited by rules made under this section.

(2) The committee of a municipality in a mountainous tract may also make rules for the regulation of traffic in the streets.

[N.-W. P. Bill, section 54, sub-section (2); Act IV of 1873, section 21.]

73. *(1)* In making any rule under section 67, section 71 or section 72, a committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the first during which the breach continues.

Penalty for infringement of rules under sections 71 and 72.

[N.-W. P. Bill, section 54, sub-section (3); Act IV of 1873, section 15.]

(2) No rule made under section 67, section 71 or section 72 shall come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

Confirmation of such rules.

Special Provisions.

[Madras Act III of 1871, sections 129 to 131; Bengal Act V of 1876, sections 285 and 286.]

74. *(1)* The owner or occupier of every place within the municipality used for any of the following purposes, namely:—

Regulation of offensive and dangerous trades.

melting tallow; boiling offal or blood; or as a soap-house, oil-boiling house, dyeing house or tannery; or as a brick-pottery or lime-kiln; or other manufactory, or place of business from which offensive or unwholesome smells arise;

or as a yard or depôt for hay, straw, thatching-grass, wood or coal, or other dangerously inflammable material;

or as a store-house for kerosine, petroleum, naphtha, or any inflammable oil, spirit or explosive substance;

or as a manufactory of gunpowder or fireworks;

or as a shop for smoking opium or any preparation of opium;

shall register the same in a book to be kept by the committee for the purpose.

(2) No place shall be newly used for any of the said purposes except under a license from the committee, which shall be renewable annually.

(3) Such license shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in, or frequenting, the immediate neighbourhood.

(4) The committee may impose such conditions in respect of such license as it may think necessary.

(5) Whoever, without such registration or without a license, uses any place for any such purpose shall be liable to a fine which may extend to fifty rupees, and to a further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

[Bengal Act V of 1876, sections 287 and 288; Bombay Act VI of 1873, section 69.]

75. If it be shewn to the satisfaction of the committee, at a meeting, that any place registered or licensed under the last preceding section is a nuisance to the neighbourhood, or likely to be dangerous to life, health or property, they may, by written notice, require the occupier thereof to discontinue the use of such place, or to use it in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

Prohibition of such trades.

(2) Whoever disobeys the direction of such notice shall be liable to a fine which may extend to two hundred rupees, and to a further fine not exceeding forty rupees for every day during which the offence is continued after he has been convicted of such offence.

(3) Nothing in this or the preceding section shall affect the power of the committee to proceed under sections 67, 68 and 69 of this Act, in respect to any place used for any of the purposes mentioned in section 74.

[Madras Act III of 1871, section 133.]

76. *(1)* No burial or burning ground, whether public or private, shall be made or formed, after the passing of this Act, without the sanction in writing of the committee.

New burial or burning places.

[Madras Act III of 1871, section 134.]

(2) The committee may, by notice published in such manner as may be prescribed, order

Closing of burial and burning places.

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any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the vicinity thereof to be closed, from a date to be specified in the notice, and shall, in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(3) Private burial-places in such burial-grounds may be excepted from such notice, subject to such conditions as the committee may impose in this behalf:

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owner thereof.

(4) Whoever shall bury or burn, or cause or permit to be buried or burnt, any corpse in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, shall be liable to a fine which may extend to fifty rupees for each offence.

Appeal against order under section 75 or 76.

77. When any order is made under section 75 or section 76 by any committee, any person aggrieved thereby may appeal within 30 days from the date thereof to the Commissioner when the municipality is of the first class, or to the Deputy Commissioner when the municipality is of the second class; and the order of the appellate authority confirming, setting aside or modifying such order shall be final; and no such order shall be liable to be called in question otherwise than by such appeal.

Provided that such order shall not be modified or set aside until the appellant and the committee have had reasonable opportunity of being heard.

[Madras Act III of 1871, section 123; Act VII of 1874, section 16.]

Slaughter of animals.

78. The committee may, with the approval of the Deputy Commissioner, fix places for the slaughter of animals, or of any specified description of animals for sale; and when such place has been fixed, no person shall slaughter any such animal for sale within the municipality at any other place; and whoever slaughters any such animal for sale at any other place shall be liable to a fine which may extend to twenty rupees for each offence.

[Madras Act III of 1871, sections 115 & 116.]

Bathing-places, &c.

79. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants; and may, by rule made under section 71, prohibit bathing in any public place not so set apart, or at times or by persons other than those so specified, and all other acts not so permitted, by which water in public places may be rendered foul or unfit for use.

[Madras Act III of 1871, section 140; Bombay Act VI of 1873, section 30.]

Setting back buildings projecting beyond line of street.

80. When any building, or any part thereof, which projects beyond the regular line of a public street, or beyond the front of the buildings on either side thereof, has fallen down or been taken down in order to be rebuilt or altered, the committee may, by written notice, require the same, when being rebuilt, to be set back to or towards the line of the street or the front of the adjoining buildings; and the land so added to the street shall become part of the public street:

Provided that the committee shall make full compensation to the owner of such building for any damage he may thereby sustain; and, if any dispute shall arise touching the amount of such compensation, it shall be settled in the manner provided by the Land Acquisition Act, 1870, sections 3, 8 to 42, 51 to 53 and 56 to 59, so far as they can be made applicable. X of 1870.

[Bombay Act VI of 1873, sections 33 & 34; Bengal Act V of 1876, sections 256 to 263; Mr. Plowden's draft rule XXV.]

Notice of new buildings.

81. *(1)* Every person intending to erect or re-erect any building within the limits of the municipality shall, if required by rules made under section 71, give notice in writing to the committee, and shall, if required to do so, furnish a plan shewing the levels at which the foundation and lowest floor are proposed to be laid, and the elevation and specifications of the works intended to be constructed, and the materials to be used, and shall obey all written directions given by the committee within one month after receiving such notice, either prohibiting such erection or re-erection, if deemed likely to be injurious to the inhabitants of the neighbourhood, or in respect to all or any of the matters following, namely, (1) free passage or way in front thereof; (2) space to be left about the same to secure free circulation of air and facilitate scavengering; (3) ventilation and drainage; (4) level and width of foundation and stability of structure; and (5) the regularity of the elevation and the line of frontage with neighbouring buildings, if the building abuts on a street or public thoroughfare.

(2) If such building be begun or erected without giving notice, or without furnishing particulars as aforesaid when required, or in contravention of the legal orders of the committee issued within one month, the committee may require it to be altered or demolished, as they may deem necessary, by written notice fixing a time within which the requisition must be complied with.

Explanation.—The expression "erect any buildings" includes all additions or alterations which involve new foundations or increased superstructure on existing foundations.

[Bombay Act VI of 1873, section 42.]

Removal of projections and obstructions.

82. *(1)* The committee may, by written notice fixing a time within which the requisition must be complied with, require the owner or occupier of any house to remove or alter any projection, encroachment or obstruction erected or placed against, or in front of, such house, if the same overhangs or juts into or encroaches upon any public street, or projects into or encroaches upon any drain, aqueduct or sewer in such street:

Provided that, if such projection, encroachment or obstruction were lawfully made before the passing of this Act, the committee shall make reasonable compensation to any person who suffers damage by such removal or alteration; and, if any dispute shall arise touching the amount of such compensation, it shall be settled in the manner provided by the Land Acquisition Act, 1870, sections 3, 8 to 42, 51 to 53 and 56 to 59, so far as they can be made applicable. X of 1870.

(2) The committee may give written permission to the owners or occupiers of houses in public

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streets to put up open verandahs, balconies or rooms projecting from any upper storey thereof, to an extent not exceeding *four* feet beyond the line of the plinth or basement wall.

[Bombay Act VI of 1873, section 75.]

Execution of notices.

83. In the event of non-compliance with the terms of any notice under either of the last two preceding sections, the committee may take such steps as may be necessary to carry out the requisition therein made; and the expenses incurred by them in so doing shall be paid by the person on whom the notice was served.

[Bengal Act V of 1876, section 232; Madras Act III of 1871, sections 145 & 146; Bombay Act VI of 1873, section 45.]

Names of streets and numbers of houses.

84. *(1)* The committee at a meeting may cause a name to be given to any street, and to be affixed in such place as they may think fit, and may also cause a number to be affixed to every house; and in like manner may, from time to time, cause such names and numbers to be altered.

(2) Whoever destroys, pulls down or defaces such name or number, or puts up any different name from that put up by order of the committee, shall be liable to a fine which may extend to twenty rupees.

[Madras Act III of 1871, section 121; Bombay Act VI of 1873, sections 77 and 78.]

Recovery of cost of works executed from persons interested.

85. *(1)* Whenever, under the provisions of this Act, or of any rules made thereunder, the committee requires any work to be executed, and such work is executed by the occupier of any house or land, or by the committee at his expense, the occupier, if the owner is the person by whom such work ought to have been executed, may deduct the cost thereof from the next and following payments of rent due or becoming due to the owner, or may recover it from the owner by suit.

(2) If such work is executed by the committee, and the expense is not paid on demand by the occupier or owner, the committee may recover the expense by suit from the person by whom the work ought to have been executed, or by distraint of the moveable property of the occupier, who, if the owner is the person by whom the work ought to have been executed, may deduct the amount so recovered from the next and following payments of rent, or may recover it from the owner by suit:

Provided that, if the expense does not exceed Rs. 20, it may be recovered in the manner provided by the first clause of section 49 for the recovery of arrears of any tax under this Act.

[Madras Act III of 1871, section 164.]

Service of notices.

86. *(1)* Every notice issued by the committee under this Act, or under any rule made thereunder, shall be served on the person to whom it is addressed, or left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, shall be posted on some conspicuous part of his place of abode or business.

[Bengal Act V of 1876, sections 367 & 368.]

(2) If the place of abode or business of the owner be not within the limits of the municipality, every such notice addressed to him shall be sent by registered cover addressed to his usual place of abode.

(3) If the place of abode or business of the owner be not known, every such notice addressed to him may be served upon the occupier.

[Madras Act III of 1871, section 162; Bombay Act VI of 1873, section 85, cl. 3; Bengal Act V of 1876, section 378.]

Power to make compensation out of municipal fund.

87. The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the committee, its officers and servants, under this Act.

[Act IV of 1873, section 10.] [Government of India notification No. 6680, dated 21st November, 1874.]

Proceeds of fines.

88. The proceeds of all fines imposed under this chapter, or under section 34 of Act V of 1861, on account of nuisances committed within the municipal limits shall be credited to the municipal fund.

[New.]

Power to compound offences declared to be public nuisances.

89. *(1)* The Local Government may, from time to time, by notification, empower any member of committee or officer in the service of a municipality by name, or any sub-committee appointed by the committee in this behalf, to summon any person accused of any offence created by clause *(a)* of section 67.

(2) The member of committee or officer or sub-committee so empowered shall have the power of a Magistrate under the Criminal Procedure Code in regard to the issue of summons to persons accused of such offences, and may issue a summons returnable to the Magistrate by whom charges of such offences would ordinarily be tried, giving notice to the Magistrate of the issue of the same. X of 1882.

(3) If it appears to such member of committee or officer or sub-committee that the person so summoned has committed any such offence, he may give such person the option of compounding for the offence by payment of a specified sum of money not exceeding one rupee:

Provided that, when the offence is a continuing one, no such composition shall be accepted unless the offence is first discontinued.

(4) If such person elect to pay the sum of money in consideration of which he is allowed to compound, and pay the same to such member of committee or officer or sub-committee, no further proceedings shall be taken against him for the offence which has been so compounded.

(5) Such member of committee or officer or sub-committee shall keep a book in which he or it shall enter at the time all cases of persons against whom he or it takes action under this section, with the nature of the offence charged, and, should such person appear to him or it to have committed any such offence, the nature of the offence committed, and, if he is allowed to compound for such offence and elects to do so, the sum demanded by way of composition, and the sum received.

(6) All sums received by way of composition under this section shall be paid, as soon as conveniently may be, to the credit of the municipal fund.

CHAPTER V.

CONTROL.

[N.W.P. Bill, section 55; Panjáb Local Self-government Bill, section 50.]

Control by Commissioner and Deputy Commissioner.

90. *(1)* The Commissioner of the division or the Deputy Commissioner of the district (not being a member of the committee) may—

(a) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district,

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respectively, occupied by any committee or joint committee, or any work in progress within those limits under its direction;

(*b*) by order in writing call for and inspect any book or document in the possession or under the control of any committee or joint committee having authority within the said limits;

(*c*) by order in writing require such committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the committee as he may think fit to call for; and

(*d*) record in writing, for the consideration of such committee or joint committee, any observations he may think proper in regard to the proceedings or duties of the committee.

(*2*) Every committee shall regularly submit copies of all its proceedings to the Deputy Commissioner, and shall further submit such periodical reports to the Deputy Commissioner or other authority as the Local Government may, from time to time, direct.

[N.W.P. Bill, section 56; Panjáb Local Self-government Bill, section 54.]

91. The Commissioner of the division or the Deputy Commissioner of the district may, by order in writing, suspend, within the division or district respectively, the execution of any resolution or order of the committee or joint committee, or prohibit the doing of any act within the said limits which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

Power to suspend action of committee.

[N.W.P. Bill, section 57; Panjáb Local Self-government Bill, section 52; Act I of 1883, section 30.]

92. (*1*) In cases of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or of doing the act shall be forthwith paid by the committee.

Extraordinary powers of Deputy Commissioner in case of emergency.

(*2*) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance, in priority to all other charges against the same.

[Panjáb Local Self-government Bill, section 53.]

93. (*1*) When the Commissioner, after due enquiry, is satisfied that a committee of the first class has made default in performing any duty imposed upon it by or under this Act, he may, by an order in writing, fix a period for the performance of that duty; and, if it is not performed within the period so fixed, he may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as he may fix, by the committee to such person.

Power to provide for performance of duties in case of default of committee.

(*2*) If the expense is not so paid, the Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance, in priority to all other charges against the same.

(*3*) The Deputy Commissioner shall have the same powers with respect to committees of the second class as are by this section conferred upon the Commissioner with respect to committees of the first class.

[Panjáb Local Self-government Bill, section 54.]

94. When a Deputy Commissioner makes any order under section 91, section 92 or section 93, he shall forthwith forward to the Local Government through the Commissioner a copy thereof, with a statement of the reasons for making it; and when the Commissioner makes any order under section 91 or section 93, he shall forthwith forward to the Local Government a copy thereof, with a statement of the reasons for making it and with any explanation which the committee may wish to record.

Action of Deputy Commissioner or Commissioner to be immediately reported.

[Panjáb Local Self-government Bill, section 49, and part of 50.]

95. (*1*) It shall be the duty of the Local Government and of all Commissioners and Deputy Commissioners acting under its orders to require that the proceedings of committees shall be in conformity with law and with the rules in force thereunder; and the Local Government may exercise all powers necessary for this purpose, and may, amongst other things, by order in writing, annul or modify any such proceeding which it shall consider not to be in conformity with law and with the said rules.

Powers of Local Government and its officers over committees.

(*2*) The Commissioner of the division and the Deputy Commissioner of the district may, within their jurisdiction for the same purpose, exercise such powers as may be, from time to time, conferred upon them by rule made in this behalf by the Local Government.

[N. W. P. Bill, section 59; Panjáb Local Self-government Bill, sections 55 to 57.]

96. (*1*) If a committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by notification, in which the reasons for so doing shall be stated, declare the committee to be superseded:

Power of Local Government to supersede committee in case of incompetency, persistent default or abuse of powers.

Provided that, in case of public emergency, such notification may be issued without the previous approval of the Governor General in Council.

(*2*) When a committee is so superseded, the following consequences shall ensue:—

(*a*) All members of the committee shall, from the date of the notification, vacate their offices as such members:

(*b*) All powers and duties of the committee may, until the committee is reconstituted, be exercised and performed by such person as the Local Government, from time to time, appoints in that behalf:

(*c*) All property vested in the committee shall, until the committee is reconstituted, vest in Her Majesty.

Panjáb Municipal Bill, 1883.
(Chapter VI.—Miscellaneous.)

(*3*) The Local Government shall, as soon as, in its judgment, conveniently may be, constitute another committee in the place of any committee superseded under this section.

[N. W. P. Bill, section 60; British Burma Bill, section 8.]

97. The Local Government may frame forms for any proceeding of a committee for which it considers that a form should be provided, and make rules consistent with this Act—

Power of Local Government to frame forms and make rules.

(*a*) with respect to the powers and duties of committees in municipalities of the first, and of the second class respectively;

(*b*) as to the division of the municipality into wards, or of the inhabitants into classes or both;

(*c*) as to the number of representatives proper for each ward or class;

(*d*) as to the qualifications of electors and of candidates for election;

(*e*) as to the registration of electors;

(*f*) as to the nomination of candidates, the time of election and the mode of recording votes; and

(*g*) generally for regulating all elections under this Act;

(*h*) for the remission of tax on houses unoccupied for the whole or part of the year, and the notice to be given of a house being unoccupied by persons desiring such remission;

(*i*) as to the arts, professions, trades and callings liable to be taxed in any municipality, the registration and classification of persons engaged therein, the rates at which they may be taxed, the preparation of lists of persons to be taxed, and the penalty to which they shall be liable for practising or trading without payment of the tax;

(*j*) as to the statements of vehicles and animals liable to taxation under this Act to be furnished by the owners or persons in charge of them, the rates at which they may be taxed, the issue of licenses for them on payment of tax, and the penalty for keeping them without a license;

(*k*) as to the classes of menial and domestic servants liable to taxation in any municipality, the rate at which they may be taxed, the returns of such servants to be furnished by the masters, and the time when the masters shall pay the tax imposed in respect of such servants;

(*l*) as to the exhibition of tables of octroi tax, the system under which refunds shall be made on account of that tax when the goods on which the tax was paid are again exported, and the storage of goods declared not to be intended for consumption or use within the municipality into which they are brought;

(*m*) as to the rates of toll chargeable on vehicles or animals entering the municipality, or boats moored therein, the exhibition of tables shewing such rates, the exemptions to be made, and the terms on which residents outside municipal limits may compound for such tolls; and

(*n*) generally as to the assessment and collection of taxes imposed under this Act;

(*o*) as to the authority on which money may be paid from the municipal fund;

(*p*) as to the conditions on which property vested in the committee may be transferred by sale, mortgage, lease, exchange or otherwise;

(*q*) as to the intermediate office or offices, if any, through which correspondence between committees or members of committees and the Local Government or officers of that Government shall pass;

(*r*) as to the preparation of plans and estimates for works to be partly or wholly constructed at the expense of committees, and as to the person by whom, and the conditions subject to which, such plans and estimates may be sanctioned;

(*s*) as to the accounts to be kept by committees, as to the conditions on which such accounts shall be open to inspection by inhabitants paying any tax under the Act, as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(*t*) as to the preparation of estimates of income and expenditure of committees, and as to the person by whom, and the conditions subject to which, such estimates may be sanctioned;

(*u*) as to the returns, statements and reports to be submitted by committees;

(*v*) as to the powers to be exercised by Commissioners and Deputy Commissioners under section 95;

(*w*) as to the language in which business shall be transacted; and

(*x*) for the guidance of committees acting under sections 26, 29, 67, 73 and 76, and generally for the guidance of committees and public officers in all matters connected with the carrying out of this Act.

CHAPTER VI.

MISCELLANEOUS.

[N. W. P. Bill, section 61; Panjáb Local Self-government Bill, section 71; Act IV of 1873, section 20; Madras Act III of 1871, section 31; Bombay Act VI of 1873, section 18; and Bengal Act V of 1876, section 57.]

98. If any member or servant of a committee is directly or indirectly interested in any contract made with the committee, he shall be thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine which may extend to five hundred rupees:

Members, officers or servants of committees not to be interested in contracts with the committee.

Provided that no person shall, by reason of being a shareholder in, or member of, any incorporated or registered company, be held to be interested in any contract entered into between such company and the committee.

Panjáb Municipal Bill, 1883.

(Chapter VII.—Supplemental and Temporary Provisions.)

[This clause was omitted in Act XV of 1873, having appeared in Acts IV & XI of 1873. It was restored in Act VII of 1874.]

Nevertheless, it shall not be lawful for such shareholder or member to act as a member of the committee in any matter relating to such contract.

[Panjáb Local Self-government Bill, section 66; Madras Act III of 1871, section 168; Bombay Act VI of 1873, section 86; and Civil Procedure Code, section 424.]

Suits against committees or their officers.

99. *(1)* No suit for compensation for anything done or purporting to be done, or for the omission of anything which ought to have been done, under this Act shall be brought against a committee, or any of its officers, or any person acting under its direction, until the expiration of one month next after notice in writing has been delivered or left at the office of the committee or at the place of abode of such person, stating the circumstances constituting the cause of action and the name or place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left.

(2) Every such suit shall be commenced within six months next after the accrual of the right to sue, and not afterwards.

(3) And if any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

[Act IV of 1873, section 18; Act XV of 1873, section 42; Act VII of 1874, section 39; N. W. P. Bill, section 63.]

Liability of members for loss, waste or misapplication.

100. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to the committee, to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty as member of committee; and he shall be liable to be sued for compensation for the same, in such Court as the Local Government directs, by the committee with the sanction of the Commissioner or by the Local Government.

[Act IV of 1873, section 22; British Burma Bill, section 68; Criminal Procedure Code, section 555.]

Prosecutions for infringement of rules.

101. *(1)* Prosecutions under this Act for the infringement of rules may be instituted by the committee or by any person authorized by it in this behalf and not otherwise.

X of 1882.

(2) A member of committee under this Act shall be deemed to be a municipal commissioner within the meaning of section 555, Criminal Procedure Code.

[N. W. P. Bill, section 65; Panjáb Local Self-government Bill, section 69.]

Acquisition of land.

102. Where any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the committee of the compensation awarded under that Act, and of any other charges incurred in acquiring the land, the land shall vest in the committee.

X of 1870.

[See Act X of 1870, s. 56.]

[N. W. P. Bill, section 66.]

Procedure for making rules.

103. *(1)* The authority empowered to make rules under section 7, section 67, section 71, section 72 or section 97 shall, before making them, publish, in such manner as may, in its opinion, be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or any suggestion which may be made by any person with respect to the draft before the date so specified.

(2) If, on such consideration of the draft, any modification is made, the Local Government shall determine whether it is necessary to republish the draft under this section.

(3) Every rule made under any of the said sections shall be published in the *Panjáb Government Gazette* in English, and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section.

[Criminal Procedure Code, section 557.]

Powers of Governor General in Council and of Local Government exercisable from time to time.

104. All powers conferred by this Act on the Governor General in Council or on the Local Government may be exercised from time to time as occasion requires.

CHAPTER VII.

SUPPLEMENTAL AND TEMPORARY PROVISIONS.

[N. W. P. Bill, section 68.]

Disposal of property vested in Committee when local area is withdrawn from operation of Act.

105. *(1)* When a notification is issued under section 6 in respect of the whole area subject to the authority of a committee, withdrawing that area from the operation of this Act, all property which, at the time of the issue of the notification, is vested in the committee, shall vest in the Local Government, and be applied by it, in such manner as it thinks fit, for the promotion of the health, comfort, convenience or interests of the inhabitants.

(2) When a notification is issued under section 6 in respect of a part of the area under the authority of a committee, withdrawing that part from the operation of this Act, such part of the property vested in the committee as the Commissioner of the division may determine shall vest in the Local Government and be applied as aforesaid.

[N. W. P. Local Boards Bill, section 50.]

Power to except municipality from provisions of Act unsuited thereto.

106. *(1)* If the circumstances of any municipality are such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification, except the municipality from the operation of those provisions; and thereupon those provisions shall not apply to the excepted municipality until again applied thereto by a like notification.

(2) While such exception remains in force, the Local Government may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

[Panjáb Local Self-government Bill, section 72.]

Saving of rights of existing officers and servants.

107. Nothing in or done under this Act shall prejudicially affect the rights of any officer or servant of a committee appointed before the passing of the Act as to tenure of office, salary or pension.

[Panjáb Local Self-government Bill, section 73.]

General powers of Local Government and Commissioners.

108. In all matters connected with this Act, the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

STATEMENT OF OBJECTS AND REASONS.

THE law at present applicable to municipalities in the Panjáb is contained in Act IV of 1873.

2. Except in a few of the larger municipalities, all the members of the municipal committees constituted under that Act have hitherto been nominated; but, for the reasons stated in Panjáb Government Resolution No. 1777, dated 7th September, 1882, it is thought desirable to give the committees a more representative character than they have hitherto had, and for this purpose it is proposed that, unless where special reasons exist against resorting to a system of election, a portion at least of the members of each committee should be chosen by the inhabitants of the municipality.

3. It is further believed that greater powers of initiating action and of controlling the administration and expenditure of their funds for the benefit of the inhabitants of the municipality may with advantage be given to committees than, except in a few of the more important municipalities, they possess under existing rules, if sufficient powers of control are reserved to prevent the interests of the public from being endangered by neglect, abuse of powers or mistake as to the extent of their powers, on the part of the municipal bodies.

4. It would be possible to carry out the measures necessary for these purposes by rules under the existing Act, but the amendment of the Act appears to be a more suitable mode of giving effect to the proposals of the Local Government, and this course has therefore been preferred.

5. It has also for a considerable time past been known that Act IV of 1873 is very defective in omitting to provide for many of the powers with which it is usually considered desirable to invest municipal bodies and their servants, some of which were expressly given by the later Acts, XV of 1873 and VII of 1874, passed for the North-Western Provinces and British Burma respectively; and serious doubts have arisen as to the validity of some of the bye-laws framed to carry out and supplement its provisions, and as to the authority of municipalities to take action which it is important for the public interest that they should have the power to take. The opportunity has therefore been taken to redraft the entire Act, after referring to the corresponding Acts in force in other parts of India, with a view to remove the defects which have been brought to light by experience of its working for upwards of ten years.

6. The draft is divided into seven chapters nearly corresponding with those of the North-Western Provinces and Oudh Municipalities Bill, but it differs from that Bill in not proposing to treat the new committees as different bodies from the committees now in existence, and it also enters into greater detail in the chapters on the subjects of taxation and of the powers and duties of committees. In some other respects its provisions are necessarily different, being framed with reference to the peculiar circumstances of the Panjáb, and therefore corresponding more or less closely with those of the Panjáb Local Self-government Bill.

7. The preliminary chapter provides for the repeal of Act IV of 1873, and for the procedure to be adopted when it is proposed to establish a new municipality, to alter the limits of an existing municipality, or to withdraw any local area from the operation of the Act. It also provides for the division of municipalities into two classes, it being considered unnecessary to retain the third class committees, the orders and proceedings of which, under the rules now in force, are subject to the confirmation of the Deputy Commissioner before they can take effect. The power given by section 6 to withdraw any local area from the operation of the Act is required to meet cases in which petty municipalities have been established in places where experience has shown that municipal institutions cannot be continued with advantage, or that a sufficient municipal income cannot be raised without having recourse to forms of taxation which would either be extremely unpopular or would not meet with the approval of Government. The third class committees, where it is not necessary to abolish them for reasons of this nature, can be transferred to the second class.

8. [illegible] relates to the organization of committees. The provisions of section 7, as to the [illegible] election of the members, are similar to those of the Local Self-government [illegible] the circumstances under which election, when once introduced, [illegible] as far as possible. While the existing Act requires only [illegible] to be other than salaried officers of Government, the Bill raises the [illegible] two-thirds unless when such officers are elected as members.

[illegible] of office, except in the case of members appointed *ex officio*, is to be fixed by the Local [illegible] but not to exceed three years, and, when this term is adopted, provision is made for the members retiring by rotation.

10. The provisions as to the removal of members are, with slight variations, the same as those contained in the Local Self-government Bill. The incorporation of committees and the control of transfers of property made by them and of investments by them of money in the public funds are also similarly provided for.

11. Section 15 provides for the election of the chairman by the committee, subject to the approval of the Local Government, unless where Government otherwise orders, but enables the

committee, instead of electing, to apply to the Local Government to appoint a chairman from among its members. Vice-chairmen will also be elected when necessary. The term of office of the chairman is fixed by section 16 at three years, if he so long continues to be a member of the committee, but power is given to the Local Government to remove him, if moved to do so by two-thirds of the members of committee present at a special meeting.

12. Sections 19 to 26 deal with the conduct of business and the framing of rules of business. Section 25, following the precedent of the Madras and Bengal Acts, enable the chairman, or, in his absence, the vice-chairman, in cases of emergency, to exercise all powers of the committee which the Act does not require to be exercised by the committee at a meeting.

13. Section 27 provides for the appointment of joint committees when co-operation between different committees is necessary, as in the Panjáb Local Self-government Bill.

14. Sections 28 to 30 relate to the officers and servants to be employed by committees. Of these, only section 28, which deals with the appointment of a secretary, has no corresponding provision in the Panjáb Local Self-government Bill. When a paid secretary is appointed, his appointment, removal, and salary are made subject to the sanction of the Commissioner, with a view to secure the appointment of a competent man to this important office, and to supply the guarantee against arbitrary dismissal, without which it might be difficult to get a competent man to accept office. The power of control in regard to other appointments, given by section 29 to the Deputy Commissioner, has been made applicable to all committees at the suggestion of the Delhi municipal committee, which considered such a check desirable in all cases.

15. Chapter III, on the subject of taxation and the municipal fund, is much fuller than the provisions of the existing Act upon the same subject. Section 7 of Act IV of 1873, which relates to the imposition of taxes, contains no description of the taxes which may be imposed. Section 33 now specifies the taxes which may, with the previous sanction of the Local Government, be imposed for general purposes, and authorizes the imposition of other taxes, with the previous sanction of the Governor General in Council; section 34 provides for additional taxes on property, when necessary for special objects, such as the improvement of the water-supply; and section 35 describes the tolls and fees which the committee may be empowered to levy; while section 36 prescribes the procedure to be followed in imposing taxes; and section 37 provides for exemptions. Some of the taxes specified, such as a tax on professions and tolls on vehicles and animals, are not at present levied in any municipality in the province; but it has been considered desirable to include them, as it may, in some cases, be necessary to find a substitute for octroi, which forms the chief source of income in almost all Panjáb municipalities, and these taxes have been resorted to for this purpose in other provinces. In the case of tolls, it is expressly provided that they may be imposed only where no octroi is levied. Other taxes are at present sanctioned for particular municipalities such as Simla, and it has therefore been necessary to include them, without reference to whether they are suitable for adoption in other cases.

16. Section 8, Act IV of 1873, prohibits the collection of taxes until the assessment has been confirmed as prescribed by rules made by the Local Government. This provision, which, however appropriate in the case of direct taxes, is clearly inapplicable to indirect taxes like the octroi, has been omitted from the present Bill, but sections 39 to 48 lay down rules for the assessment, confirmation and collection of taxes on immoveable property; and sections 49 and 50 provide for the collection of the octroi tax; while section 97 empowers the Local Government to make rules as to the assessment and collection of other taxes.

17. Section 51 gives a power to lease octroi and tolls, which is believed not to exist under the present Act, but which is likely to be found useful in some cases.

18. Section 52 enables the committee to call for returns and to enter premises in order to obtain such information as they may require for purposes of taxation.

19. Appeals against taxes or assessments are provided for by sections 55 to 57.

20. Under section 9 of Act IV of 1873, municipal taxes may be collected as if they were arrears of land-revenue. It is not proposed to maintain this rule now that committees are about to be placed in a more independent position than hitherto, and it is not well adapted to indirect taxes like the octroi. Power is, therefore, given by section 49 to seize any articles on which any octroi, tax or toll is chargeable in default of payment, and to recover arrears of taxes generally by distress and sale under the orders of a Magistrate.

21. Chapter IV deals with the subject of the powers and duties of committees, and is also much more in detail than the corresponding sections of Act IV of 1873.

22. Sections 60 to 65 relate to the municipal police. It is necessary to maintain the liability of the municipal fund for the charges of the establishment ordinarily employed on police-duty within municipal limits, as, when the Local Government takes over such charges, this will usually be done in consideration of the committee agreeing to undertake services within the municipality to which the municipal fund can properly be applied, the cost of which has hitherto been borne by Government, and such agreements may be for a limited period and have to be renewed from time to time. Section 61 provides for agreements of this nature.

23. The police-establishment may consist either of a part of the general police force or of a body of watchmen, as the Local Government thinks fit; and section 62 enables the

Local Government to regulate its duties in either case, and, where it is a body of watchmen, to fix its strength and the grades and pay of its members; and makes provisions for the powers, protection, responsibilities and punishment of the members of such body, which are considered to be more suitable than those contained in Act XXIV of 1881, which is the present law on the subject.

24. It is not the practice to entertain separate establishments for the preservation of the peace and the prevention of crime and for watch and ward, members of the general police force or municipal watchmen, as the case may be, being employed on both duties; and it is held to be desirable that they should continue to be available for both duties. Sections 62 to 64 therefore place municipal watchmen on a similar footing to members of the general police force, so far as is possible without enrolling them in that force, bringing them under the same rules as to pay and pension, and making them liable to general service. It is therefore proposed to place them under the orders of the District Superintendent of Police, and the Local Government may relieve committees of any charge for them, in the same way as it may do where a police-establishment enrolled under Act V of 1861 is entertained.

25. Section 66 gives a more detailed statement of the duties of municipal committees and the purposes to which the municipal fund may be applied than is to be found in section 11 of the present Act.

26. Sections 67 to 70 give powers to make rules prohibiting acts of the nature of nuisances. The powers to issue injunctions, and to make conditional orders for the removal of nuisances, have not hitherto been conferred upon committees in the Panjáb, but are taken, with some modifications, from the Municipal Acts in force in the North-Western Provinces and British Burma.

27. Section 71 specifies other purposes for which committees may make rules binding on the public, and section 72 adds a special power to committees in hill stations to make rules on subjects which, in such localities, it has been found necessary to enable committees to regulate. The confirmation of such rules, and the penalties incurred by infringing them, are provided for by section 73. Section 21 of the present Act prescribes a uniform penalty, but it has been thought better to enable the committees, when making a rule, to attach to it an appropriate penalty.

28. Sections 74 to 85 give powers of interference with trades and rights of property which have hitherto usually been taken in bye-laws. Such powers are expressly given in the Municipal Acts of the Bengal, Madras and Bombay Legislatures, and it has been thought better to give them in the Bill than to leave them to depend upon the authority of bye-laws. They may not be required in some of the minor municipalities, but a subsequent provision will admit of these municipalities being excepted from this part of the Bill.

29. Section 87 enables the Local Government to invest members of committee or officers of the committee by name or a sub-committee with the power to summon persons committing offences punishable under section 67 before a Magistrate, and to accept composition for such offences from persons who are willing to pay such composition in preference to appearing before a Magistrate to answer the charge. A provision of this nature was suggested by the Local Government as likely to be suitable in places like Simla, in reply to a proposal to give the secretary to the committee the powers of a Magistrate for the disposal of petty cases of nuisance; and, as the section is framed, no such power will exist unless where the Local Government thinks proper to confer it.

30. Chapter V, relating to control, differs in no material respect from the corresponding provisions of the Panjáb Local Self-government Bill.

31. Section 97 enables the Local Government to prescribe such forms as it may consider necessary, and specifies the subjects on which it may make rules supplementary to the provisions of the Act.

32. Chapter VI contains miscellaneous provisions as to the effect of a member or servant of a committee being interested in any contract with the committee, the liabilities of members, suits against committees, prosecutions for infringement of rules, the acquisition of land, the procedure to be followed in making rules, and the like.

33. Chapter VII provides for the disposal of property vested in committees when the area subject to their authority or part thereof is withdrawn from the operation of the Act under section 6; for excepting municipalities from any provisions of the Act unsuitable thereto; and, in the same way as in the Local Self-government Bill, for the saving of the rights of existing officers and servants, and for the control to which Commissioners and Deputy Commissioners are to be subject in the discharge of their duties under the Act.

D. G. BARKLEY.

The 3rd September, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 15, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th September, 1883:—

No. 20 of 1883.

THE PANJÁB MUNICIPAL BILL, 1883.

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Panjáb Municipal Bill, 1883.
(Chapter I.—Preliminary.)

A Bill to make better provision for the organization and administration of Municipalities in the Panjáb.

WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the Panjáb; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

[Act IV of 1873, section 1.]

1. (*1*) This Act may be called the Panjáb Municipal Act, 1883:

Short title.

(*2*) It extends only to the territories under the Government of the Lieutenant-Governor of the Panjáb:

Local extent.

Commencement.

(*3*) And it shall come into force on the passing thereof.

[Act IV of 1873, section 2.]

2. (*1*) Act IV of 1873 (the Panjáb Municipal Act, 1873) is hereby repealed.

Repeal of Act IV of 1873.

(*2*) But all extensions and appointments made, and all limits defined, under the said Act shall be deemed to be respectively made and defined under this Act, and an extension of any particular provision of the said Act shall be deemed to be an extension of the corresponding provision of this Act:

Provided that, when a first election is held under this Act in any municipality, the term of office of any member of committee appointed before this Act comes into force shall cease when the elected members take office, unless the Local Government shall otherwise direct.

(*3*) And all taxes imposed and sanctioned under the said Act shall be deemed to have been imposed and sanctioned under this Act.

(*4*) And all assessments, bye-laws, rules and regulations of any kind, relating to matters provided for by this Act, which may heretofore have been made or approved by the Local Government, shall be deemed to have been made under this Act.

(*5*) And all proceedings taken under any such assessment, bye-law, rule or regulation shall be deemed to be as valid as if they had been taken under this Act.

3. 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 group of towns to which this Act is applied:

"Inhabitant" means any person ordinarily residing or carrying on business, or possessing immoveable property, and any person declared by the Local Government to be an inhabitant, in any town to which this Act applies, or to which the Local Government has by notification declared its intention to apply it:

"Street" means any way, road, street, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way; and also the roadway and footway over any public bridge or causeway:

"Owner" includes the person for the time being receiving the rent of lands and buildings, or either of them, whether on his own account or as agent or trustee for any other person or society, or for any religious or charitable purpose, or who would receive the same if the land or building were let to a tenant:

Provided that no such agent or trustee shall be liable to do anything required by this Act to be done by the owner unless he has in his possession sufficient funds belonging to the owner to pay for the same; nor shall he be subject to any penalty for omitting to do such act if he can prove that he had not in his possession funds belonging to the owner sufficient for the purpose:

"Casual vacancy" means a vacancy occurring in a committee by the death, resignation or removal of a member of committee:

"Notification" means a notification published by authority of the Local Government in the *Panjáb Government Gazette*:

"Prescribed" means prescribed by rules made by the Local Government under this Act.

[Act IV of 1873, section 4, sub-section 1, and section 5; N.-W. P. Bill, section 3.]

4. (*1*) The Local Government may, from time to time, by notification, declare its intention to apply this Act or any of its provisions to any town or group of towns in the territories under such Government.

Notification of intention to apply Act.

(*2*) Every such notification shall define the limits of the town or group of towns to which it relates, and may include within those limits any railway-station, village, building or land in the vicinity of any such town:

Provided that it shall not, without the consent of the Governor General in Council, so include any military cantonment.

[New.]

(*3*) A copy of every notification under this section, together with a translation of the same in the local vernacular, shall be affixed in some conspicuous place in the court-house of the district in which the town or group of towns to which it relates is situate, and in one or more conspicuous places in such town or group of towns; and the Deputy Commissioner shall certify to the Local Government the date on which the copy and translation aforesaid were so affixed. The date so certified shall be deemed to be the date of publication of the notification.

Publication of notification.

[Act IV of 1873, section 4, sub-sections 2 & 3; N.-W. P. Bill, section 4.]

5. (*1*) If any inhabitant objects to the application of the Act, or of the provisions thereof specified in the notification, he may, within six weeks from the date of publication of the notification, submit his objection in writing through the Deputy Commissioner to the Local Government; and the Local Government shall take his objection into consideration.

Objection to such application.

(*2*) When six weeks from the date of the said publication have expired, and the Local Government has considered and passed orders upon any such objections which may have been submitted to it, the Local Government may, by notification, declare such town or group of towns to be, for the purposes of this Act, a municipality of the first or second class, and apply this Act or the provisions thereof specified in the notification to such municipality.

Procedure thereon.

[Bengal Act V of 1876, s. 10; Panjáb Local Self-government Bill, s. 5.]

6. The Local Government may, at any time, by notification, alter the limits of any municipality, or order that it be transferred from one class to another, or withdraw any local area to which this Act or any of its provisions may have been applied or extended from the operation of this Act or of the said provisions:

Alteration of limits of municipalities, transfer from one class to another, and withdrawal from operation of the Act.

Provided that, when such notification applies this Act or any of its provisions to any local area not previously subject thereto, it shall not be published unless and until the provisions of section 4 and section 5, sub-section (1), have been complied with, and the period specified in section 5, sub-section (2), has expired, and all objections submitted to the Local Government have been disposed of as in that sub-section provided.

CHAPTER II.

ORGANIZATION OF COMMITTEES.

Constitution of Committees.

[Act IV of 1873, s. 6; Panjáb Local Self-government Bill, ss. 3 and 6.]

7. *(1)* There shall be established by notification for each municipality a committee having authority over such municipality, and consisting of such number of members, not less than six, as the Local Government may direct.

Constitution of committees, and number, appointment and election of members.

(2) Such members may be appointed by the Local Government, either by name or by official designation, or may be elected from among the inhabitants in accordance with rules made under this Act, or some may be appointed and some elected as the Local Government may direct:

Provided that—

(1) when the Local Government has directed that all or any of the members shall be elected, they shall not be appointed by the Local Government unless—

(a) the electors do not elect a sufficient number of members; or

(b) a sufficient number of candidates do not present themselves for election; or

(c) a majority of the electors declare that they so desire; or

(d) by order of the Local Government, subject to the sanction of the Governor General in Council, for any other good and sufficient reason affecting the public interests:

(2) except with the approval of the Governor General in Council, not less than two-thirds of the members of every committee shall be persons other than salaried officers of Government unless such officers are elected as members.

[New.]

8. If the Local Government is satisfied that any candidate elected as member of committee has been guilty of corrupt practices at his election, the election of such candidate shall be cancelled.

Disqualification for corrupt practices.

[N.-W. P. Bill, section 11; Madras Act III of 1871, section 7.]

9. *(1)* Members of committee, except those who have been appointed by official designation, shall hold office for such term, not exceeding three years, as shall be fixed by the Local Government, or until their successors have been elected or appointed.

Term of office.

(2) When the Local Government has directed that the members of a committee or any of them shall be elected and shall hold office for a term of three years, one-third, as nearly as may be, of the members elected at the first election thereafter held shall vacate office at the end of one year, and one-third, as nearly as may be, at the end of two years from the date of assuming office.

(3) The members who shall vacate office at the end of the first and of the second year, respectively, shall be determined either by voluntary arrangement among the members or by lot:

Provided that, if an elected member be chairman of the committee, he shall not be required to vacate office as member by lot during his term of office as chairman.

(4) An outgoing member shall, if otherwise qualified, be eligible for re-election or re-appointment.

[Pajnáb Local Self-government Bill, section 7; N. section 13.]

10. *(1)* The Local Government may at any time remove any member of committee appointed by name or by his official designation.

Removal of member.

(2) The Local Government may remove any member of committee chosen by election—

(a) if such member refuses to act, or becomes, in the opinion of the Local Government, incapable of acting;

(b) if he is declared an insolvent, or is proscribed from employment under Government, or is convicted of any such offence, or subjected by a criminal Court to any such order as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member;

(c) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace or order, or, when he is a salaried officer of Government, inconsistent with the proper discharge of his official functions;

(d) if for three consecutive months he is absent from the meetings of the committee unless with its permission.

(3) Members removed under clauses *(b)* and *(c)* shall be disqualified for election unless with the previous sanction of the Local Government.

[N.-W. P. Bill, section 12.]

11. Any member of committee may signify to the Local Government in writing his intention or wish to resign his office; and, on such resignation being accepted by the Local Government, his office shall become vacant.

Resignation of members.

[Panjáb Local Self-government Bill, section 7, sub-section (4).]

12. *(1)* The Local Government may either empower committees to fill up casual vacancies among the members or, subject to the provisions of section 7, appoint members to fill such vacancies or cause them to be filled up by election.

Filling up casual vacancies.

[N.-W. P. Bill, section 14, sub-section (3).]

(2) Every member of committee so chosen shall be deemed to be an elected member, and shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office; but shall, if otherwise qualified, be eligible for re-election.

[Panjáb Local Self-government Bill, section 9; N.-W. P. Bill, section 15; Madras Act III of 1871, s. 36; Bombay Act VI of 1873, s. 26.]

13. Every committee shall be a body corporate by the name of the municipal committee of its municipality, and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to rules from time to time made by the Local Government in this behalf, to transfer any property held by it, to invest any sums not required for current charges in Government securities or in any other form of security which may be approved of by the Local Government, and from time to time to dispose of such securities as may be necessary, and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Incorporation of committee.

[N. W. P. Bill, section 1.]

14. A committee shall come into existence at such time as the Local Government may, by notification, appoint in this behalf.

Time when committee shall come into existence.

Chairman and Vice-Chairman.

[N. W. P. Bill, sections 18 & 20.]

15. *(1)* Every committee shall, from time to time, elect one of its members to be chairman, and such member shall, after the election is approved by the Local Government, become chairman of the committee:

Election or appointment of chairman or vice-chairman.

Provided that the committee, instead of electing, may apply to the Local Government to appoint a chairman from among its members, and that the Local Government may, by notification, exclude any committee from the operation of this clause; and that in either of these cases, or if no election is made within one month from the occurrence of a vacancy in the office of chairman, or if the person elected is not approved, the Local Government may, if it thinks fit, appoint one of the members of the committee to be chairman.

(2) Every committee may also, from time to time, elect one or two of its members to be vice-chairman or vice-chairmen.

16. *(1)* A chairman shall hold office for three years, and a vice-chairman shall hold office for such term as the committee may, by rule, determine.

Term of office of chairman and vice-chairman.

New.]

(2) A chairman or vice-chairman shall vacate office as such when he ceases to be a member of committee, or tenders in writing to the committee his resignation of his office as chairman or vice-chairman, or becomes, in the opinion of the Local Government, incapable of acting; and he may be removed from such office by the Local Government if moved to do so by resolution passed by two-thirds of the members present at a special meeting.

Determination of office.

(3) Every resignation of office tendered under this section shall be reported, as soon as may be, to the Deputy Commissioner.

17. If a chairman or vice-chairman refuses to act, or vacates or is removed from his office as such, another chairman or vice-chairman shall be elected or appointed, as the case may be.

Casual vacancies in office of chairman or vice-chairman.

Notification of Elections, Appointments, &c.

[N. W. P. Bill, section 23; Act IV of 1873, section 6.]

18. All elections and appointments of members of committees and of chairmen of committees, and all determinations of the office of such members otherwise than by the expiration of their term of office, shall be notified in the *Panjáb Government Gazette*. No such election or appointment shall take effect until it is so notified.

Notification of elections, appointments, &c.

Conduct of Business.

[N. W. P. Bill, section 28.]

19. At every meeting of committee the chairman, if present, shall preside. If the office of chairman is vacant, or the chairman is absent from the meeting, and there is a vice-chairman, the vice-chairman, if present, shall preside. If neither chairman nor vice-chairman be present, the members present shall elect one of their number to be chairman of the meeting.

Chairman of meeting.

[N. W. P. Bill, section 25; Bengal Act V of 1876, s. 40, clause 2.]

20. *(1)* Every committee shall meet for the transaction of business, at least once in every month, at such time as may be fixed by its rules of business, and also at the time to which any such meeting may be adjourned under such rules:

Time of meeting.

Provided that, if there be no business to be laid before a committee at any monthly meeting, the chairman may give notice of the same to each member of committee three days before the time appointed for such meeting, and, when such notice is given, the meeting shall not be held.

(2) The chairman, or, in his absence, the vice-chairman, if any, may, whenever he thinks fit, and shall, upon a requisition made in writing by not less than one-fourth of the members of the committee, convene a meeting at any other reasonable time.

[N. W. P. Bill, section 26.]

21. *(1)* Meetings of committee shall be either ordinary or special.

Ordinary and special meetings.

(2) All business may be transacted at an ordinary meeting which is not required by this Act or by any rules made thereunder to be transacted at a special meeting.

[N. W. P. Bill, section 27.]

22. *(1)* The quorum necessary for the transaction of business at a special meeting of committee shall be one-half of the members of committee for the time being.

Quorum.

(2) The quorum necessary for the transaction of business at an ordinary meeting of committee shall be such number of the members of committee, not less than three, as may from time to time be fixed by its rules of business.

(3) If at any meeting of committee a quorum is not present, the chairman, or in his absence the vice-chairman, may adjourn the meeting to such other day as he thinks fit. Notice of such adjourned meeting shall be given in the manner required by the rules of business, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting, whether there is a quorum present thereat or not.

Panjáb Municipal Bill, 1883.
(Chapter II.—Organization of Committees.)

[N.W.P. Bill, section 29.]

Vote of majority decisive.

23. Except as otherwise provided by this Act or by rules made under this Act, all questions which may come before any meeting of committee shall be decided by a majority of the votes of the members present, the chairman of the meeting, in case of an equality of votes, having a second or casting vote.

[Madras Act III of 1871, section 25; N. W. P. Bill, section 31.]

Record and publication of proceedings.

24. *(1)* Minutes of the proceedings at each meeting of committee shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the chairman of the meeting or of the next ensuing meeting, and shall be published in such manner as the Local Government may, from time to time, direct, and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant who pays any tax under this Act.

(2) A copy of all such minutes shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner of the district.

Madras Act III of 1871, s. 27; Bengal Act V of 1876, ss. 46 and 47.]

Exercise by chairman or vice-chairman of powers of committee.

25. In case of emergency, the chairman of the committee, or in his absence the vice-chairman, shall exercise all powers vested in the committee by this Act or by any rules made thereunder, unless it is by this Act expressly declared that such power shall be exercised by the committee at a meeting:

Provided that the chairman or vice-chairman shall not act in opposition to, or in contravention of, any order of the committee at a meeting.

[N. W. P. Bill, section 32; Act IV of 1878, section 13.]

Rules of business.

26. *(1)* Every committee may, from time to time, at a special meeting, make rules consistent with this Act and with any rules made by the Local Government as to—

(a) the time and place of its meetings;

(b) the manner in which notice of ordinary and special meetings and adjourned meetings shall be given;

(c) the quorum necessary for the transaction of business at ordinary meetings;

(d) the conduct of proceedings at meetings and the adjournment of meetings;

(e) the custody of the common seal and the purposes for which it shall be used;

(f) the division of duties among the members of the committee;

(g) the powers to be exercised by sub-committees or members to whom particular duties have been assigned;

(h) the persons by whom receipts may be granted on behalf of the committee for money paid under this Act;

(i) the appointment, leave, suspension and removal of its officers and servants;

(j) the term for which the vice-chairman shall hold office; and

(k) all other similar matters.

(2) Every rule made under this section shall be published in such manner as the Local Government may, from time to time, direct.

Joint Committees.

[N. W. P. Bill, section 24; Panjáb Local Self-government Bill, section 36.]

Joint committees.

27. *(1)* A committee may, from time to time, concur with any other local authority in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such joint committee, and in delegating to such joint committee any power which might be exercised by either or any of the local authorities so concurring, and in framing and modifying regulations as to the proceedings of such joint committee, and as to the conduct of correspondence relating to the purpose for which such joint committee is appointed.

[N. W. P. Bill, section 24; Panjáb Local Self-government Bill, section 45.]

(2) If any difference of opinion arises between local authorities acting under this section, it shall be referred to—

(a) the Deputy Commissioner, if the local authorities are in the same district,

(b) the Commissioner of the division, if the local authorities are in different districts in the same division, or if they are in different divisions, the Commissioners of such divisions, when they can agree as to the decision of the case, and

(c) the Local Government, if the local authorities are in different divisions, and the Commissioners of such divisions cannot agree as to the decision of the case;

and when such reference is made, the decision thereupon of the Deputy Commissioner, Commissioner or Local Government shall be final.

Explanation.—In this section "local authority" means a municipal committee, district committee, local board or cantonment authority.

Officers and Servants.

[N. W. P. Bill, section 33.]

Appointment of secretary.

28. *(1)* Every committee shall, from time to time, at a special meeting, appoint one or more of its members, or, with the sanction of the Commissioner of the division, any other person, to be its secretary, and may, at a like meeting, with the same sanction, remove any person so appointed.

(2) A member of committee appointed as secretary shall receive no remuneration in respect of his services. When any other person is appointed to be secretary, the committee may, with the previous sanction of the Commissioner, assign to him such pay as it thinks fit.

[Panjáb Local Self-government Bill, section 46; N. W. P. Bill, section 34.]

Employment of other officers and servants.

29. *(1)* Subject to the other provisions of this Act and to any rules made in this behalf, every committee may employ and pay such other officers and servants not being members of the committee as may be necessary and proper for the efficient execution of its duties:

Provided that if, at any time, in the opinion of the Deputy Commissioner,

(a) the number of persons employed by the committee, or the remuneration assigned to those persons, or to any of them, is excessive, or

(b) any such person is unfit for his employment,

the committee shall, on the requirement of the Deputy Commissioner, reduce the number or remuneration of such persons, or, as the case may be, dismiss the unfit person.

Panjáb Municipal Bill, 1883.
Chapter III.—Taxation and Municipal Fund.)

(2) If the committee is dissatisfied with such requirement, it may appeal against it to the Commissioner of the division, whose decision shall be final.

[Panjáb Local Self-government Bill, sections 47 and 48; Act I of 1883, section 21.]

Pensions to establishments.

30. *(1)* In the case of Government officials, any committee may—

(a) if the services of such officials are wholly lent to it, contribute to their pensions, gratuities and leave-allowances in accordance with the Government Leave and Pension Code for the time being in force; and

[New.]

(b) if such officials devote only a part of their time to the performance of duties in behalf of the committee, contribute to their pensions, gratuities and leave-allowances in such proportion as may be determined by the Government.

(2) In the case of servants, not being Government officials, any committee may—

(1) grant leave-allowances, and, in the case of servants appointed before the passing of this Act and not entitled to pension, and of servants drawing less then ten rupees a month, gratuities to such servants; and

(2) if empowered in this behalf by the Local Government—

(a) subscribe in behalf of such servants for pensions, gratuities and leave-allowances under the Government Leave and Pension Code for the time being in force;

(b) purchase from the Government or otherwise annuities for such servants on their retirement:

Provided that such pensions, gratuities, leave-allowances and annuities shall in no case exceed the sum to which, under the Government Leave and Pension Code for the time being in force, such servants would be entitled if the service had been service under Government.

Contracts.

[N. W. P. Bill, section 35.]

Authority to contract.

31. *(1)* The committee of a municipality of the first class may delegate to one or more of its members the power of entering, on its behalf, into any contract whereof the value or amount does not exceed two hundred rupees.

(2) No contract whereof the value or amount exceeds two hundred rupees shall be executed until it has been sanctioned at a meeting of the committee.

[N. W. P. Bill, section 36; Act IV of 1878, section 18.]

Mode of executing contracts.

32. *(1)* Every contract made by or on behalf of a committee whereof the value or amount exceeds twenty rupees shall be in writing, and shall be signed by the chairman or vice-chairman and the secretary, if he is a member of committee, and, if the secretary is not a member of committee, by another member:

Provided that, when the power of entering into any contract on behalf of the committee has been delegated under the preceding section, the members so empowered may execute such contract.

(2) A transfer of immoveable property belonging to the committee must be made by an instrument in writing, executed by the chairman or vice-chairman, and by at least two other members of the committee.

(3) No contract or transfer executed otherwise than in conformity with the provisions of this section shall be binding on the committee:

Provided that this shall not affect any liability of the committee under section 70 of the Indian Contract Act to make compensation for any benefit received. IX of 1872.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

[Act XV of 1873, section 16; Act VII of 1874, section 12; N.W. P. Bill, section 37.]

Taxes which may be imposed.

33. Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, a committee may, for the purposes of this Act, in the manner hereinafter provided, impose any of the following taxes, namely:—

(1) with the previous sanction of the Local Government—

(a) a tax on houses, buildings and lands, either

(i) not exceeding 7½ per cent. on the annual value thereof; or

(ii) not exceeding one anna per square yard; or

(iii) not exceeding three rupees per running foot of frontage in streets or bázárs;

(b) a tax on persons practising arts or professions or carrying on trades or callings in the municipality;

(c) a tax on vehicles, boats, animals used for riding, driving, draught or burden, and dogs, kept within the municipality;

(d) a tax on menial and domestic servants;

(e) an octroi on animals for slaughter and goods brought within the octroi limits for consumption or use therein; and

(2) with the previous sanction of the Local Government and of the Governor General in Council, any other tax.

[Act VII of 1874, section 13.]

Additional taxes for special objects.

34. *(1)* To provide further funds for the following purposes, or any of them, namely:—

(a) the lighting of streets, roads and public thoroughfares;

(b) the supply, storage and preservation from pollution of water for drinking and cooking purposes;

(c) any special work approved by the Local Government for promoting the health, comfort or convenience of the inhabitants;

a committee may (subject to the rules or orders last aforesaid) in the manner hereinafter provided, and with the previous sanction of the Local

Government, impose, in addition to any taxes imposed under section 33, a tax on houses, buildings and lands, either

(i) not exceeding 2½ per cent. on the annual value thereof; or

(ii) not exceeding 4 pies per square yard; or

(iii) not exceeding one rupee per running foot of frontage in streets or bázárs.

(2) A separate account shall be kept of the receipts and expenditure of every tax levied under this section.

[Madras Act III of 1871, s. 41; Bengal Act V of 1876, s. 92.]

Annual value.

Explanation.—In this and the last preceding section, "annual value" means the annual rent for which houses, buildings and lands liable to taxation may reasonably be expected to let:

Provided that—

(1) In municipalities where houses are usually let furnished, it shall not be necessary, in estimating the rental, to make any deduction on account of the furniture, unless the Local Government shall otherwise order:

(2) In the case of land assessed to the land-revenue or of which the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, if the Local Government shall so direct, the annual value shall be deemed to be double the land-revenue for the time being assessed on the land, whether such assessment is leviable or not; and, when the land-revenue has been wholly or in part compounded for or redeemed, double the amount which, but for such composition or redemption, would have been leviable; and also, when the improvement of the land due to canal irrigation has been excluded from account in assessing the land-revenue, double the amount of the owner's rate or water-advantage rate or other rate imposed in respect of such improvement.

35. With the previous sanction of the Local Government, or of such officer as the Local Government may authorize in this behalf, a committee may, from time to time, by resolution at a special meeting, impose and fix the rate of, or abolish, the following tolls and fees, namely:—

Tolls and fees.

(a) where no octroi is levied, a toll on vehicles and animals entering the municipality, and on boats moored therein;

(b) fees on licenses to the proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality;

(c) school-fees;

[Panjáb Local Self-government Bill, section 20.]

(d) fees for the use of, or benefits derived from, hospitals, dispensaries, rest-houses, saráis, slaughter-houses, markets and other public institutions;

(e) fees at fairs, agricultural shows and industrial exhibitions held within the municipality and under its control;

[Madras Act III of 1871, sections 52 & 55.]

(f) fees for notices of demand of any tax, toll or fee due under the Act;

Ibid, sections 139 & 150.]

(g) fees for licenses to carry on offensive or dangerous trades;

(h) fees for permission to make any temporary erection, or for the temporary occupation of any street or other land vested in the committee.

[Bombay Act VI of 1873, section 22.]

36. *(1)* A committee may, at a special meeting, pass a resolution to propose the imposition of any tax under section 33 or section 34, or any toll under section 35 *(a)*, within the whole or any part of the municipality for the purposes of this Act.

[N. W. P. Bill, section 48; Act IV of 1873, section 7.]

Procedure in imposing taxes.

(2) When such resolution has been passed, the committee shall publish a notice, defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(3) Any inhabitant objecting to the proposed tax may, within thirty days from the publication of the notice, submit his objection in writing to the committee, and the committee shall, at a special meeting, take such objection into consideration.

(4) If no such objection is received, or if such objection, having been considered as aforesaid, is deemed insufficient, the committee may forward its proposals to the Local Government, together with the objections (if any) which have been submitted as aforesaid, and with its decision thereupon.

(5) The Local Government, on receiving such proposals, may sanction the same, or refuse to sanction them, or return them to the committee for further consideration.

(6) When the Local Government sanctions any such proposals which require the further sanction of the Governor General in Council, it shall submit the same to the Governor General in Council, together with the objections (if any) received through the committee; and the Governor General in Council may sanction the proposals, or refuse to sanction them, or return them to the Local Government for further consideration.

(7) When the proposals of a committee have been sanctioned by the Local Government, or by the Local Government and the Governor General in Council, as the case may be, the committee may, at a special meeting, direct the imposition of the tax in accordance with such proposals. In giving such direction the committee shall fix a date, not less than one month after the meeting, from which the tax shall come into force:

Provided that no tax shall come into force until it has been notified in the *Panjáb Government Gazette*, and such notification shall be conclusive evidence that it has been imposed in the manner provided by this section.

(8) The Local Government may, by notification, and the committee may, at a special meeting, with the sanction of the Local Government, abolish or reduce in amount any tax so imposed.

[Madras Act III of 1871, section 36.]

37. *(1)* A committee may at a meeting exempt, in whole or in part, from the payment of any tax, toll or fee imposed under this Act, any person who by reason of poverty may be deemed to be unable to pay the same.

Power to exempt from taxation.

(2) The Local Government may, by notification, and the committee may, by resolution passed at a special meeting and confirmed by the Local Government, exempt from the payment of any tax, toll or fee imposed under this Act, any person or class of persons or any description of property.

[Act XV of 1873, section 19; Act VII of 1874, section 15; Bengal Act V of 1876, section 389.]

38. No tax, toll or fee imposed under this Act, and no proceedings of committee at any ordinary or special meeting, shall be invalid merely for defect of form; and it shall be enough in any such tax on property, or any assessment of value for the purpose of making such tax, if the property taxed or assessed be so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

Taxes, &c., not invalid for defect of form.

[Madras Act III of 1871, s. 41.]

39. Any tax imposed under section 33, sub-section *(1)*, clause *(a)*, or under section 34, shall be due and payable by the owner of the house, building and land, respectively, from and after the end of the first quarter of the year for which it is assessed.

Tax on houses, buildings and lands when payable.

[Madras Act III of 1871, s. 43; Bengal Act V of 1876, s. 94.]

40. The committee shall cause a valuation-list of all houses, buildings and lands on which such tax is imposed to be prepared, containing the name of the street or division in which such property is situate, the designation of the property, either by name or number, sufficient to identify the same, the name of the owner, or if the occupier, and not the owner, is the person liable to pay the tax, the name of the occupier, the annual value, area or [illegible] assessed, and the amount of the tax assessed thereon by the committee.

Preparation of valuation lists.

[Madras Act III of 1871, section 45.]

41. When the name of the owner or occupier is not known, it shall be sufficient to designate him in the said list, and also in any notice or other proceeding under this Act, as the "owner" or the "occupier" of the property on which the tax is assessed, without further description.

Owner or occupier how to be designated, if name unknown.

[Madras Act III of 1871, section 46; Bengal Act V of 1876, section 103.]

42. When the valuation has been completed, the committee shall give public notice thereof, and of the place where the list or copy thereof may be inspected, and every person claiming to be the owner or occupier of property included in the assessment, or the agent of such person, shall be at liberty to inspect the entries in such list or copy relating to such property, and to make [illegible] thereof.

Publication of notice of assessments.

[Madras Act III of 1871, section 47.]

43. *(1)* The committee shall at the same time give public notice of a day and hour, not less than one month from the publication of such notice, when they will proceed to revise the said valuation and assessment; and in all cases in which any property is for the first time assessed, or the assessment is increased, shall give special notice thereof to the owners or occupiers of such property.

Public notice of time fixed for revising assessment.

(2) All objections to such valuation and assessment shall be made at or before the time fixed in the notice.

[Madras Act III of 1871, section 48.]

44. After the objections have been enquired into and the revision of the valuation and assessment has been completed, the amendments made in the list shall be authenticated by the signatures of not less than two members of the committee, who shall at the same time certify that no valid objection has been made to the valuation and assessment contained in the list, except in the cases in which amendments have been entered therein; and, subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the whole year for which the assessment is made.

Verification of list after disposal of objections.

[Madras Act III of 1871, ss. 48; Bengal Act V of 1876, ss. 99, 100.]

45. The committee may at any time amend the list by inserting the name of any person whose name ought to be inserted, or by inserting any property liable to the tax, or by altering the assessment on any property which has been insufficiently valued or assessed through mistake or fraud, or the value of which has been increased by the construction of any new building or by additions to or alterations in any building thereon, after giving notice to any person interested in such amendment of a day, not less than fifteen days from the date of service of such notice, on which the amendment is to be made;

Further amendments of valuation-list.

and any person interested in such amendment may tender his objection to the committee by application in writing at or before the time fixed in the notice.

[Madras Act III of 1871, s. 49.]

46. It shall not be necessary to prepare a new valuation-list every year; but the committee must adopt the valuation and assessment contained in the list for the preceding year, with such alterations as may in particular cases be deemed necessary, as the valuation and assessment for the year following, giving the same public notice of such valuation and assessment as if a new valuation-list had been prepared.

New list need not be prepared every year.

[Madras Act III of 1871, ss. 51 and 52; Bengal Act V of 1876, s. 111.]

47. *(1)* When any sum is due for any tax leviable under section 33, sub-section (1), clause *(a)*, or under section 34, the committee shall cause a bill for the amount, stating the property and the period for which the charge is made, to be presented to the person liable to pay the same.

Presentation of bill and issue of notice of demand.

(2) If the bill be not paid within ten days from the presentation thereof, the committee may cause a notice of demand to be served upon such person;

and if such person do not, within seven days from the service of such notice, pay the sum due, with any fee leviable for the notice, or show sufficient cause for non-payment of the same, the sum due, together with such fee, shall be deemed to be an arrear of tax.

[Madras Act III of 1871, s. 53; Bengal Act V of 1876, s. 96.]

48. If the sum due from the owner of the house, building or land remains unpaid after notice of demand has been duly served, the committee may demand the amount from the occupier for the time being, and may proceed against him in all respects as if he were the owner; and if the amount is paid by, or recovered from, the occupier, he may deduct the amount so paid or recovered from the next and following payments of rent:

Liability of occupier if tax not paid by owner after notice of demand.

Panjáb Municipal Bill, 1883.
(Chapter III.—Taxation and Municipal Fund.)

Provided that no arrear which has remained due from the owner for more than one year shall be so recovered from the occupier.

[N. W. P. Bill section 41.]

49. *(1)* Arrears of any tax imposed under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property belonging to the defaulter within those limits.

Recovery of taxes.

[Madras Act III of 1871, section 79; Bengal Act V of 1876, section 154.]

(2) In case of non-payment of any octroi tax or of any toll on demand, the person empowered to collect the same may seize any goods on which such octroi is chargeable, or any conveyance, boat or animal on which such toll is chargeable or any part of its burden of sufficient value to satisfy the demand. The committee may cause any property so seized or so much thereof as is necessary to be sold by auction to satisfy such demand, together with the expenses occasioned by the seizure, custody and sale thereof, unless such demand and expenses are in the meantime paid, after the lapse of *five* days from the seizure, and after the issue of a proclamation fixing the time and place of sale, a copy of which shall be served upon the person entitled to the property at least 48 hours before the sale:

Provided that, by order of the chairman or vice-chairman, articles of a perishable nature which could not be kept for five days without serious risk of damage may be sold after the lapse of twenty-four hours.

[Mr. Plowden's draft bye-law, No. III.]

50. *(1)* Every person bringing within the octroi limits of any municipality any articles upon which an octroi tax has been imposed shall, when required by any person authorized by the committee to assess the octroi tax chargeable, or to collect the tax assessed thereon, and so far as may be necessary for ascertaining the amount of tax chargeable,—

Power to examine articles liable to octroi tax.

(a) permit such person to inspect, examine, weigh and otherwise deal with such articles;

(b) permit such person to separate taxable articles from articles not taxable;

(c) communicate to such person any information and exhibit to him any document he may possess relating to such taxable articles.

[Mr. Plowden's draft bye-law, No. IV.]

(2) Every person assessing octroi tax by the authority of the committee shall, on request by the person introducing taxable articles on which such tax is claimed, present him with a bill specifying the articles taxable, the amount claimed, and the rate at which the tax is calculated; and any person receiving payment of the whole or any part of the tax claimed shall on request receipt the said bill accordingly.

Presentation of bill for octroi tax and receipt for payment.

[Madras Act III of 1871, section 76.]

51. The collection of any octroi tax or toll may be leased by the committee, with the previous sanction of the Commissioner of the division, for any period not exceeding one year; and the lessee and all persons employed by him in the management and collection of such octroi tax or toll shall be bound by any rules made by the committee for their guidance, and shall have the same powers, and be subject to the same responsibilities, as if they were employed by the committee for the management and collection of such octroi tax or toll. Any dispute between the lessee and any person from whom such tax or toll is demanded shall be referred to the committee, whose decision thereupon shall be final.

Power to lease the collection of octroi or tolls.

[Madras Act III of 1871, section 46.]

52. *(1)* The committee may require the owners or occupiers of houses, buildings or lands to furnish them with returns of the measurements and of the rent or annual value thereof; and the committee or any person appointed by them for that purpose may, at any time between sunrise and sunset, enter, inspect and measure any such houses, buildings or lands, after having given 48 hours previous notice in writing to the occupiers thereof.

Returns for purposes of valuation.

Power to enter houses, &c.

[*Ib.*, 72.]

(2) The committee, or any person authorized by them in writing for that purpose, may also, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein they may have reason to believe that there is any vehicle or animal liable to taxation under this Act, for which a license has not been duly taken out

[Bengal Act V of 1866, s. 107; Madras Act III of 1871, s. 85.]

53. No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than in this Act is provided.

Assessments not to be questioned except under this Act.

[Bengal Act V of 1865, s. 110.]

54. For all sums paid on account of any tax under this Act, a receipt, stating the amount and the tax on account of which it is paid, shall be given by the person receiving the same, on request by the person making the payment.

Receipts to be given.

Appeals.

[Cf. Madras III of 1871, s. 85.]

55. Appeals against any tax, toll or fee, other than octroi tax or fees under section 35, clauses *(c)*, *(d)*, *(e)* and *(f)*, assessed or levied under this Act shall lie to the Deputy Commissioner, unless when he is a member of the committee, in which case the appeal shall lie to the Commissioner of the division.

Appeals against assessments.

[Cf. Madras III of 1871, s. 86.]

56. No appeal shall lie against any assessment on any house, land or building, unless it be preferred within one month after the confirmation of the assessment by the committee, and no appeal shall lie against any other tax, toll or fee, unless preferred within one month from the time of such tax, toll or fee being charged:

Limitation of appeal.

Provided that no appeal shall be entertained unless the amount of the assessment, tax, toll or fee to which it relates is deposited with the committee on or before the day on which the appeal is lodged.

Deposit of amount.

57. No appeal shall lie against any assessment of octroi tax or the levy of any fee under section 35, clauses *(c)*, *(d)*, *(e)* and *(f)*, but the decision of the committee on any objection thereto shall be final.

No appeal in certain cases.

Panjáb Municipal Bill, 1883.
(Chapter IV.—Powers and Duties of Committees.)

Municipal Fund.

[N.-W. P. Bill, section 42; Act IV of 1873, section 10.]

58. There shall be for each municipality a municipal fund, to the credit of which shall be placed all sums received by or on behalf of the committee and any balances standing at the credit of the municipality when this Act came into force.

Municipal fund constituted.

[N. W. P. Bill, section 43.]

59. *(1)* Where there is a Government treasury or sub-treasury, the municipal fund shall be kept in the treasury or sub-treasury, or in the bank, if any, to which the Government treasury business has been made over.

Custody of municipal fund.

(2) In places where there is no such treasury or sub-treasury, or bank, the municipal fund may be deposited with any banker or person acting as a banker who has given such security for the safe custody of the fund and repayment thereof on demand as the Local Government may in each case think sufficient.

CHAPTER IV.

POWERS AND DUTIES OF COMMITTEES.

Municipal Police.

[Act IV of 1873, section 13; Act VII of 1874, section 33.]

60. *(1)* Every committee shall, unless it is relieved of this obligation by the Local Government, make such provision for the maintenance of the establishment ordinarily employed on police-duty within the limits of the municipality as the Local Government may consider necessary.

Police-establishment.

(2) Subject, in case this Act is made applicable to any military cantonment, to the provisions of section 9 of the Cantonments Act, 1880, the establishment so entertained, whether enrolled under Act V of 1861 or not, shall be under the orders of the District Superintendent of Police, subject to the general control of the Magistrate of the district; and the watch and ward of the municipality, the prevention and suppression of nuisances therein, and the enforcement of the rules and orders of the committee shall be included among its duties.

III of 1880.

61. *(1)* The Local Government may relieve any committee of the whole or part of the cost of such establishment, and may enter into an agreement with the committee that, as an equivalent for such relief for any term of years, the committee shall, during the same term, undertake any service within the municipality to which the municipal fund can properly be applied, and which are estimated to cost not more than the cost of the police-establishment of which the committee is so relieved. When a committee is relieved under this section of the whole or part of the cost of the police-establishment which it is required to maintain, the Local Government shall maintain such police-establishment as it considers necessary, and the establishment so maintained shall perform the same duties as if its cost were defrayed from the municipal funds.

Relief of committee from police charges.

(2) The Inspector General of Police may, with the previous sanction of the Local Government, enter into an agreement with any committee, which is unable to provide the entire cost of the police-establishment which the Local Government considers necessary, that, on the committee making such payment as may be agreed upon, or undertaking any services within the municipality, approved by the Local Government, to which the municipal fund can properly be applied, and which are estimated to cost not more than the amount of such payment, he will provide a sufficient police-establishment for the service of the municipality.

Composition for police with poor municipalities.

(3) The Local Government or the committee may determine such agreement, after twelve months' notice of an intention to do so has been given by the Local Government to the committee or by the committee to the Inspector General of Police; and on the expiration of such notice the agreement shall cease to operate.

Termination of such composition.

62. *(1)* Except in the case of any military cantonment to which this Act is made applicable, the establishment maintained under section 60 or section 61 shall be either part of the general police force enrolled under Act V of 1861 or a body of watchmen, as the Local Government may determine.

Constitution of police-establishment.

(2) When it is part of the general police force, the Local Government may, notwithstanding anything contained in Act V of 1861 or in any other Act for the time being in force, define the duties which the officers and men of the establishment may or may not be required to perform.

Duties when part of the general police force.

(3) When it is a body of watchmen, it shall be of such strength and the persons of whom it consists shall be of such grades, and shall receive such rates of pay, as the Local Government shall fix, and they shall possess such powers, perform such duties, enjoy such protection, be subject to such responsibilities and be liable to such penalties as Police-officers enrolled under Act V of 1861 possess, perform, enjoy and are subject and liable to.

Powers, duties, protection, responsibilities and penalties when a body of watchmen.

(4) Police-officers enrolled under Act V of 1861 may be appointed to command such body of watchmen when the Local Government thinks fit.

Command of such body.

63. *(1)* Every person shall be bound to render to any municipal watchman, or officer of such watchmen, when discharging the duties of a Police-officer all the assistance which he is bound to render to a Police-officer.

Obligation to assist watchmen.

(2) Any person obstructing such watchman or officer in the discharge of such duties may be arrested without warrant by a Police-officer or by any person belonging to such body of watchmen.

Arrest of persons obstructing watchmen.

64. The appointment, promotion, suspension and punishment of municipal watchmen and officers of such watchmen shall rest with the District Superintendent of Police, subject to the general control of the Magistrate of the district.

Appointment, promotion, suspension and punishment of watchmen.

65. When a committee imposes fees under section 35, clauses *(d)*, and *(e)*, for the use of saráis, markets, and other public institutions for which special police-pro-

Police-protection of saráis, &c., for the use of which fees are charged by committee.

tection is required, or at fairs, agricultural shows and industrial exhibitions, it shall pay such police-charges, if any, as may be sanctioned by the Local Government for the protection of the saráís, markets, public institutions, fairs, agricultural shows and industrial exhibitions from which such fees are derived.

Conservancy and General Improvement.

[Act IV of 1873, section 11; N. W. P. Bill, section 49.]

66. Every committee, so far as the municipal fund at its disposal will permit, shall, after providing for the repayment of, and interest due on, loans raised in accordance with law on the security of its funds or any portion thereof, and for the maintenance of any police-establishment which it is required to maintain under the provisions of this Act, and subject to any agreement between it and the Local Government in respect of any of the following matters,

Duties of committee generally.

provide for the construction, maintenance, cleansing and repair of the public streets, bridges, embankments, drains, latrines, tanks and watercourses of the municipality;

and may cause such streets or any of them to be watered and lighted;

and may provide for the construction, establishment and maintenance of schools, hospitals and dispensaries, and other institutons for the promotion of education or for the benefit of the public health, and of rest-houses, saráís, poor-houses, markets and other works of public utility, and control and administer all public institutions of any of these descriptions within the municipality, except when, by special order, the Local Government may otherwise direct;

and may make grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper asylums and other educational or charitable institutions;

and may provide for the training of teachers and the establishment of scholarships;

and may provide for the establishment and maintenance of relief and relief-works in time of famine or scarcity;

and may provide for the supply, storage and preservation from pollution of water for the use of men or animals;

and may provide for the taking of a census, the registration of births, marriages and deaths, public vaccination and any lawful sanitary measure;

and may also do all acts and things likely to promote the safety, health, comfort, convenience or interests of the inhabitants.

Prevention of Nuisances.

[N.-W.P. Bill, section 50.]

67. *(1)* A committee may, from time to time, at a special meeting, make rules—

Power to make rules creating offences.

(a) for prohibiting, preventing and punishing such acts or omissions within the municipality as may, in its opinion, cause or tend to cause any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, injury, obstruction, danger or annoyance to persons who may have occasion to use any public right, or may, in its opinion, be prejudicial to the public health, safety and convenience, or be offences against public decency;

(b) for defining the cases, manner and times in and at which officers of the committee may enter upon private property for the detection and abatement of public nuisances, or the enforcement of rules made under this section.

(2) A rule made under this section shall not come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

[N. W. P. Bill, section 51; Act XV of 1873, section 25; Act VII of 1874, section 22.]

68. *(1)* Subject to any orders which the Local Government may, from time to time, make in this behalf, a committee may enjoin any person not to do, or not to omit to do, within the municipality, anything the doing of, or the omission to do, which is a public nuisance, or an offence created by clause *(a)* of section 67.

Power to prohibit commission of public nuisances.

(2) Every such injunction shall be deemed, for the purposes of section 291 of the Indian Penal Code, to have been made by a public servant.

XLV of 1860.

[N.-W.P. Bill, section 53; Act XV of 1873, section 26.]

69. *(1)* The Local Government may invest within the limits of the municipality, a committee with the powers of a Magistrate of a district as described in section 138 of the Code of Criminal Procedure, and with power to make conditional orders under that section, in respect of all or any of the acts or omissions punishable under rules made in exercise of the power conferred by clause *(a)* of section 67 of this Act;

Power to make conditional orders for removal of nuisances.

X of 1882.

and may, whenever it thinks fit, withdraw the powers so conferred:

Provided that the conditional order shall specify a Magistrate of the first or second class, other than the committee so invested, before whom the person against whom it is made may appear and move to have it set aside or modified.

(2) Sections 133 to 142 (both inclusive) of the Code of Criminal Procedure shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers.

X of 1882.

[N.-W. P. Bill, section 55; Act VII of 1874, section 23.]

70. A committee may, at a special meeting, delegate to one or more sub-committees of its members any of the powers vested in it by section 68, or with which it may have been invested under section 69, and may at a like meeting withdraw the powers so delegated.

Delegation of powers as to nuisances.

Additional power to make Rules.

[Act IV of 1873, section 14; N. W. P. Bill, section 54; Act VII of 1874, section 19; Act V of 1878, section 72.]

71. *(1)* A committee may, from time to time, at a special meeting, make rules—

Additional power to make rules.

(a) rendering licenses necessary for the proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality, and fixing the conditions on which such licenses are to be granted and may be revoked;

(b) limiting the rate of hire which may be demanded for, and the loads to be carried by, such vehicles, boats or animals, or for

and by persons hired to carry loads within the limits of the municipality;

(c) to secure a proper registration of births, marriages and deaths, and to provide for the taking of a census;

(d) to provide for the inspection and proper regulation of lodging-houses, markets and slaughter-houses, burial and burning places;

(e) to provide for the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use;

(f) to regulate all matters connected with conservancy;

(g) to regulate for sanitary reasons the crops which may be grown in any place within the limits of the municipality;

(h) where the collection of an octroi tax has been sanctioned, to fix octroi limits for the purpose of collecting that tax; and

(i) generally to carry out the purposes of this Act:

Provided that the committee of a municipality in which the Hackney Carriage Act, 1879, is in force shall not make rules in respect to any vehicles to which that Act applies.

XIV of 1879.

[New.]

72. *(1)* In the case of municipalities in mountainous and sub-montane tracts, the committee may, from time to time, at a special meeting, make rules for the maintenance of a water-supply in streams and springs, for the preservation of the soil on the ridges and slopes of the hills and in the valleys, for the prevention of landslips and of the formation of ravines and torrents, and for the protection of land from erosion or the deposit thereon of sand, gravel or stones; and may prohibit all persons from doing any acts the prohibition of which it may consider necessary for these purposes.

Special power to make rules in hill municipalities.

[See Act VII of 1878, section 35.]

Examples.—Cutting down forest trees on private grounds, unless with the previous sanction of the committee, and quarrying or making excavations in such grounds unless with the like sanction, may be prohibited by rules made under this section.

(2) The committee of a municipality in a mountainous tract may also make rules for the regulation of traffic in the streets.

[N.-W. P. Bill, section 54, sub-section (2); Act IV of 1873, section 21.]

73. *(1)* In making any rule under section 67, section 71 or section 72, a committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the first during which the breach continues.

Penalty for infringement of rules under sections 71 and 72.

[N.-W. P. Bill, section 54, sub-section (3); Act IV of 1873, section 15.]

(2) No rule made under section 67, section 71 or section 72 shall come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

Confirmation of such rules.

Special Provisions.

[Madras Act III of 1871, sections 129 to 131; Bengal Act V of 1876, sections 285 and 286.]

74. *(1)* The owner or occupier of every place within the municipality used for any of the following purposes, namely:—

Regulation of offensive and dangerous trades.

melting tallow; boiling offal or blood; or as a soap-house, oil-boiling house, dyeing house or tannery; or as a brick-pottery or lime-kiln; or other manufactory, or place of business from which offensive or unwholesome smells arise;

or as a yard or depôt for hay, straw, thatching-grass, wood or coal, or other dangerously inflammable material;

or as a store-house for kerosine, petroleum, naphtha, or any inflammable oil, spirit or explosive substance;

or as a manufactory of gunpowder or fireworks;

or as a shop for smoking opium or any preparation of opium;

shall register the same in a book to be kept by the committee for the purpose.

(2) No place shall be newly used for any of the said purposes except under a license from the committee, which shall be renewable annually.

(3) Such license shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in, or frequenting, the immediate neighbourhood.

(4) The committee may impose such conditions in respect of such license as it may think necessary.

(5) Whoever, without such registration or without a license, uses any place for any such purpose shall be liable to a fine which may extend to fifty rupees, and to a further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

[Bengal Act V of 1876, sections 287 and 288; Bombay Act VI of 1873, section 69.]

75. If it be shewn to the satisfaction of the committee, at a meeting, that any place registered or licensed under the last preceding section is a nuisance to the neighbourhood, or likely to be dangerous to life, health or property, they may, by written notice, require the occupier thereof to discontinue the use of such place, or to use it in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

Prohibition of such trades.

(2) Whoever disobeys the direction of such notice shall be liable to a fine which may extend to two hundred rupees, and to a further fine not exceeding forty rupees for every day during which the offence is continued after he has been convicted of such offence.

(3) Nothing in this or the preceding section shall affect the power of the committee to proceed under sections 67, 68 and 69 of this Act, in respect to any place used for any of the purposes mentioned in section 74.

[Madras Act III of 1871, section 133.]

76. *(1)* No burial or burning ground, whether public or private, shall be made or formed, after the passing of this Act, without the sanction in writing of the committee.

New burial or burning places.

(2) The committee may, by notice published in such manner as may be prescribed, order

[Madras Act III of 1871, section 134.]

Closing of burial and burning places.

Panjáb Municipal Bill, 1883.
(Chapter IV.—Powers and Duties of Committees.)

any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the vicinity thereof to be closed, from a date to be specified in the notice, and shall, in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(3) Private burial-places in such burial-grounds may be excepted from such notice, subject to such conditions as the committee may impose in this behalf:

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owner thereof.

(4) Whoever shall bury or burn, or cause or permit to be buried or burnt, any corpse in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, shall be liable to a fine which may extend to fifty rupees for each offence.

Appeal against order under section 75 or 76.

77. When any order is made under section 75 or section 76 by any committee, any person aggrieved thereby may appeal within 30 days from the date thereof to the Commissioner when the municipality is of the first class, or to the Deputy Commissioner when the municipality is of the second class; and the order of the appellate authority confirming, setting aside or modifiying such order shall be final; and no such order shall be liable to be called in question otherwise than by such appeal.

Provided that such order shall not be modified or set aside until the appellant and the committee have had reasonable opportunity of being heard.

[Madras Act III of 1871, section 123; Act VII of 1874, section 16.]

Slaughter of animals.

78. The committee may, with the approval of the Deputy Commissioner, fix places for the slaughter of animals, or of any specified description of animals for sale; and when such place has been fixed, no person shall slaughter any such animal for sale within the municipality at any other place; and whoever slaughters any such animal for sale at any other place shall be liable to a fine which may extend to twenty rupees for each offence.

[Madras Act III of 1871, sections 115 & 116.]

Bathing-places, &c.

79. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants; and may, by rule made under section 71, prohibit bathing in any public place not so set apart, or at times or by persons other than those so specified, and all other acts not so permitted, by which water in public places may be rendered foul or unfit for use.

[Madras Act III of 1871, section 145; Bombay Act VI of 1873, section 80.]

Setting back buildings projecting beyond line of street.

80. When any building, or any part thereof, which projects beyond the regular line of a public street, or beyond the front of the buildings on either side thereof, has fallen down or been taken down in order to be rebuilt or altered, the committee may, by written notice, require the same, when being rebuilt, to be set back to or towards the line of the street or the front of the adjoining buildings; and the land so added to the street shall become part of the public street:

Provided that the committee shall make full compensation to the owner of such building for any damage he may thereby sustain; and, if any dispute shall arise touching the amount of such compensation, it shall be settled in the manner provided by the Land Acquisition Act, 1870, sections 3, 8 to 42, 51 to 53 and 56 to 59, so far as they can be made applicable. X of 1870.

[Bombay Act VI of 1873, sections 33 & 34; Bengal Act V of 1876, sections 256 to 263; Mr. Plowden's draft rule XXV.]

Notice of new buildings.

81. *(1)* Every person intending to erect or re-erect any building within the limits of the municipality shall, if required by rules made under section 71, give notice in writing to the committee, and shall, if required to do so, furnish a plan shewing the levels at which the foundation and lowest floor are proposed to be laid, and the elevation and specifications of the works intended to be constructed, and the materials to be used, and shall obey all written directions given by the committee within one month after receiving such notice, either prohibiting such erection or re-erection, if deemed likely to be injurious to the inhabitants of the neighbourhood, or in respect to all or any of the matters following, namely, (1) free passage or way in front thereof; (2) space to be left about the same to secure free circulation of air and facilitate scavengering; (3) ventilation and drainage; (4) level and width of foundation and stability of structure; and (5) the regularity of the elevation and the line of frontage with neighbouring buildings, if the building abuts on a street or public thoroughfare.

(2) If such building be begun or erected without giving notice, or without furnishing particulars as aforesaid when required, or in contravention of the legal orders of the committee issued within one month, the committee may require it to be altered or demolished, as they may deem necessary, by written notice fixing a time within which the requisition must be complied with.

Explanation.—The expression "erect any buildings" includes all additions or alterations which involve new foundations or increased superstructure on existing foundations.

[Bombay Act VI of 1873, section 49.]

Removal of projections and obstructions.

82. *(1)* The committee may, by written notice fixing a time within which the requisition must be complied with, require the owner or occupier of any house to remove or alter any projection, encroachment or obstruction erected or placed against, or in front of, such house, if the same overhangs or juts into or encroaches upon any public street, or projects into or encroaches upon any drain, aqueduct or sewer in such street:

Provided that, if such projection, encroachment or obstruction were lawfully made before the passing of this Act, the committee shall make reasonable compensation to any person who suffers damage by such removal or alteration; and, if any dispute shall arise touching the amount of such compensation, it shall be settled in the manner provided by the Land Acquisition Act, 1870, sections 3, 8 to 42, 51 to 53 and 56 to 59, so far as they can be made applicable. X of 1870.

(2) The committee may give written permission to the owners or occupiers of houses in public streets to put up open verandahs, balconies or rooms projecting from any upper storey thereof, to an extent not exceeding *four* feet beyond the line of the plinth or basement wall.

Panjáb Municipal Bill, 1883.
(Chapter V.—Control.)

[Bombay Act VI of 1873, section 75.]

Execution of notices.

83. In the event of non-compliance with the terms of any notice under either of the last two preceding sections, the committee may take such steps as may be necessary to carry out the requisition therein made; and the expenses incurred by them in so doing shall be paid by the person on whom the notice was served.

[Bengal Act V of 1876, section 232; Madras Act III of 1871, sections 145 & 146; Bombay Act VI of 1873, section 45.]

Names of streets and numbers of houses.

84. *(1)* The committee at a meeting may cause a name to be given to any street, and to be affixed in such place as they may think fit, and may also cause a number to be affixed to every house; and in like manner may, from time to time, cause such names and numbers to be altered.

(2) Whoever destroys, pulls down or defaces such name or number, or puts up any different name from that put up by order of the committee, shall be liable to a fine which may extend to twenty rupees.

[Madras Act III of 1871, section 131; Bombay Act VI of 1873, sections 77 and 78.]

Recovery of cost of works executed from persons interested.

85. *(1)* Whenever, under the provisions of this Act, or of any rules made thereunder, the committee requires any work to be executed, and such work is executed by the occupier of any house or land, or by the committee at his expense, the occupier, if the owner is the person by whom such work ought to have been executed, may deduct the cost thereof from the next and following payments of rent due or becoming due to the owner, or may recover it from the owner by suit.

(2) If such work is executed by the committee, and the expense is not paid on demand by the occupier or owner, the committee may recover the expense by suit from the person by whom the work ought to have been executed, or by distraint of the moveable property of the occupier, who, if the owner is the person by whom the work ought to have been executed, may deduct the amount so recovered from the next and following payments of rent, or may recover it from the owner by suit:

Provided that, if the expense does not exceed Rs. 20, it may be recovered in the manner provided by the first clause of section 49 for the recovery of arrears of any tax under this Act.

[Madras Act III of 1871, section 164.]

Service of notices.

86. *(1)* Every notice issued by the committee under this Act, or under any rule made thereunder, shall be served on the person to whom it is addressed, or left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, shall be posted on some conspicuous part of his place of abode or business.

[Bengal Act V of 1876, sections 367 & 368.]

(2) If the place of abode or business of the owner be not within the limits of the municipality, every such notice addressed to him shall be sent by registered cover addressed to his usual place of abode.

(3) If the place of abode or business of the owner be not known, every such notice addressed to him may be served upon the occupier.

[Madras Act III of 1871, section 162; Bombay Act VI of 1873, section 85, cl. 3; Bengal Act V of 1876, section 378.]

Power to make compensation out of municipal fund.

87. The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the committee, its officers and servants, under this Act.

[Act IV of 1873, section 10.] [Government of India notification No. 6680, dated 21st November, 1874.]

Proceeds of fines.

88. The proceeds of all fines imposed under this chapter, or under section 34 of Act V of 1861, on account of nuisances committed within the municipal limits shall be credited to the municipal fund.

[New.]

Power to compound offences declared to be public nuisances.

89. *(1)* The Local Government may, from time to time, by notification, empower any member of committee or officer in the service of a municipality by name, or any sub-committee appointed by the committee in this behalf, to summon any person accused of any offence created by clause *(a)* of section 67.

(2) The member of committee or officer or sub-committee so empowered shall have the power of a Magistrate under the Criminal Procedure Code in regard to the issue of summons to persons accused of such offences, and may issue a summons returnable to the Magistrate by whom charges of such offences would ordinarily be tried, giving notice to the Magistrate of the issue of the same. X of 1882.

(3) If it appears to such member of committee or officer or sub-committee that the person so summoned has committed any such offence, he may give such person the option of compounding for the offence by payment of a specified sum of money not exceeding one rupee:

Provided that, when the offence is a continuing one, no such composition shall be accepted unless the offence is first discontinued.

(4) If such person elect to pay the sum of money in consideration of which he is allowed to compound, and pay the same to such member of committee or officer or sub-committee, no further proceedings shall be taken against him for the offence which has been so compounded.

(5) Such member of committee or officer or sub-committee shall keep a book in which he or it shall enter at the time all cases of persons against whom he or it takes action under this section, with the nature of the offence charged, and, should such person appear to him or it to have committed any such offence, the nature of the offence committed, and, if he is allowed to compound for such offence and elects to do so, the sum demanded by way of composition, and the sum received.

(6) All sums received by way of composition under this section shall be paid, as soon as conveniently may be, to the credit of the municipal fund.

CHAPTER V.

CONTROL.

[N.W.P. Bill, section 55; Panjáb Local Self-government Bill, section 50.]

Control by Commissioner and Deputy Commissioner.

90. *(1)* The Commissioner of the division or the Deputy Commissioner of the district (not being a member of the committee) may—

(a) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district,

Panjáb Municipal Bill, 1883.
(Chapter V.—Control.)

respectively, occupied by any committee or joint committee, or any work in progress within those limits under its direction;

(*b*) by order in writing call for and inspect any book or document in the possession or under the control of any committee or joint committee having authority within the said limits;

(*c*) by order in writing require such committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the committee as he may think fit to call for; and

(*d*) record in writing, for the consideration of such committee or joint committee, any observations he may think proper in regard to the proceedings or duties of the committee.

(*2*) Every committee shall regularly submit copies of all its proceedings to the Deputy Commissioner, and shall further submit such periodical reports to the Deputy Commissioner or other authority as the Local Government may, from time to time, direct.

[N.W.P. Bill, section 56; Panjáb Local Self-government Bill, section 51.]

91. The Commissioner of the division or the Deputy Commissioner of the district may, by order in writing, suspend, within the division or district respectively, the execution of any resolution or order of the committee or joint committee, or prohibit the doing of any act within the said limits which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

Power to suspend action of committee.

[N.W.P. Bill, section 57; Panjáb Local Self-government Bill, section 52; Act I of 1883, section 30.]

92. (*1*) In cases of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or of doing the act shall be forthwith paid by the committee.

Extraordinary powers of Deputy Commissioner in case of emergency.

(*2*) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance, in priority to all other charges against the same.

[Panjáb Local Self-government Bill, section 53.]

93. (*1*) When the Commissioner, after due enquiry, is satisfied that a committee of the first class has made default in performing any duty imposed upon it by or under this Act, he may, by an order in writing, fix a period for the performance of that duty; and, if it is not performed within the period so fixed, he may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as he may fix, by the committee to such person.

Power to provide for performance of duties in case of default of committee.

(*2*) If the expense is not so paid, the Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance, in priority to all other charges against the same.

(*3*) The Deputy Commissioner shall have the same powers with respect to committees of the second class as are by this section conferred upon the Commissioner with respect to committees of the first class.

[Panjáb Local Self-government Bill, section 54.]

94. When a Deputy Commissioner makes any order under section 91, section 92 or section 93, he shall forthwith forward to the Local Government through the Commissioner a copy thereof, with a statement of the reasons for making it; and when the Commissioner makes any order under section 91 or section 93, he shall forthwith forward to the Local Government a copy thereof, with a statement of the reasons for making it and with any explanation which the committee may wish to record.

Action of Deputy Commissioner or Commissioner to be immediately reported.

[Panjáb Local Self-government Bill, section 49, and part of 50.]

95. (*1*) It shall be the duty of the Local Government and of all Commissioners and Deputy Commissioners acting under its orders to require that the proceedings of committees shall be in conformity with law and with the rules in force thereunder; and the Local Government may exercise all powers necessary for this purpose, and may, amongst other things, by order in writing, annul or modify any such proceeding which it shall consider not to be in conformity with law and with the said rules.

Powers of Local Government and its officers over committees.

(*2*) The Commissioner of the division and the Deputy Commissioner of the district may, within their jurisdiction for the same purpose, exercise such powers as may be, from time to time, conferred upon them by rule made in this behalf by the Local Government.

[N. W. P. Bill, section 59; Panjáb Local Self-government Bill, sections 55 to 57.]

96. (*1*) If a committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by notification, in which the reasons for so doing shall be stated, declare the committee to be superseded:

Power of Local Government to supersede committee in case of incompetency, persistent default or abuse of powers.

Provided that, in case of public emergency, such notification may be issued without the previous approval of the Governor General in Council.

(*2*) When a committee is so superseded, the following consequences shall ensue:—

(*a*) All members of the committee shall, from the date of the notification, vacate their offices as such members:

(*b*) All powers and duties of the committee may, until the committee is reconstituted, be exercised and performed by such person as the Local Government, from time to time, appoints in that behalf:

(*c*) All property vested in the committee shall, until the committee is reconstituted, vest in Her Majesty.

Panjáb Municipal Bill, 1883.
(Chapter VI.—Miscellaneous.)

(*3*) The Local Government shall, as soon as, in its judgment, conveniently may be, constitute another committee in the place of any committee superseded under this section.

[N. W. P. Bill, section 60; British Burma Bill, section 8.]

97. The Local Government may frame forms for any proceeding of a committee for which it considers that a form should be provided, and make rules consistent with this Act—

Power of Local Government to frame forms and make rules.

(*a*) with respect to the powers and duties of committees in municipalities of the first and of the second class respectively;

(*b*) as to the division of the municipality into wards, or of the inhabitants into classes or both;

(*c*) as to the number of representatives proper for each ward or class;

(*d*) as to the qualifications of electors and of candidates for election;

(*e*) as to the registration of electors;

(*f*) as to the nomination of candidates, the time of election and the mode of recording votes; and

(*g*) generally for regulating all elections under this Act;

(*h*) for the remission of tax on houses unoccupied for the whole or part of the year, and the notice to be given of a house being unoccupied by persons desiring such remission;

(*i*) as to the trades, professions, trades and callings liable to be taxed in any municipality, the registration and classification of persons engaged therein, the rates at which they may be taxed, the preparation of lists of persons to be taxed, and the penalty to which they shall be liable for practising or trading without payment of the tax;

(*j*) as to the statements of vehicles and animals liable to taxation under this Act to be furnished by the owners or persons in charge of them, the rates at which they may be taxed, the issue of licenses for them on payment of tax, and the penalty for keeping them without a license;

(*k*) as to the classes of menial and domestic servants liable to taxation in any municipality, the rate at which they may be taxed, the returns of such servants to be furnished by the masters, and the time when the masters shall pay the tax imposed in respect of such servants;

(*l*) as to the exhibition of tables of octroi tax, the system under which refunds shall be made on account of that tax when the goods on which the tax was paid are again exported, and the storage of goods declared not to be intended for consumption or use within the municipality into which they are brought;

(*m*) as to the rates of toll chargeable on vehicles or animals entering the municipality, or boats moored therein, the exhibition of tables shewing such rates, the exemptions to be made, and the terms on which residents outside municipal limits may compound for such tolls; and

(*n*) generally as to the assessment and collection of taxes imposed under this Act;

(*o*) as to the authority on which money may be paid from the municipal fund;

(*p*) as to the conditions on which property vested in the committee may be transferred by sale, mortgage, lease, exchange or otherwise;

(*q*) as to the intermediate office or offices, if any, through which correspondence between committees or members of committees and the Local Government or officers of that Government shall pass;

(*r*) as to the preparation of plans and estimates for works to be partly or wholly constructed at the expense of committees, and as to the person by whom, and the conditions subject to which, such plans and estimates may be sanctioned;

(*s*) as to the accounts to be kept by committees, as to the conditions on which such accounts shall be open to inspection by inhabitants paying any tax under the Act, as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(*t*) as to the preparation of estimates of income and expenditure of committees, and as to the person by whom, and the conditions subject to which, such estimates may be sanctioned;

(*u*) as to the returns, statements and reports to be submitted by committees;

(*v*) as to the powers to be exercised by Commissioners and Deputy Commissioners under section 95;

(*w*) as to the language in which business shall be transacted; and

(*x*) for the guidance of committees acting under sections 26, 29, 67, 73 and 76, and generally for the guidance of committees and public officers in all matters connected with the carrying out of this Act.

CHAPTER VI.

MISCELLANEOUS.

[N. W. P. Bill, section 61; Panjáb Local Self-government Bill, section 71; Act IV of 1873, section 39; Madras Act III of 1871, section 33; Bombay Act VI of 1873, section 13; and Bengal Act V of 1876, section 67.]

98. If any member or servant of a committee is directly or indirectly interested in any contract made with the committee, he shall be thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine which may extend to five hundred rupees:

Members, officers or servants of committees not to be interested in contracts with the committee.

Provided that no person shall, by reason of being a shareholder in, or member of, any incorporated or registered company, be held to be interested in any contract entered into between such company and the committee.

Panjáb Municipal Bill, 1883.
(Chapter VII.—Supplemental and Temporary Provisions.)

[This clause was omitted in Act XV of 1873, having appeared in Acts IV & XI of 1873. It was restored in Act VII of 1874.] [Panjáb Local Self-government Bill, section 66; Madras Act III of 1871, section 168; Bombay Act VI of 1873, section 86; and Civil Procedure Code, section 424.]

Nevertheless, it shall not be lawful for such shareholder or member to act as a member of the committee in any matter relating to such contract.

Suits against committees or their officers.

99. *(1)* No suit for compensation for anything done or purporting to be done, or for the omission of anything which ought to have been done, under this Act shall be brought against a committee, or any of its officers, or any person acting under its direction, until the expiration of one month next after notice in writing has been delivered or left at the office of the committee or at the place of abode of such person, stating the circumstances constituting the cause of action and the name or place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left.

(2) Every such suit shall be commenced within six months next after the accrual of the right to sue, and not afterwards.

(3) And if any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

[Act IV of 1873, section 39; Act XV of 1873, section 42; Act VII of 1874, section 39; N. W. P. Bill, section 63.]

Liability of members for loss, waste or misapplication.

100. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to the committee, to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty as member of committee; and he shall be liable to be sued for compensation for the same, in such Court as the Local Government directs, by the committee with the sanction of the Commissioner or by the Local Government.

[Act IV of 1873, section 39; British Burma Bill, section 68; Criminal Procedure Code, section 555.]

Prosecutions for infringement of rules.

101. *(1)* Prosecutions under this Act for the infringement of rules may be instituted by the committee or by any person authorized by it in this behalf and not otherwise.

X of 1882.

(2) A member of committee under this Act shall be deemed to be a municipal commissioner within the meaning of section 555, Criminal Procedure Code.

[N. W. P. Bill, section 65; Panjáb Local Self-government Bill, section 69.]

X of 1870.

Acquisition of land.

102. Where any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the committee of the compensation awarded under that Act, and of any other charges incurred in acquiring the land, the land shall vest in the committee.

[See Act X of 1870, s. 56.]

[N. W. P. Bill sects 66]

Procedure for making rules.

103. *(1)* The authority empowered to make rules under section 7, section 67, section 71, section 72 or section 97 shall, before making them, publish, in such manner as may, in its opinion, be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or any suggestion which may be made by any person with respect to the draft before the date so specified.

(2) If, on such consideration of the draft, any modification is made, the Local Government shall determine whether it is necessary to republish the draft under this section.

(3) Every rule made under any of the said sections shall be published in the *Panjáb Government Gazette* in English, and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section.

[Criminal Procedure Code, section 557.]

Powers of Governor General in Council and of Local Government exercisable from time to time.

104. All powers conferred by this Act on the Governor General in Council or on the Local Government may be exercised from time to time as occasion requires.

CHAPTER VII.

SUPPLEMENTAL AND TEMPORARY PROVISIONS.

[N. W. P. Bill, section 68.]

Disposal of property vested in Committee when local area is withdrawn from operation of Act.

105. *(1)* When a notification is issued under section 6 in respect of the whole area subject to the authority of a committee, withdrawing that area from the operation of this Act, all property which, at the time of the issue of the notification, is vested in the committee, shall vest in the Local Government, and be applied by it, in such manner as it thinks fit, for the promotion of the health, comfort, convenience or interests of the inhabitants.

(2) When a notification is issued under section 6 in respect of a part of the area under the authority of a committee, withdrawing that part from the operation of this Act, such part of the property vested in the committee as the Commissioner of the division may determine shall vest in the Local Government and be applied as aforesaid.

[N. W. P. Local Boards Bill, section 60.]

Power to except municipality from provisions of Act unsuited thereto.

106. *(1)* If the circumstances of any municipality are such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification, except the municipality from the operation of those provisions; and thereupon those provisions shall not apply to the excepted municipality until again applied thereto by a like notification.

(2) While such exception remains in force, the Local Government may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

[Panjáb Local Self-government Bill, section 72.]

Saving of rights of existing officers and servants.

107. Nothing in or done under this Act shall prejudicially affect the rights of any officer or servant of a committee appointed before the passing of the Act as to tenure of office, salary or pension.

[Panjáb Local Self-government Bill, section 73.]

Geheral powers of Local Government and Commissioners.

108. In all matters connected with this Act, the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

STATEMENT OF OBJECTS AND REASONS.

THE law at present applicable to municipalities in the Panjáb is contained in Act IV of 1873.

2. Except in a few of the larger municipalities, all the members of the municipal committees constituted under that Act have hitherto been nominated; but, for the reasons stated in Panjáb Government Resolution No. 1777, dated 7th September, 1882, it is thought desirable to give the committees a more representative character than they have hitherto had, and for this purpose it is proposed that, unless where special reasons exist against resorting to a system of election, a portion at least of the members of each committee should be chosen by the inhabitants of the municipality.

3. It is further believed that greater powers of initiating action and of controlling the administration and expenditure of their funds for the benefit of the inhabitants of the municipality may with advantage be given to committees than, except in a few of the more important municipalities, they possess under existing rules, if sufficient powers of control are reserved to prevent the interests of the public from being endangered by neglect, abuse of powers or mistake as to the extent of their powers, on the part of the municipal bodies.

4. It would be possible to carry out the measures necessary for these purposes by rules under the existing Act, but the amendment of the Act appears to be a more suitable mode of giving effect to the proposals of the Local Government, and this course has therefore been preferred.

5. It has also for a considerable time past been known that Act IV of 1873 is very defective in omitting to provide for many of the powers with which it is usually considered desirable to invest municipal bodies and their servants, some of which were expressly given by the later Acts, XV of 1873 and VII of 1874, passed for the North-Western Provinces and British Burma respectively; and serious doubts have arisen as to the validity of some of the bye-laws framed to carry out and supplement its provisions, and as to the authority of municipalities to take action which it is important for the public interest that they should have the power to take. The opportunity has therefore been taken to recast the entire Act, after referring to the corresponding Acts in force in other parts of India, with a view to remove the defects which have been brought to light by experience of its working for upwards of ten years.

6. The draft is divided into seven chapters nearly corresponding with those of the North-Western Provinces and Oudh Municipalities Bill, but it differs from that Bill in not proposing to treat the new committees as different bodies from the committees now in existence, and it also enters into greater detail in the chapters on the subjects of taxation and of the powers and duties of committees. In some other respects its provisions are necessarily different, being framed with reference to the peculiar circumstances of the Panjáb, and therefore corresponding more or less closely with those of the Panjáb Local Self-government Bill.

7. The preliminary chapter provides for the repeal of Act IV of 1873, and for the procedure to be adopted when it is proposed to establish a new municipality, to alter the limits of an existing municipality, or to withdraw any local area from the operation of the Act. It also provides for the division of municipalities into two classes, it being considered unnecessary to retain the third class committees, the orders and proceedings of which, under the rules now in force, are subject to the confirmation of the Deputy Commissioner before they can take effect. The power given by section 6 to withdraw any local area from the operation of the Act is required to meet cases in which petty municipalities have been established in places where experience has shown that municipal institutions cannot be continued with advantage, or that a sufficient municipal income cannot be raised without having recourse to forms of taxation which would either be extremely unpopular or would not meet with the approval of Government. The third class committees, where it is not necessary to abolish them for reasons of this nature, can be transferred to the second class.

8. Chapter II relates to the organization of committees. The provisions of section 7, as to the appointment or election of the members, are similar to those of the Local Self-government Bill, and, as in that Bill, the circumstances under which election, when once introduced, may be departed from are defined as far as possible. While the existing Act requires only two-fifths of the members to be other than salaried officers of Government, the Bill raises the proportion to two-thirds unless when such officers are elected as members.

9. The term of office, except in the case of members appointed *ex officio*, is to be fixed by the Local Government, but not to exceed three years, and, when this term is adopted, provision is made for the members retiring by rotation.

10. The provisions as to the removal of members are, with slight variations, the same as those contained in the Local Self-government Bill. The incorporation of committees and the control of transfers of property made by them and of investments by them of money in the public funds are also similarly provided for.

11. Section 15 provides for the election of the chairman by the committee, subject to the approval of the Local Government, unless where Government otherwise orders, but enables the

committee, instead of electing, to apply to the Local Government to appoint a chairman from among its members. Vice-chairmen will also be elected when necessary. The term of office of the chairman is fixed by section 16 at three years, if he so long continues to be a member of the committee, but power is given to the Local Government to remove him, if moved to do so by two-thirds of the members of committee present at a special meeting.

12. Sections 19 to 26 deal with the conduct of business and the framing of rules of business. Section 25, following the precedent of the Madras and Bengal Acts, enable the chairman, or, in his absence, the vice-chairman, in cases of emergency, to exercise all powers of the committee which the Act does not require to be exercised by the committee at a meeting.

13. Section 27 provides for the appointment of joint committees when co-operation between different committees is necessary, as in the Panjáb Local Self-government Bill.

14. Sections 28 to 30 relate to the officers and servants to be employed by committees. Of these, only section 28, which deals with the appointment of a secretary, has no corresponding provision in the Panjáb Local Self-government Bill. When a paid secretary is appointed, his appointment, removal, and salary are made subject to the sanction of the Commissioner, with a view to secure the appointment of a competent man to this important office, and to supply the guarantee against arbitrary dismissal, without which it might be difficult to get a competent man to accept office. The power of control in regard to other appointments, given by section 29 to the Deputy Commissioner, has been made applicable to all committees at the suggestion of the Delhi municipal committee, which considered such a check desirable in all cases.

15. Chapter III, on the subject of taxation and the municipal fund, is much fuller than the provisions of the existing Act upon the same subject. Section 7 of Act IV of 1873, which relates to the imposition of taxes, contains no description of the taxes which may be imposed. Section 33 now specifies the taxes which may, with the previous sanction of the Local Government, be imposed for general purposes, and authorizes the imposition of other taxes, with the previous sanction of the Governor General in Council; section 34 provides for additional taxes on property, when necessary for special objects, such as the improvement of the water-supply; and section 35 describes the tolls and fees which the committee may be empowered to levy; while section 36 prescribes the procedure to be followed in imposing taxes; and section 37 provides for exemptions. Some of the taxes specified, such as a tax on professions and tolls on vehicles and animals, are not at present levied in any municipality in the province; but it has been considered desirable to include them, as it may, in some cases, be necessary to find a substitute for octroi, which forms the chief source of income in almost all Panjáb municipalities, and these taxes have been resorted to for this purpose in other provinces. In the case of tolls, it is expressly provided that they may be imposed only where no octroi is levied. Other taxes are at present sanctioned for particular municipalities such as Simla, and it has therefore been necessary to include them, without reference to whether they are suitable for adoption in other cases.

16. Section 8, Act IV of 1873, prohibits the collection of taxes until the assessment has been confirmed as prescribed by rules made by the Local Government. This provision, which, however appropriate in the case of direct taxes, is clearly inapplicable to indirect taxes like the octroi, has been omitted from the present Bill, but sections 39 to 48 lay down rules for the assessment, confirmation and collection of taxes on immoveable property; and sections 49 and 50 provide for the collection of the octroi tax; while section 97 empowers the Local Government to make rules as to the assessment and collection of other taxes.

17. Section 51 gives a power to lease octroi and tolls, which is believed not to exist under the present Act, but which is likely to be found useful in some cases.

18. Section 52 enables the committee to call for returns and to enter premises in order to obtain such information as they may require for purposes of taxation.

19. Appeals against taxes or assessments are provided for by sections 55 to 57.

20. Under section 9 of Act IV of 1873, municipal taxes may be collected as if they were arrears of land-revenue. It is not proposed to maintain this rule now that committees are about to be placed in a more independent position than hitherto, and it is not well adapted to indirect taxes like the octroi. Power is, therefore, given by section 49 to seize any articles on which any octroi, tax or toll is chargeable in default of payment, and to recover arrears of taxes generally by distress and sale under the orders of a Magistrate.

21. Chapter IV deals with the subject of the powers and duties of committees, and is also much more in detail than the corresponding sections of Act IV of 1873.

22. Sections 60 to 65 relate to the municipal police. It is necessary to maintain the liability of the municipal fund for the charges of the establishment ordinarily employed on police-duty within municipal limits, as, when the Local Government takes over such charges, this will usually be done in consideration of the committee agreeing to undertake services within the municipality to which the municipal fund can properly be applied, the cost of which has hitherto been borne by Government, and such agreements may be for a limited period and have to be renewed from time to time. Section 61 provides for agreements of this nature.

23. The police-establishment may consist either of a part of the general police force or of a body of watchmen, as the Local Government thinks fit; and section 62 enables the

Local Government to regulate its duties in either case, and, where it is a body of watchmen, to fix its strength and the grades and pay of its members; and makes provisions for the powers, protection, responsibilities and punishment of the members of such body, which are considered to be more suitable than those contained in Act XXIV of 1881, which is the present law on the subject.

24. It is not the practice to entertain separate establishments for the preservation of the peace and the prevention of crime and for watch and ward, members of the general police force or municipal watchmen, as the case may be, being employed on both duties; and it is held to be desirable that they should continue to be available for both duties. Sections 62 to 64 therefore place municipal watchmen on a similar footing to members of the general police force, so far as is possible without enrolling them in that force, bringing them under the same rules as to pay and pension, and making them liable to general service. It is therefore proposed to place them under the orders of the District Superintendent of Police, and the Local Government may relieve committees of any charge for them, in the same way as it may do where a police-establishment enrolled under Act V of 1861 is entertained.

25. Section 66 gives a more detailed statement of the duties of municipal committees and the purposes to which the municipal fund may be applied than is to be found in section 11 of the present Act.

26. Sections 67 to 70 give powers to make rules prohibiting acts of the nature of nuisances. The powers to issue injunctions, and to make conditional orders for the removal of nuisances, have not hitherto been conferred upon committees in the Panjáb, but are taken, with some modifications, from the Municipal Acts in force in the North-Western Provinces and British Burma.

27. Section 71 specifies other purposes for which committees may make rules binding on the public, and section 72 adds a special power to committees in hill stations to make rules on subjects which, in such localities, it has been found necessary to enable committees to regulate. The confirmation of such rules, and the penalties incurred by infringing them, are provided for by section 73. Section 21 of the present Act prescribes a uniform penalty, but it has been thought better to enable the committees, when making a rule, to attach to it an appropriate penalty.

28. Sections 74 to 85 give powers of interference with trades and rights of property which have hitherto usually been taken in bye-laws. Such powers are expressly given in the Municipal Acts of the Bengal, Madras and Bombay Legislatures, and it has been thought better to give them in the Bill than to leave them to depend upon the authority of bye-laws. They may not be required in some of the minor municipalities, but a subsequent provision will admit of these municipalities being excepted from this part of the Bill.

29. Section 89 enables the Local Government to invest members of committee or officers of the committee by name or [illegible] offences punishable under section 67 before a Magistrate, and to accept composition for such offences from persons who are willing to pay such composition in preference to appearing before a Magistrate to answer the charge. A provision of this nature was suggested by the Local Government as likely to be suitable in places like Simla, in reply to a proposal to give the secretary to the committee the powers of a Magistrate for the disposal of petty cases of nuisance; and, as the section is framed, no such power will exist unless where the Local Government thinks proper to confer it.

30. Chapter V, relating to control, differs in no material respect from the corresponding provisions of the Panjáb Local Self-government Bill.

31. Section 97 enables the Local Government to prescribe such forms as it may consider necessary, and specifies the subjects on which it may make rules supplementary to the provisions of the Act.

32. Chapter VI contains miscellaneous provisions as to the effect of a member or servant of a committee being interested in any contract with the committee, the liabilities of members, suit against committees, prosecutions for infringement of rules, the acquisition of land, the procedure to be followed in making rules, and the like.

33. Chapter VII provides for the disposal of property vested in committees when the area subject to their authority or part thereof is withdrawn from the operation of the Act under section 6; for excepting municipalities from any provisions of the Act unsuitable thereto; and, in the same way as in the Local Self-government Bill, for the saving of the rights of existing officers and servants, and for the control to which Commissioners and Deputy Commissioners are to be subject in the discharge of their duties under the Act.

D. G. BARKLEY.

The 3rd September, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 22, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th September, 1883:—

No. 20 OF 1883.

THE PANJÁB MUNICIPAL BILL, 1883.

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Panjáb Municipal Bill, 1883.
(Chapter I.—Preliminary.)

A Bill to make better provision for the organization and administration of Municipalities in the Panjáb.

WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the Panjáb; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

[Act IV of 1873, section 1.]

1. (*1*) This Act may be called the Panjáb Municipal Act, 1883:

Short title.

(*2*) It extends only to the territories under the Government of the Lieutenant-Governor of the Panjáb:

Local extent.

Commencement.

(*3*) And it shall come into force on the passing thereof.

[Act IV of 1873, section 2.]

2. (*1*) Act IV of 1873 (the Panjáb Municipal Act, 1873) is hereby repealed.

Repeal of Act IV of 1873.

(*2*) But all extensions and appointments made, and all limits defined, under the said Act shall be deemed to be respectively made and defined under this Act, and an extension of any particular provision of the said Act shall be deemed to be an extension of the corresponding provision of this Act:

Provided that, when a first election is held under this Act in any municipality, the term of office of any member of committee appointed before this Act comes into force shall cease when the elected members take office, unless the Local Government shall otherwise direct.

(*3*) And all taxes imposed and sanctioned under the said Act shall be deemed to have been imposed and sanctioned under this Act.

(*4*) And all assessments, bye-laws, rules and regulations of any kind, relating to matters provided for by this Act, which may heretofore have been made or approved by the Local Government, shall be deemed to have been made under this Act.

(*5*) And all proceedings taken under any such assessment, bye-law, rule or regulation shall be deemed to be as valid as if they had been taken under this Act.

3. 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 group of towns to which this Act is applied:

"Inhabitant" means any person ordinarily residing or carrying on business, or possessing immoveable property, and any person declared by the Local Government to be an inhabitant, in any town to which this Act applies, or to which the Local Government has by notification declared its intention to apply it:

"Street" means any way, road, street, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way; and also the roadway and footway over any public bridge or causeway:

"Owner" includes the person for the time being receiving the rent of lands and buildings, or either of them, whether on his own account or as agent or trustee for any other person or society, or for any religious or charitable purpose, or who would receive the same if the land or building were let to a tenant:

Provided that no such agent or trustee shall be liable to do anything required by this Act to be done by the owner unless he has in his possession sufficient funds belonging to the owner to pay for the same; nor shall he be subject to any penalty for omitting to do such act if he can prove that he had not in his possession funds belonging to the owner sufficient for the purpose:

"Casual vacancy" means a vacancy occurring in a committee by the death, resignation or removal of a member of committee:

"Notification" means a notification published by authority of the Local Government in the *Panjáb Government Gazette*:

"Prescribed" means prescribed by rules made by the Local Government under this Act.

[Act IV of 1873, section 4, sub-section 1, and section 5; N.-W. P. Bill, section 3.]

4. (*1*) The Local Government may, from time to time, by notification, declare its intention to apply this Act or any of its provisions to any town or group of towns in the territories under such Government.

Notification of intention to apply Act.

(*2*) Every such notification shall define the limits of the town or group of towns to which it relates, and may include within those limits any railway-station, village, building or land in the vicinity of any such town:

Provided that it shall not, without the consent of the Governor General in Council, so include any military cantonment.

[New.]

(*3*) A copy of every notification under this section, together with a translation of the same in the local vernacular, shall be affixed in some conspicuous place in the court-house of the district in which the town or group of towns to which it relates is situate, and in one or more conspicuous places in such town or group of towns; and the Deputy Commissioner shall certify to the Local Government the date on which the copy and translation aforesaid were so affixed. The date so certified shall be deemed to be the date of publication of the notification.

Publication of notification

[Act IV of 1873, section 4, sub-sections 2 & 3; N.-W. P. Bill, section 4.]

5. (*1*) If any inhabitant objects to the application of the Act, or of the provisions thereof specified in the notification, he may, within six weeks from the date of publication of the notification, submit his objection in writing through the Deputy Commissioner to the Local Government; and the Local Government shall take his objection into consideration.

Objection to such application.

(*2*) When six weeks from the date of the said publication have expired, and the Local Government has considered and passed orders upon any such objections which may have been submitted to it, the Local Government may, by notification, declare such town or group of towns to be, for the purposes of this Act, a municipality of the first or second class, and apply this Act or the provisions thereof specified in the notification to such municipality.

Procedure thereon.

Panjáb Municipal Bill, 1883.
(Chapter II.—Organization of Committees.)

[Bengal Act V of 1876, s. 10; Panjáb Local Self-government Bill, s. 5.]

6. The Local Government may, at any time, by notification, alter the limits of any municipality, or order that it be transferred from one class to another, or withdraw any local area to which this Act or any of its provisions may have been applied or extended from the operation of this Act or of the said provisions:

Alteration of limits of municipalities, transfer from one class to another, and withdrawal from operation of the Act.

Provided that, when such notification applies this Act or any of its provisions to any local area not previously subject thereto, it shall not be published unless and until the provisions of section 4 and section 5, sub-section (1), have been complied with, and the period specified in section 5, sub-section (2), has expired, and all objections submitted to the Local Government have been disposed of as in that sub-section provided.

CHAPTER II.

ORGANIZATION OF COMMITTEES.

Constitution of Committees.

[Act IV of 1876, s. 6; Panjáb Local Self-government Bill, ss. 8 and 6.]

7. *(1)* There shall be established by notification for each municipality a committee having authority over such municipality, and consisting of such number of members, not less than six, as the Local Government may direct.

Constitution of committees, and number, appointment and election of members.

(2) Such members may be appointed by the Local Government, either by name or by official designation, or may be elected from among the inhabitants in accordance with rules made under this Act, or some may be appointed and some elected as the Local Government may direct:

Provided that—

(1) when the Local Government has directed that all or any of the members shall be elected, they shall not be appointed by the Local Government unless—

(a) the electors do not elect a sufficient number of members; or

(b) a sufficient number of candidates do not present themselves for election; or

(c) a majority of the electors declare that they so desire; or

(d) by order of the Local Government, subject to the sanction of the Governor General in Council, for any other good and sufficient reason affecting the public interests:

(2) except with the approval of the Governor General in Council, not less than two-thirds of the members of every committee shall be persons other than salaried officers of Government unless such officers are elected as members.

[New.]

8. If the Local Government is satisfied that any candidate elected as member of committee has been guilty of corrupt practices at his election, the election of such candidate shall be cancelled.

Disqualification for corrupt practices.

[N.-W. P. Bill, section 11; Madras Act III of 1871, section 7.]

9. *(1)* Members of committee, except those who have been appointed by official designation, shall hold office for such term, not exceeding three years, as shall be fixed by the Local Government, or until their successors have been elected or appointed.

Term of office.

(2) When the Local Government has directed that the members of a committee or any of them shall be elected and shall hold office for a term of three years, one-third, as nearly as may be, of the members elected at the first election thereafter held shall vacate office at the end of one year, and one-third, as nearly as may be, at the end of two years from the date of assuming office.

(3) The members who shall vacate office at the end of the first and of the second year, respectively, shall be determined either by voluntary arrangement among the members or by lot:

Provided that, if an elected member be chairman of the committee, he shall not be required to vacate office as member by lot during his term of office as chairman.

(4) An outgoing member shall, if otherwise qualified, be eligible for re-election or re-appointment.

[Pajnáb Local Self-government Bill, section 7; N.-W. P. Bill, section 13.]

10. *(1)* The Local Government may at any time remove any member of committee appointed by name or by his official designation.

Removal of member.

(2) The Local Government may remove any member of committee chosen by election—

(a) if such member refuses to act, or becomes, in the opinion of the Local Government, incapable of acting;

(b) if he is declared an insolvent, or is proscribed from employment under Government, or is convicted of any such offence, or subjected by a criminal Court to any such order as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member;

(c) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace or order, or, when he is a salaried officer of Government, inconsistent with the proper discharge of his official functions;

(d) if for three consecutive months he is absent from the meetings of the committee unless with its permission.

(3) Members removed under clauses (*b*) and (*c*) shall be disqualified for election unless with the previous sanction of the Local Government.

[N.-W. P. Bill, section 12.]

11. Any member of committee may signify to the Local Government in writing his intention or wish to resign his office; and, on such resignation being accepted by the Local Government, his office shall become vacant.

Resignation of members.

[Panjáb Local Self-government Bill, section 7, sub-section (4).]

12. *(1)* The Local Government may either empower committees to fill up casual vacancies among the members or, subject to the provisions of section 7, appoint members to fill such vacancies or cause them to be filled up by election.

Filling up casual vacancies.

[N.-W. P. Bill, section 14, sub-section (3).]

(2) Every member of committee so chosen shall be deemed to be an elected member, and shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office; but shall, if otherwise qualified, be eligible for re-election.

Panjáb Municipal Bill, 1883.

(Chapter II.—Organization of Committees.)

[Panjáb Local Self-government Bill, section 3; N.-W. P. Bill, section 15; Madras Act III of 1871, s. 36; Bombay Act VI of 1873, s. 26.]

13. Every committee shall be a body corporate by the name of the municipal committee of its municipality, and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to rules from time to time made by the Local Government in this behalf, to transfer any property held by it, to invest any sums not required for current charges in Government securities or in any other form of security which may be approved of by the Local Government, and from time to time to dispose of such securities as may be necessary, and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Incorporation of committee.

[N. W. P. Bill, section 1.]

14. A committee shall come into existence at such time as the Local Government may, by notification, appoint in this behalf.

Time when committee shall come into existence.

Chairman and Vice-Chairman.

[N. W. P. Bill, sections 18 & 20.]

15. *(1)* Every committee shall, from time to time, elect one of its members to be chairman, and such member shall, after the election is approved by the Local Government, become chairman of the committee:

Election or appointment of chairman or vice-chairman.

Provided that the committee, instead of electing, may apply to the Local Government to appoint a chairman from among its members, and that the Local Government may, by notification, exclude any committee from the operation of this clause; and that in either of these cases, or if no election is made within one month from the occurrence of a vacancy in the office of chairman, or if the person elected is not approved, the Local Government may, if it thinks fit, appoint one of the members of the committee to be chairman.

(2) Every committee may also, from time to time, elect one or two of its members to be vice-chairman or vice-chairmen.

16. *(1)* A chairman shall hold office for three years, and a vice-chairman shall hold office for such term as the committee may, by rule, determine.

Term of office of chairman and vice-chairman.

New.] *(2)* A chairman or vice-chairman shall vacate office as such when he ceases to be a member of committee, or tenders in writing to the committee his resignation of his office as chairman or vice-chairman, or becomes, in the opinion of the Local Government, incapable of acting; and he may be removed from such office by the Local Government if moved to do so by resolution passed by two-thirds of the members present at a special meeting.

Determination of office.

(3) Every resignation of office tendered under this section shall be reported, as soon as may be, to the Deputy Commissioner.

17. If a chairman or vice-chairman refuses to act, or vacates or is removed from his office as such, another chairman or vice-chairman shall be elected or appointed, as the case may be.

Casual vacancies in office of chairman or vice-chairman.

Notification of Elections, Appointments, &c.

[N. W. P. Bill, section 23; Act IV of 1873, section 6.]

18. All elections and appointments of members of committees and of chairmen of committees, and all determinations of the office of such members otherwise than by the expiration of their term of office, shall be notified in the *Panjáb Government Gazette*. No such election or appointment shall take effect until it is so notified.

Notification of elections, appointments, &c.

Conduct of Business.

[N. W. P. Bill, section 28.]

19. At every meeting of committee the chairman, if present, shall preside. If the office of chairman is vacant, or the chairman is absent from the meeting, and there is a vice-chairman, the vice-chairman, if present, shall preside. If neither chairman nor vice-chairman be present, the members present shall elect one of their number to be chairman of the meeting.

Chairman of meeting.

[N. W. P. Bill, section 25; Bengal Act V of 1876, s. 40, clause 2.]

20. *(1)* Every committee shall meet for the transaction of business, at least once in every month, at such time as may be fixed by its rules of business, and also at the time to which any such meeting may be adjourned under such rules:

Time of meeting.

Provided that, if there be no business to be laid before a committee at any monthly meeting, the chairman may give notice of the same to each member of committee three days before the time appointed for such meeting, and, when such notice is given, the meeting shall not be held.

(2) The chairman, or, in his absence, the vice-chairman, if any, may, whenever he thinks fit, and shall, upon a requisition made in writing by not less than one-fourth of the members of the committee, convene a meeting at any other reasonable time.

[N. W. P. Bill, section 26.]

21. *(1)* Meetings of committee shall be either ordinary or special.

Ordinary and special meetings.

(2) All business may be transacted at an ordinary meeting which is not required by this Act or by any rules made thereunder to be transacted at a special meeting.

[N. W. P. Bill, section 27.]

22. *(1)* The quorum necessary for the transaction of business at a special meeting of committee shall be one-half of the members of committee for the time being.

Quorum.

(2) The quorum necessary for the transaction of business at an ordinary meeting of committee shall be such number of the members of committee, not less than three, as may from time to time be fixed by its rules of business.

(3) If at any meeting of committee a quorum is not present, the chairman, or in his absence the vice-chairman, may adjourn the meeting to such other day as he thinks fit. Notice of such adjourned meeting shall be given in the manner required by the rules of business, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting, whether there is a quorum present thereat or not.

Panjáb Municipal Bill, 1883.
(Chapter II.—Organization of Committees.)

[N. W. P. Bill, section 29.]

23. Except as otherwise provided by this Act or by rules made under this Act, all questions which may come before any meeting of committee shall be decided by a majority of the votes of the members present, the chairman of the meeting, in case of an equality of votes, having a second or casting vote.

Vote of majority decisive.

[Madras Act III of 1871, section 25; N. W. P. Bill, section 31.]

24. *(1)* Minutes of the proceedings at each meeting of committee shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the chairman of the meeting or of the next ensuing meeting, and shall be published in such manner as the Local Government may, from time to time, direct, and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant who pays any tax under this Act.

Record and publication of proceedings.

(2) A copy of all such minutes shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner of the district.

Madras Act III of 1871, s. 27; Bengal Act V of 1876, ss. 46 and 47.]

25. In case of emergency, the chairman of the committee, or in his absence the vice-chairman, shall exercise all powers vested in the committee by this Act or by any rules made thereunder, unless it is by this Act expressly declared that such power shall be exercised by the committee at a meeting:

Exercise by chairman or vice-chairman of powers of committee.

Provided that the chairman or vice-chairman shall not act in opposition to, or in contravention of, any order of the committee at a meeting.

[N. W. P. Bill, section 32; Act IV of 1873, section 18.]

26. *(1)* Every committee may, from time to time, at a special meeting, make rules consistent with this Act and with any rules made by the Local Government as to—

Rules of business.

(a) the time and place of its meetings;

(b) the manner in which notice of ordinary and special meetings and adjourned meetings shall be given;

(c) the quorum necessary for the transaction of business at ordinary meetings;

(d) the conduct of proceedings at meetings and the adjournment of meetings;

(e) the custody of the common seal and the purposes for which it shall be used;

(f) the division of duties among the members of the committee;

(g) the powers to be exercised by sub-committees or members to whom particular duties have been assigned;

(h) the persons by whom receipts may be granted on behalf of the committee for money paid under this Act;

(i) the appointment, leave, suspension and removal of its officers and servants;

(j) the term for which the vice-chairman shall hold office; and

(k) all other similar matters.

(2) Every rule made under this section shall be published in such manner as the Local Government may, from time to time, direct.

Joint Committees.

[N. W. P. Bill, section 34; Panjáb Local Self-government Bill, section 36.]

27. *(1)* A committee may, from time to time, concur with any other local authority in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such joint committee, and in delegating to such joint committee any power which might be exercised by either or any of the local authorities so concurring, and in framing and modifying regulations as to the proceedings of such joint committee, and as to the conduct of correspondence relating to the purpose for which such joint committee is appointed.

Joint committees.

[N. W. P. Bill, section 24; Panjáb Local Self-government Bill, section 45.]

(2) If any difference of opinion arises between local authorities acting under this section, it shall be referred to—

(a) the Deputy Commissioner, if the local authorities are in the same district,

(b) the Commissioner of the division, if the local authorities are in different districts in the same division, or if they are in different divisions, the Commissioners of such divisions, when they can agree as to the decision of the case, and

(c) the Local Government, if the local authorities are in different divisions, and the Commissioners of such divisions cannot agree as to the decision of the case;

and when such reference is made, the decision thereupon of the Deputy Commissioner, Commissioner or Local Government shall be final.

Explanation.—In this section "local authority" means a municipal committee, district committee, local board or cantonment authority.

Officers and Servants.

[N. W. P. Bill, section 33.]

28. *(1)* Every committee shall, from time to time, at a special meeting, appoint one or more of its members, or, with the sanction of the Commissioner of the division, any other person, to be its secretary, and may, at a like meeting, with the same sanction, remove any person so appointed.

Appointment of secretary.

(2) A member of committee appointed as secretary shall receive no remuneration in respect of his services. When any other person is appointed to be secretary, the committee may, with the previous sanction of the Commissioner, assign to him such pay as it thinks fit.

[Panjáb Local Self-government Bill, section 40; N. W. P. Bill, section 34.]

29. *(1)* Subject to the other provisions of this Act and to any rules made in this behalf, every committee may employ and pay such other officers and servants not being members of the committee as may be necessary and proper for the efficient execution of its duties:

Employment of other officers and servants.

Provided that if, at any time, in the opinion of the Deputy Commissioner,

(a) the number of persons employed by the committee, or the remuneration assigned to those persons, or to any of them, is excessive, or

(b) any such person is unfit for his employment,

the committee shall, on the requirement of the Deputy Commissioner, reduce the number or

Panjáb Municipal Bill, 1883.
Chapter III.—Taxation and Municipal Fund.)

remuneration of such persons, or, as the case may be, dismiss the unfit person.

(2) If the committee is dissatisfied with such requirement, it may appeal against it to the Commissioner of the division, whose decision shall be final.

[Panjáb Local Self-government Bill, sections 47 and 48; Act I of 1883, section 11.]

Pensions to establishments.

30. *(1)* In the case of Government officials, any committee may—

(a) if the services of such officials are wholly lent to it, contribute to their pensions, gratuities and leave-allowances in accordance with the Government Leave and Pension Code for the time being in force; and

[New.]

(b) if such officials devote only a part of their time to the performance of duties in behalf of the committee, contribute to their pensions, gratuities and leave-allowances in such proportion as may be determined by the Government.

(2) In the case of servants, not being Government officials, any committee may—

(1) grant leave-allowances, and, in the case of servants appointed before the passing of this Act and not entitled to pension, and of servants drawing less then ten rupees a month, gratuities to such servants; and

(2) if empowered in this behalf by the Local Government—

(a) subscribe in behalf of such servants for [illegible] Leave-allowances [illegible] and Pension Code for the time being in force;

(b) purchase from the Government or otherwise annuities for such servants on their retirement:

Provided that such pensions, gratuities, leave-allowances and annuities shall in no case exceed the sum to which, under the Government Leave and Pension Code for the time being in force, such servants would be entitled if the service had been service under Government.

Contracts.

W. P. Bill, n 35.]

31. *(1)* The committee of a municipality of the first class may delegate to one or more of its members the power of entering on its behalf into any contract whereof the value or amount does not exceed [illegible].

Authority to contract.

(2) No contract whereof the value or amount exceeds two hundred rupees shall be executed until it has been sanctioned at a meeting of the committee.

W. P. Bill, n 36; IV of 3, section

32. *(1)* Every contract made by or on behalf of a committee whereof the value or amount exceeds twenty rupees shall be in writing, and shall be signed by the chairman or vice-chairman and the secretary, if he is a member of committee, and, if the secretary is not a member of committee, by another member:

Mode of executing contracts.

Provided that, when the power of entering into any contract on behalf of the committee has been delegated under the preceding section, the members so empowered may execute such contract.

(2) A transfer of immoveable property belonging to the committee must be made by an instrument in writing, executed by the chairman or vice-chairman, and by at least two other members of the committee.

(3) No contract or transfer executed otherwise than in conformity with the provisions of this section shall be binding on the committee:

Provided that this shall not affect any liability of the committee under section 70 of the Indian Contract Act to make compensation for any benefit received. IX of 1872.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

[Act XV of 1873, section 16; Act VII of 1874, section 12; N.W. P. Bill, section 37.]

33. Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, a committee may, for the purposes of this Act, in the manner hereinafter provided, impose any of the following taxes, namely:—

Taxes which may be imposed.

(1) with the previous sanction of the Local Government—

(a) a tax on houses, buildings and lands, either

(i) not exceeding 7½ per cent. on the annual value thereof; or

(ii) not exceeding one anna per square yard; or

(iii) not exceeding three rupees per running foot of frontage in streets or bázárs;

(b) a tax on persons practising arts or professions or carrying on trades or callings in the municipality;

(c) a tax on vehicles, boats, animals used for riding, driving, draught or burden, and dogs, kept within the municipality;

(d) a tax on menial and domestic servants;

(e) an octroi on animals for slaughter and goods brought within the octroi limits for consumption or use therein; and

(2) with the previous sanction of the Local Government and of the Governor General in Council, any other tax.

[Act VII of 1874, section 13.]

34. *(1)* To provide further funds for the following purposes, or any of them, namely:—

Additional taxes for special objects.

(a) the lighting of streets, roads and public thoroughfares;

(b) the supply, storage and preservation from pollution of water for drinking and cooking purposes;

(c) any special work approved by the Local Government for promoting the health, comfort or convenience of the inhabitants;

a committee may (subject to the rules or orders last aforesaid) in the manner hereinafter provided, and with the previous sanction of the Local

Government, impose, in addition to any taxes imposed under section 33, a tax on houses, buildings and lands, either

(i) not exceeding 2½ per cent. on the annual value thereof; or

(ii) not exceeding 4 pies per square yard; or

(iii) not exceeding one rupee per running foot of frontage in streets or bázárs.

(2) A separate account shall be kept of the receipts and expenditure of every tax levied under this section.

[Madras Act III of 1871, s. 41; Bengal Act V of 1876, s. 92.]

Annual value.

Explanation.—In this and the last preceding section, "annual value" means the annual rent for which houses, buildings and lands liable to taxation may reasonably be expected to let:

Provided that—

(1) In municipalities where houses are usually let furnished, it shall not be necessary, in estimating the rental, to make any deduction on account of the furniture, unless the Local Government shall otherwise order:

(2) In the case of land assessed to the land-revenue or of which the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, if the Local Government shall so direct, the annual value shall be deemed to be double the land-revenue for the time being assessed on the land, whether such assessment is leviable or not; and, when the land-revenue has been wholly or in part compounded for or redeemed, double the amount which, but for such composition or redemption, would have been leviable; and also, when the improvement of the land due to canal irrigation has been excluded from account in assessing the land-revenue, double the amount of the owner's rate or water-advantage rate or other rate imposed in respect of such improvement.

35. With the previous sanction of the Local Government, or of such officer as the Local Government may authorize in this behalf, a committee may, from time to time, by resolution at a special meeting, impose and fix the rate of, or abolish, the following tolls and fees, namely:—

Tolls and fees.

(a) where no octroi is levied, a toll on vehicles and animals entering the municipality, and on boats moored therein;

(b) fees on licenses to the proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality;

(c) school-fees;

[Panjáb Local Self-government Bill, section 20.]

(d) fees for the use of, or benefits derived from, hospitals, dispensaries, rest-houses, saráis, slaughter-houses, markets and other public institutions;

(e) fees at fairs, agricultural shows and industrial exhibitions held within the municipality and under its control;

[Madras Act III of 1871, sections 52 & 55.] [*Ibid*, sections 130 & 153.]

(f) fees for notices of demand of any tax, toll or fee due under the Act;

(g) fees for licenses to carry on offensive or dangerous trades;

(h) fees for permission to make any temporary erection, or for the temporary occupation of any street or other land vested in the committee.

[Bomb. VI of section

36. *(1)* A committee may, at a special meeting, pass a resolution to propose the imposition of any tax under section 33 or section 34, or any toll under section 35 *(a)*, within the whole or any part of the municipality for the purposes of this Act.

[N.W. section IV of section

Procedure in imposing taxes.

(2) When such resolution has been passed, the committee shall publish a notice, defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(3) Any inhabitant objecting to the proposed tax may, within thirty days from the publication of the notice, submit his objection in writing to the committee, and the committee shall, at a special meeting, take such objection into consideration.

(4) If no such objection is received, or if such objection, having been considered as aforesaid, is deemed insufficient, the committee may forward its proposals to the Local Government, together with the objections (if any) which have been submitted as aforesaid, and with its decision thereupon.

(5) The Local Government, on receiving such proposals, may sanction the same, or refuse to sanction them, or return them to the committee for further consideration.

(6) When the Local Government sanctions any such proposals which require the further sanction of the Governor General in Council, it shall submit the same to the Governor General in Council, together with the objections (if any) received through the committee; and the Governor General in Council may sanction the proposals, or refuse to sanction them, or return them to the Local Government for further consideration.

(7) When the proposals of a committee have been sanctioned by the Local Government, or by the Local Government and the Governor General in Council, as the case may be, the committee may, at a special meeting, direct the imposition of the tax in accordance with such proposals. In giving such direction the committee shall fix a date, not less than one month after the meeting, from which the tax shall come into force:

Provided that no tax shall come into force until it has been notified in the *Panjáb Government Gazette*, and such notification shall be conclusive evidence that it has been imposed in the manner provided by this section.

(8) The Local Government may, by notification, and the committee may, at a special meeting, with the sanction of the Local Government, abolish or reduce in amount any tax so imposed.

[Madras Act III of 18 section 38.]

Power to exempt from taxation.

37. *(1)* A committee may at a meeting exempt, in whole or in part, from the payment of any tax, toll or fee imposed under this Act, any person who by reason of poverty may be deemed to be unable to pay the same.

(2) The Local Government may, by notification, and the committee may, by resolution passed at a special meeting and confirmed by the Local Government, exempt from the payment of any tax, toll or fee imposed under this Act, any person or class of persons or any description of property.

t XV. of 3, section Act VII of 4, section Bengal Act f 1876, section 369.]

Taxes, &c., not invalid for defect of form.

38. No tax, toll or fee imposed under this Act, and no proceedings of committee at any ordinary or special meeting, shall be invalid merely for defect of form; and it shall be enough in any such tax on property, or any assessment of value for the purpose of making such tax, if the property taxed or assessed be so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

Madras Act of 1871, s.]

Tax on houses, buildings and lands when payable.

39. Any tax imposed under section 33, sub-section *(1)*, clause *(a)*, or under section 34, shall be due and payable by the owner of the house, building and land, respectively, from and after the end of the first quarter of the year for which it is assessed.

dras Act I of 1871, s. ; Bengal Act of 1876, s.

Preparation of valuation lists.

40. The committee shall cause a valuation-list of all houses, buildings and lands on which such tax is imposed to be prepared, containing the name of the street or division in which such property is situate, the designation of the property, either by name or number, sufficient to identify the same, the name of the owner, or if the occupier, and not the owner, is the person liable to pay the tax, the name of the occupier, the annual value, area or length of frontage upon which the property is assessed, and the amount of the tax assessed thereon by the committee.

adras Act of 1871, ction 45.]

Owner or occupier how to be designated, if name unknown.

41. When the name of the owner or occupier is not known, it shall be sufficient to designate him in the said list, and also in any notice or other proceeding under this Act, as the "owner" or the "occupier" of the property on which the tax is assessed, without further description.

adras Act of 1871, ction 46; ngal Act V 1876, section 103.]

Publication of notice of assessments.

42. When the valuation has been completed, the committee shall give public notice thereof, and of the place where the list or copy thereof may be inspected, and every person claiming to be the owner or occupier of property included in the assessment, or the agent of such person, shall be at liberty to inspect the entries in such list or copy relating to such property, and to make extracts thereof without charge.

adras Act of 1871, ction 47.]

Public notice of time fixed for revising assessment.

43. *(1)* The committee shall at the same time give public notice of a day and hour, not less than one month from the publication of such notice, when they will proceed to revise the said valuation and assessment; and in all cases in which any property is for the first time assessed, or the assessment is increased, shall give special notice thereof to the owners or occupiers of such property.

(2) All objections to such valuation and assessment shall be made at or before the time fixed in the notice.

Madras Act of 1871, section 48.]

Verification of list after disposal of objections.

44. After the objections have been enquired into and the revision of the valuation and assessment has been completed, the amendments made in the list shall be authenticated by the signatures of not less than two members of the committee, who shall at the same time certify that no valid objection has been made to the valuation and assessment contained in the list, except in the cases in which amendments have been entered therein; and, subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the whole year for which the assessment is made.

[Madras Act III of 1871, s. 48; Bengal Act V of 1876, ss. 99, 100.]

Further amendments of valuation-list.

45. The committee may at any time amend the list by inserting the name of any person whose name ought to be inserted, or by inserting any property liable to the tax, or by altering the assessment on any property which has been insufficiently valued or assessed through mistake or fraud, or the value of which has been increased by the construction of any new building or by additions to or alterations in any building thereon, after giving notice to any person interested in such amendment of a day, not less than fifteen days from the date of service of such notice, on which the amendment is to be made;

and any person interested in such amendment may tender his objection to the committee by application in writing at or before the time fixed in the notice.

[Madras Act III of 1871, s. 49]

New list need not be prepared every year.

46. It shall not be necessary to prepare a new valuation-list every year; but the committee may adopt the valuation and assessment contained in the list for the preceding year, with such alterations as may in particular cases be deemed necessary, as the valuation and assessment for the year following, giving the same public notice of such valuation and assessment as if a new valuation-list had been prepared.

[Madras Act III of 1871, ss. 51 and 52; Bengal Act V of 1876, s. 111.]

Presentation of bill and issue of notice of demand.

47. *(1)* When any sum is due for any tax leviable under section 33, sub-section (1), clause *(a)*, or under section 34, the committee shall cause a bill for the amount, stating the property and the period for which the charge is made, to be presented to the person liable to pay the same.

(2) If the bill be not paid within ten days from the presentation thereof, the committee may cause a notice of demand to be served upon such person;

and if such person do not, within seven days from the service of such notice, pay the sum due, with any fee leviable for the notice, or show sufficient cause for non-payment of the same, the sum due, together with such fee, shall be deemed to be an arrear of tax.

[Madras Act III of 1871, s. 53; Bengal Act V of 1876, s. 96.]

Liability of occupier if tax not paid by owner after notice of demand.

48. If the sum due from the owner of the house, building or land remains unpaid after notice of demand has been duly served, the committee may demand the amount from the occupier for the time being, and may proceed against him in all respects as if he were the owner; and if the amount is paid by, or recovered from, the occupier, he may deduct the amount so paid or recovered from the next and following payments of rent:

Provided that no arrear which has remained due from the owner for more than one year shall be so recovered from the occupier.

[N. W. P. Bill section 41.]

49. *(1)* Arrears of any tax imposed under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property belonging to the defaulter within those limits.

Recovery of taxes.

[Madras Act III of 1871, section 79; Bengal Act V of 1876, section 154.]

(2) In case of non-payment of any octroi tax or of any toll on demand, the person empowered to collect the same may seize any goods on which such octroi is chargeable, or any conveyance, boat or animal on which such toll is chargeable or any part of its burden of sufficient value to satisfy the demand. The committee may cause any property so seized or so much thereof as is necessary to be sold by auction to satisfy such demand, together with the expenses occasioned by the seizure, custody and sale thereof, unless such demand and expenses are in the meantime paid, after the lapse of *five* days from the seizure, and after the issue of a proclamation fixing the time and place of sale, a copy of which shall be served upon the person entitled to the property at least 48 hours before the sale:

Provided that, by order of the chairman or vice-chairman, articles of a perishable nature which could not be kept for five days without serious risk of damage may be sold after the lapse of twenty-four hours.

[Mr. Plowden's draft bye-law, No. III.]

50. *(1)* Every person bringing within the octroi limits of any municipality any articles upon which an octroi tax has been imposed shall, when required by any person authorized by the committee to assess the octroi tax chargeable, or to collect the tax assessed thereon, and so far as may be necessary for ascertaining the amount of tax chargeable,—

Power to examine articles liable to octroi tax.

(a) permit such person to inspect, examine, weigh and otherwise deal with such articles;

(b) permit such person to separate taxable articles from articles not taxable;

(c) communicate to such person any information and exhibit to him any document he may possess relating to such taxable articles.

[Mr. Plowden's draft bye-law, No. IV.]

(2) Every person assessing octroi tax by the authority of the committee shall, on request by the person introducing taxable articles on which such tax is claimed, present him with a bill specifying the articles taxable, the amount claimed, and the rate at which the tax is calculated; and any person receiving payment of the whole or any part of the tax claimed shall on request receipt the said bill accordingly.

Presentation of bill for octroi tax and receipt for payment.

[Madras Act III of 1871, section 78.]

51. The collection of any octroi tax or toll may be leased by the committee, with the previous sanction of the Commissioner of the division, for any period not exceeding one year; and the lessee and all persons employed by him in the management and collection of such octroi tax or toll shall be bound by any rules made by the committee for their guidance, and shall have the same powers, and be subject to the same responsibilities, as if they were employed by the committee for the management and collection of such octroi tax or toll. Any dispute between the lessee and any person from whom such tax or toll is demanded shall be referred to the committee, whose decision thereupon shall be final.

Power to lease the collection of octroi or tolls.

52. *(1)* The committee may require the owners or occupiers of houses, buildings or lands to furnish them with returns of the measurements and of the rent or annual value thereof; and the committee or any person appointed by them for that purpose may, at any time between sunrise and sunset, enter, inspect and measure any such houses, buildings or lands, after having given 48 hours previous notice in writing to the occupiers thereof.

Returns for purposes of valuation.

Power to enter houses, &c.

[Madras III of 1871, section 46.]

(2) The committee, or any person authorized by them in writing for that purpose, may also, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein they may have reason to believe that there is any vehicle or animal liable to taxation under this Act, for which a license has not been duly taken out

[*Ib.*, 72.]

53. No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than in this Act is provided.

Assessments not to be questioned except under this Act.

[Bengal Act of 1866, 107; Madras Act III of 1871, s. 85.]

54. For all sums paid on account of any tax under this Act, a receipt, stating the amount and the tax on account of which it is paid, shall be given by the person receiving the same, on request by the person making the payment.

Receipts to be given.

[Bengal Act of 1856, 110.]

Appeals.

55. Appeals against any tax, toll or fee, other than octroi tax or fees under section 35, clauses *(c)*, *(d)*, *(e)* and *(f)*, assessed or levied under this Act shall lie to the Deputy Commissioner, unless when he is a member of the committee, in which case the appeal shall lie to the Commissioner of the division.

Appeals against assessments.

[Cf. Madras III of 1871, 85.

56. No appeal shall lie against any assessment on any house, land or building, unless it be preferred within one month after the confirmation of the assessment by the committee, and no appeal shall lie against any other tax, toll or fee, unless preferred within one month from the time of such tax, toll or fee being charged:

Limitation of appeal.

[Cf. Madras III of 1871, 86.]

Provided that no appeal shall be entertained unless the amount of the assessment, tax, toll or fee to which it relates is deposited with the committee on or before the day on which the appeal is lodged.

Deposit of amount.

57. No appeal shall lie against any assessment of octroi tax or the levy of any fee under section 35, clauses *(c)*, *(d)*, *(e)* and *(f)*, but the decision of the committee on any objection thereto shall be final.

No appeal in certain cases.

Municipal Fund.

[N.-W. P. Bill, section 42; Act IV of 1873, section 10.]

58. There shall be for each municipality a municipal fund, to the credit of which shall be placed all sums received by or on behalf of the committee and any balances standing at the credit of the municipality when this Act came into force.

Municipal fund constituted.

[N. W. P. Bill, section 43.]

59. *(1)* Where there is a Government treasury or sub-treasury, the municipal fund shall be kept in the treasury or sub-treasury, or in the bank, if any, to which the Government treasury business has been made over.

Custody of municipal fund.

(2) In places where there is no such treasury or sub-treasury, or bank, the municipal fund may be deposited with any banker or person acting as a banker who has given such security for the safe custody of the fund and repayment thereof on demand as the Local Government may in each case think sufficient.

CHAPTER IV.

POWERS AND DUTIES OF COMMITTEES.

Municipal Police.

[Act IV of 1873, section 12; Act VII of 1874, section 32.]

60. *(1)* Every committee shall, unless it is relieved of this obligation by the Local Government, make such provision for the maintenance of the establishment ordinarily employed on police-duty within the limits of the municipality as the Local Government may consider necessary.

Police-establishment.

(2) Subject, in case this Act is made applicable to any military cantonment, to the provisions of section 9 of the Cantonments Act, 1880, the establishment so entertained, whether enrolled under Act V of 1861 or not, shall be under the orders of the District Superintendent of Police, subject to the general control of the Magistrate of the district; and the watch and ward of the municipality, the prevention and suppression of nuisances therein, and the enforcement of the rules and orders of the committee shall be included among its duties.

III of 1880.

61. *(1)* The Local Government may relieve any committee of the whole or part of the cost of such establishment, and may enter into an agreement with the committee that, as an equivalent for such relief for any term of years, the committee shall, during the same term, undertake any services within the municipality to which the municipal fund can properly be applied, and which are estimated to cost not more than the cost of the police-establishment of which the committee is so relieved. When a committee is relieved under this section of the whole or part of the cost of the police-establishment which it is required to maintain, the Local Government shall maintain such police-establishment as it considers necessary, and the establishment so maintained shall perform the same duties as if its cost were defrayed from the municipal funds.

Relief of committee from police charges.

(2) The Inspector General of Police may, with the previous sanction of the Local Government, enter into an agreement with any committee, which is unable to provide the entire cost of the police-establishment which the Local Government considers necessary, that, on the committee making such payment as may be agreed upon, or undertaking any services within the municipality, approved by the Local Government, to which the municipal fund can properly be applied, and which are estimated to cost not more than the amount of such payment, he will provide a sufficient police-establishment for the service of the municipality.

Composition for police with poor municipalities.

(3) The Local Government or the committee may determine such agreement, after twelve months' notice of an intention to do so has been given by the Local Government to the committee or by the committee to the Inspector General of Police; and on the expiration of such notice the agreement shall cease to operate.

Termination of such composition.

62. *(1)* Except in the case of any military cantonment to which this Act is made applicable, the establishment maintained under section 60 or section 61 shall be either part of the general police force enrolled under Act V of 1861 or a body of watchmen, as the Local Government may determine.

Constitution of police-establishment.

(2) When it is part of the general police force, the Local Government may, notwithstanding anything contained in Act V of 1861 or in any other Act for the time being in force, define the duties which the officers and men of the establishment may or may not be required to perform.

Duties when part of the general police force.

(3) When it is a body of watchmen, it shall be of such strength and the persons of whom it consists shall be of such grades, and shall receive such rates of pay, as the Local Government shall fix, and they shall possess such powers, perform such duties, enjoy such protection, be subject to such responsibilities and be liable to such penalties as Police-officers enrolled under Act V of 1861 possess, perform, enjoy and are subject and liable to.

Powers, duties, protection, responsibilities and penalties when a body of watchmen.

(4) Police-officers enrolled under Act V of 1861 may be appointed to command such body of watchmen when the Local Government thinks fit.

Command of such body.

63. *(1)* Every person shall be bound to render to any municipal watchman, or officer of such watchman, when discharging the duties of a Police-officer all the assistance which he is bound to render to a Police-officer.

Obligation to assist watchmen.

(2) Any person obstructing such watchman or officer in the discharge of such duties may be arrested without warrant by a Police-officer or by any person belonging to such body of watchmen.

Arrest of persons obstructing watchmen.

64. The appointment, promotion, suspension and punishment of municipal watchmen and officers of such watchmen shall rest with the District Superintendent of Police, subject to the general control of the Magistrate of the district.

Appointment, promotion, suspension and punishment of watchmen.

65. When a committee imposes fees under section 35, clauses *(d)*, and *(e)*, for the use of saráis, markets, and other public institutions for which special police-pro-

Police-protection of saráis, &c., for the use of which fees are charged by committee.

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(Chapter IV.—Powers and Duties of Commitees.)

tection is required, or at fairs, agricultural shows and industrial exhibitions, it shall pay such police-charges, if any, as may be sanctioned by the Local Government for the protection of the saráís, markets, public institutions, fairs, agricultural shows and industrial exhibitions from which such fees are derived.

Conservancy and General Improvement.

[Act IV of 1873, section 11; N. W. P. Bill, section 49.]

66. Every committee, so far as the municipal fund at its disposal will permit, shall, after providing for the repayment of, and interest due on, loans raised in accordance with law on the security of its funds or any portion thereof, and for the maintenance of any police-establishment which it is required to maintain under the provisions of this Act, and subject to any agreement between it and the Local Government in respect of any of the following matters,

Duties of committee generally.

provide for the construction, maintenance, cleansing and repair of the public streets, bridges, embankments, drains, latrines, tanks and watercourses of the municipality;

and may cause such streets or any of them to be watered and lighted;

and may provide for the construction, establishment and maintenance of schools, hospitals and dispensaries, and other institutons for the promotion of education or for the benefit of the public health, and of rest-houses, saráís, poor-houses, markets and other works of public utility, and control and administer all public institutions of any of these descriptions within the municipality, except when, by special order, the Local Government may otherwise direct;

and may make grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper asylums and other educational or charitable institutions;

and may provide for the training of teachers and the establishment of scholarships;

and may provide for the establishment and maintenance of relief and relief-works in time of famine or scarcity;

and may provide for the supply, storage and preservation from pollution of water for the use of men or animals;

and may provide for the taking of a census, the registration of births, marriages and deaths, public vaccination and any lawful sanitary measure;

and may also do all acts and things likely to promote the safety, health, comfort, convenience or interests of the inhabitants.

Prevention of Nuisances.

N.-W.P. Bill, section 50.]

67. *(1)* A committee may, from time to time, at a special meeting, make rules—

Power to make rules creating offences.

(a) for prohibiting, preventing and punishing such acts or omissions within the municipality as may, in its opinion, cause or tend to cause any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, injury, obstruction, danger or annoyance to persons who may have occasion to use any public right, or may, in its opinion, be prejudicial to the public health, safety and convenience, or be offences against public decency;

(b) for defining the cases, manner and times in and at which officers of the committee may enter upon private property for the detection and abatement of public nuisances, or the enforcement of rules made under this section.

(2) A rule made under this section shall not come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

[N. W. P. Bill, section 51; Act XV of 1873, section 25; Act VII of 1874, section 22.]

68. *(1)* Subject to any orders which the Local Government may, from time to time, make in this behalf, a committee may enjoin any person not to do, or not to omit to do, within the municipality, anything the doing of, or the omission to do, which is a public nuisance, or an offence created by clause *(a)* of section 67.

Power to prohibit commission of public nuisances.

(2) Every such injunction shall be deemed, for the purposes of section 291 of the Indian Penal Code, to have been made by a public servant.

XLV of 1860.

[N.-W.P. Bill, section 52; Act XV of 1873, section 26.]

69. *(1)* The Local Government may invest within the limits of the municipality, a committee with the powers of a Magistrate of a district as described in section 133 of the Code of Criminal Procedure, and with power to make conditional orders under that section, in respect of all or any of the acts or omissions punishable under rules made in exercise of the power conferred by clause *(a)* of section 67 of this Act;

Power to make conditional orders for removal of nuisances.

X of 1882.

and may, whenever it thinks fit, withdraw the powers so conferred:

Provided that the conditional order shall specify a Magistrate of the first or second class, other than the committee so invested, before whom the person against whom it is made may appear and move to have it set aside or modified.

(2) Sections 133 to 142 (both inclusive) of the Code of Criminal Procedure shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers.

X of 1882.

[N.-W. P. Bill section 53; Act VII of 1874, section 23.]

70. A committee may, at a special meeting, delegate to one or more sub-committees of its members any of the powers vested in it by section 68, or with which it may have been invested under section 69, and may at a like meeting withdraw the powers so delegated.

Delegation of powers as to nuisances.

Additional power to make Rules.

[Act IV of 1873, section 14; N. W. P. Bill, section 54; Act VII of 1874, section 19; Bombay Act VI of 1873, ss. 70 & 72.]

71. *(1)* A committee may, from time to time, at a special meeting, make rules—

Additional power to make rules.

(a) rendering licenses necessary for the proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality, and fixing the conditions on which such licenses are to be granted and may be revoked;

(b) limiting the rate of hire which may be demanded for, and the loads to be carried by, such vehicles, boats or animals, or for

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and by persons hired to carry loads within the limits of the municipality;

(c) to secure a proper registration of births, marriages and deaths, and to provide for the taking of a census;

(d) to provide for the inspection and proper regulation of lodging-houses, markets and slaughter-houses, burial and burning places;

(e) to provide for the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use;

(f) to regulate all matters connected with conservancy;

(g) to regulate for sanitary reasons the crops which may be grown in any place within the limits of the municipality;

(h) where the collection of an octroi tax has been sanctioned, to fix octroi limits for the purpose of collecting that tax; and

(i) generally to carry out the purposes of this Act:

Provided that the committee of a municipality in which the Hackney Carriage Act, 1879, is in force shall not make rules in respect to any vehicles to which that Act applies.

XIV of 1879.

[New.]

72. *(1)* In the case of municipalities in mountainous and sub-montane tracts, the committee may, from time to time, at a special meeting, make rules for the maintenance of a water-supply in streams and springs, for the preservation of the soil on the ridges and slopes of the hills and in the valleys, for the prevention of landslips and of the formation of ravines and torrents, and for the protection of land from erosion or the deposit thereon of sand, gravel or stones; and may prohibit all persons from doing any acts the prohibition of which it may consider necessary for these purposes.

Special power to make rules in hill municipalities.

[See Act VII of 1878, section 35.]

Examples.—Cutting down forest trees on private grounds, unless with the previous sanction of the committee, and quarrying or making excavations in such grounds unless with the like sanction, may be prohibited by rules made under this section.

(2) The committee of a municipality in a mountainous tract may also make rules for the regulation of traffic in the streets.

[N.-W. P. Bill, section 54, sub-section (2); Act IV of 1873, section 21.]

73. *(1)* In making any rule under section 67, section 71 or section 72, a committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the first during which the breach continues.

Penalty for infringement of rules under sections 71 and 72.

[N.-W. P. Bill, section 54, sub-section (3); Act IV of 1873, section 15.]

(2) No rule made under section 67, section 71 or section 72 shall come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

Confirmation of such rules.

Special Provisions.

[Madras Act III of 1871, sections 129 to 131; Bengal Act V of 1876, sections 285 and 286.]

74. *(1)* The owner or occupier of every place within the municipality used for any of the following purposes, namely:—

Regulation of offensive and dangerous trades.

melting tallow; boiling offal or blood; or as a soap-house, oil-boiling house, dyeing house or tannery; or as a brick-pottery or lime-kiln; or other manufactory, or place of business from which offensive or unwholesome smells arise;

or as a yard or depôt for hay, straw, thatching-grass, wood or coal, or other dangerously inflammable material;

or as a store-house for kerosine, petroleum, naphtha, or any inflammable oil, spirit or explosive substance;

or as a manufactory of gunpowder or fireworks;

or as a shop for smoking opium or any preparation of opium;

shall register the same in a book to be kept by the committee for the purpose.

(2) No place shall be newly used for any of the said purposes except under a license from the committee, which shall be renewable annually.

(3) Such license shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in, or frequenting, the immediate neighbourhood.

(4) The committee may impose such conditions in respect of such license as it may think necessary.

(5) Whoever, without such registration or without a license, uses any place for any such purpose shall be liable to a fine which may extend to fifty rupees, and to a further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

[Bengal Act V of 1876, sections 287 and 288; Bombay Act VI of 1873, section 69.]

75. If it be shewn to the satisfaction of the committee, at a meeting, that any place registered or licensed under the last preceding section is a nuisance to the neighbourhood, or likely to be dangerous to life, health or property, they may, by written notice, require the occupier thereof to discontinue the use of such place, or to use it in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

Prohibition of such trades.

(2) Whoever disobeys the direction of such notice shall be liable to a fine which may extend to two hundred rupees, and to a further fine not exceeding forty rupees for every day during which the offence is continued after he has been convicted of such offence.

(3) Nothing in this or the preceding section shall affect the power of the committee to proceed under sections 67, 68 and 69 of this Act, in respect to any place used for any of the purposes mentioned in section 74.

[Madras Act III of 1871, section 133.]

76. *(1)* No burial or burning ground, whether public or private, shall be made or formed, after the passing of this Act, without the sanction in writing of the committee.

New burial or burning places.

[Madras Act III of 1871, section 134.]

(2) The committee may, by notice published in such manner as may be prescribed, order

Closing of burial and burning places.

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any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the vicinity thereof to be closed, from a date to be specified in the notice, and shall, in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(3) Private burial-places in such burial-grounds may be excepted from such notice, subject to such conditions as the committee may impose in this behalf:

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owner thereof.

(4) Whoever shall bury or burn, or cause or permit to be buried or burnt, any corpse in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, shall be liable to a fine which may extend to fifty rupees for each offence.

77. When any order is made under section 75 or section 76 by any committee, any person aggrieved thereby may appeal within 30 days from the date thereof to the Commissioner when the municipality is of the first class, or to the Deputy Commissioner when the municipality is of the second class; and the order of the appellate authority confirming, setting aside or modifying such order shall be final; and no such order shall be liable to be called in question otherwise than by such appeal.

Appeal against order under section 75 or 76.

Provided that such order shall not be modified or set aside until the appellant and the committee have had reasonable opportunity of being heard.

[Madras Act III of 1871, section 123; Act VII of 1874, section 16.]

78. The committee may, with the approval of the Deputy Commissioner, fix places for the slaughter of animals, or of any specified description of animals for sale; and when such place has been fixed, no person shall slaughter any such animal for sale within the municipality at any other place; and whoever slaughters any such animal for sale at any other place shall be liable to a fine which may extend to twenty rupees for each offence.

Slaughter of animals.

[Madras Act III of 1871, sections 115 & 116.]

79. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants; and may, by rule made under section 71, prohibit bathing in any public place not so set apart, or at times or by persons other than those so specified, and all other acts not so permitted, by which water in public places may be rendered foul or unfit for use.

Bathing-places, &c.

[Madras Act III of 1871, section 145; Bombay Act VI of 1873, section 30.]

80. When any building, or any part thereof, which projects beyond the regular line of a public street, or beyond the front of the buildings on either side thereof, has fallen down or been taken down in order to be rebuilt or altered, the committee may, by written notice, require the same, when being rebuilt, to be set back to or towards the line of the street or the front of the adjoining buildings; and the land so added to the street shall become part of the public street:

Setting back buildings projecting beyond line of street.

Provided that the committee shall make full compensation to the owner of such building for any damage he may thereby sustain; and, if any dispute shall arise touching the amount of such compensation, it shall be settled in the manner provided by the Land Acquisition Act, 1870, sections 3, 8 to 12, 51 to 53 and 56 to 59, so far as they can be made applicable. X of 1870.

[Bombay Act VI of 1873, sections 33 & 34; Bengal Act V of 1876, sections 256 to 263; Mr. Plowden's draft rule XXV.]

81. *(1)* Every person intending to erect or re-erect any building within the limits of the municipality shall, if required by rules made under section 71, give notice in writing to the committee, and shall, if required to do so, furnish a plan shewing the levels at which the foundation and lowest floor are proposed to be laid, and the elevation and specifications of the works intended to be constructed, and the materials to be used, and shall obey all written directions given by the committee within one month after receiving such notice, either prohibiting such erection or re-erection, if deemed likely to be injurious to the inhabitants of the neighbourhood, or in respect to all or any of the matters following, namely, (1) free passage or way in front thereof; (2) space to be left about the same to secure free circulation of air and facilitate scavengering; (3) ventilation and drainage; (4) level and width of foundation and stability of structure; and (5) the regularity of the elevation and the line of frontage with neighbouring buildings, if the building abuts on a street or public thoroughfare.

Notice of new buildings.

(2) If such building be begun or erected without giving notice, or without furnishing particulars as aforesaid when required, or in contravention of the legal orders of the committee issued within one month, the committee may require it to be altered or demolished, as they may deem necessary, by written notice fixing a time within which the requisition must be complied with.

Explanation.—The expression "erect any buildings" includes all additions or alterations which involve new foundations or increased superstructure on existing foundations.

[Bombay Act VI of 1873, section 42.]

82. *(1)* The committee may, by written notice fixing a time within which the requisition must be complied with, require the owner or occupier of any house to remove or alter any projection, encroachment or obstruction erected or placed against, or in front of, such house, if the same overhangs or juts into or encroaches upon any public street, or projects into or encroaches upon any drain, aqueduct or sewer in such street:

Removal of projections and obstructions.

Provided that, if such projection, encroachment or obstruction were lawfully made before the passing of this Act, the committee shall make reasonable compensation to any person who suffers damage by such removal or alteration; and, if any dispute shall arise touching the amount of such compensation, it shall be settled in the manner provided by the Land Acquisition Act, 1870, sections 3, 8 to 12, 51 to 53 and 56 to 59, so far as they can be made applicable. X of 1870.

(2) The committee may give written permission to the owners or occupiers of houses in public streets to put up open verandahs, balconies or rooms projecting from any upper storey thereof, to an extent not exceeding *four* feet beyond the line of the plinth or basement wall.

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[Bombay Act VI of 1873, section 75.]

83. In the event of non-compliance with the terms of any notice under either of the last two preceding sections, the committee may take such steps as may be necessary to carry out the requisition therein made; and the expenses incurred by them in so doing shall be paid by the person on whom the notice was served.

Execution of notices.

[Bengal Act V of 1876, section 232; Madras Act III of 1871, sections 145 & 146; Bombay Act VI of 1873, section 45.]

84. *(1)* The committee at a meeting may cause a name to be given to any street, and to be affixed in such place as they may think fit, and may also cause a number to be affixed to every house; and in like manner may, from time to time, cause such names and numbers to be altered.

Names of streets and numbers of houses.

(2) Whoever destroys, pulls down or defaces such name or number, or puts up any different name from that put up by order of the committee, shall be liable to a fine which may extend to twenty rupees.

[Madras Act III of 1871, section 121; Bombay Act VI of 1873, sections 77 and 78.]

85. *(1)* Whenever, under the provisions of this Act, or of any rules made thereunder, the committee requires any work to be executed, and such work is executed by the occupier of any house or land, or by the committee at his expense, the occupier, if the owner is the person by whom such work ought to have been executed, may deduct the cost thereof from the next and following payments of rent due or becoming due to the owner, or may recover it from the owner by suit.

Recovery of cost of works executed from persons interested.

(2) If such work is executed by the committee, and the expense is not paid on demand by the occupier or owner, the committee may recover the expense by suit from the person by whom the work ought to have been executed, or by distraint of the moveable property of the occupier, who, if the owner is the person by whom the work ought to have been executed, may deduct the amount so recovered from the next and following payments of rent, or may recover it from the owner by suit:

Provided that, if the expense does not exceed Rs. 20, it may be recovered in the manner provided by the first clause of section 49 for the recovery of arrears of any tax under this Act.

[Madras Act III of 1871, section 164.]

86. *(1)* Every notice issued by the committee under this Act, or under any rule made thereunder, shall be served on the person to whom it is addressed, or left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, shall be posted on some conspicuous part of his place of abode or business.

Service of notices.

[Bengal Act V of 1876, sections 367 & 368.]

(2) If the place of abode or business of the owner be not within the limits of the municipality, every such notice addressed to him shall be sent by registered cover addressed to his usual place of abode.

(3) If the place of abode or business of the owner be not known, every such notice addressed to him may be served upon the occupier.

[Madras Act III of 1871, section 162; Bombay Act VI of 1873, section 85, cl. 3; Bengal Act V of 1876, section 378.]

87. The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the committee, its officers and servants, under this Act.

Power to make compensation out of municipal fund.

[Act IV of 1873, section 10.]

88. The proceeds of all fines imposed under this chapter, or under section 34 of Act V of 1861, on account of nuisances committed within the municipal limits shall be credited to the municipal fund.

Proceeds of fines.

[Government of India notification No. 6680, dated 21st November, 1874.]

[New.]

89. *(1)* The Local Government may, from time to time, by notification, empower any member of committee or officer in the service of a municipality by name, or any sub-committee appointed by the committee in this behalf, to summon any person accused of any offence created by clause *(a)* of section 67.

Power to compound offences declared to be public nuisances.

(2) The member of committee or officer or sub-committee so empowered shall have the power of a Magistrate under the Criminal Procedure Code in regard to the issue of summons to persons accused of such offences, and may issue a summons returnable to the Magistrate by whom charges of such offences would ordinarily be tried, giving notice to the Magistrate of the issue of the same. X of 1882.

(3) If it appears to such member of committee or officer or sub-committee that the person so summoned has committed any such offence, he may give such person the option of compounding for the offence by payment of a specified sum of money not exceeding one rupee:

Provided that, when the offence is a continuing one, no such composition shall be accepted unless the offence is first discontinued.

(4) If such person elect to pay the sum of money in consideration of which he is allowed to compound, and pay the same to such member of committee or officer or sub-committee, no further proceedings shall be taken against him for the offence which has been so compounded.

(5) Such member of committee or officer or sub-committee shall keep a book in which he or it shall enter at the time all cases of persons against whom he or it takes action under this section, with the nature of the offence charged, and, should such person appear to him or it to have committed any such offence, the nature of the offence committed, and, if he is allowed to compound for such offence and elects to do so, the sum demanded by way of composition, and the sum received.

(6) All sums received by way of composition under this section shall be paid, as soon as conveniently may be, to the credit of the municipal fund.

CHAPTER V.

CONTROL.

[N.W.P. Bill, section 55; Panjáb Local Self-government Bill, section 50.]

90. *(1)* The Commissioner of the division or the Deputy Commissioner of the district (not being a member of the committee) may—

Control by Commissioner and Deputy Commissioner.

(a) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district,

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respectively, occupied by any committee or joint committee, or any work in progress within those limits under its direction;

(*b*) by order in writing call for and inspect any book or document in the possession or under the control of any committee or joint committee having authority within the said limits;

(*c*) by order in writing require such committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the committee as he may think fit to call for; and

(*d*) record in writing, for the consideration of such committee or joint committee, any observations he may think proper in regard to the proceedings or duties of the committee.

(*2*) Every committee shall regularly submit copies of all its proceedings to the Deputy Commissioner, and shall further submit such periodical reports to the Deputy Commissioner or other authority as the Local Government may, from time to time, direct.

[N.W.P. Bill, section 56; Panjáb Local Self-government Bill, section 51.]

91. The Commissioner of the division or the Deputy Commissioner of the district may, by order in writing, suspend, within the division or district respectively, the execution of any resolution or order of the committee or joint committee, or prohibit the doing of any act within the said limits which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

Power to suspend action of committee.

[N.W.P. Bill, section 57; Panjáb Local Self-government Bill, section 52; Act I of 1883, section 30.]

92. (*1*) In cases of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or of doing the act shall be forthwith paid by the committee.

Extraordinary powers of Deputy Commissioner in case of emergency.

(*2*) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance, in priority to all other charges against the same.

[Panjáb Local Self-government Bill, section 53.]

93. (*1*) When the Commissioner, after due enquiry, is satisfied that a committee of the first class has made default in performing any duty imposed upon it by or under this Act, he may, by an order in writing, fix a period for the performance of that duty; and, if it is not performed within the period so fixed, he may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as he may fix, by the committee to such person.

Power to provide for performance of duties in case of default of committee.

(*2*) If the expense is not so paid, the Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance, in priority to all other charges against the same.

(*3*) The Deputy Commissioner shall have the same powers with respect to committees of the second class as are by this section conferred upon the Commissioner with respect to committees of the first class.

[Panjáb Local Self-government Bill, section 54.]

94. When a Deputy Commissioner makes any order under section 91, section 92 or section 93, he shall forthwith forward to the Local Government through the Commissioner a copy thereof, with a statement of the reasons for making it; and when the Commissioner makes any order under section 91 or section 93, he shall forthwith forward to the Local Government a copy thereof, with a statement of the reasons for making it and with any explanation which the committee may wish to record.

Action of Deputy Commissioner or Commissioner to be immediately reported.

[Panjáb Local Self-government Bill, section 49, and part of 50.]

95. (*1*) It shall be the duty of the Local Government and of all Commissioners and Deputy Commissioners acting under its orders to require that the proceedings of committees shall be in conformity with law and with the rules in force thereunder; and the Local Government may exercise all powers necessary for this purpose, and may, amongst other things, by order in writing, annul or modify any such proceeding which it shall consider not to be in conformity with law and with the said rules.

Powers of Local Government and its officers over committees.

(*2*) The Commissioner of the division and the Deputy Commissioner of the district may, within their jurisdiction for the same purpose, exercise such powers as may be, from time to time, conferred upon them by rule made in this behalf by the Local Government.

[N. W. P. Bill, section 59; Panjáb Local Self-government Bill, sections 55 to 57.]

96. (*1*) If a committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by notification, in which the reasons for so doing shall be stated, declare the committee to be superseded:

Power of Local Government to supersede committee in case of incompetency, persistent default or abuse of powers.

Provided that, in case of public emergency, such notification may be issued without the previous approval of the Governor General in Council.

(*2*) When a committee is so superseded, the following consequences shall ensue:—

(*a*) All members of the committee shall, from the date of the notification, vacate their offices as such members:

(*b*) All powers and duties of the committee may, until the committee is reconstituted, be exercised and performed by such person as the Local Government, from time to time, appoints in that behalf:

(*c*) All property vested in the committee shall, until the committee is reconstituted, vest in Her Majesty.

Panjáb Municipal Bill, 1883.
(Chapter VI.—Miscellaneous.)

(*3*) The Local Government shall, as soon as, in its judgment, conveniently may be, constitute another committee in the place of any committee superseded under this section.

[N. W. P. Bill, section 60; British Burma Bill, section 8.]

97. The Local Government may frame forms for any proceeding of a committee for which it considers that a form should be provided, and make rules consistent with this Act—

Power of Local Government to frame forms and make rules.

(*a*) with respect to the powers and duties of committees in municipalities of the first and of the second class respectively;

(*b*) as to the division of the municipality into wards, or of the inhabitants into classes or both;

(*c*) as to the number of representatives proper for each ward or class;

(*d*) as to the qualifications of electors and of candidates for election;

(*e*) as to the registration of electors;

(*f*) as to the nomination of candidates, the time of election and the mode of recording votes; and

(*g*) generally for regulating all elections under this Act;

(*h*) for the remission of tax on houses unoccupied for the whole or part of the year, and the notice to be given of a house being unoccupied by persons desiring such remission;

(*i*) as to the arts, professions, trades and callings liable to be taxed in any municipality, the registration and classification of persons engaged therein, the rates at which they may be taxed, the preparation of lists of persons to be taxed, and the penalty to which they shall be liable for practising or trading without payment of the tax;

(*j*) as to the statements of vehicles and animals liable to taxation under this Act to be furnished by the owners or persons in charge of them, the rates at which they may be taxed, the issue of licenses for them on payment of tax, and the penalty for keeping them without a license;

(*k*) as to the classes of menial and domestic servants liable to taxation in any municipality, the rate at which they may be taxed, the returns of such servants to be furnished by the masters, and the time when the masters shall pay the tax imposed in respect of such servants;

(*l*) as to the exhibition of tables of octroi tax, the system under which refunds shall be made on account of that tax when the goods on which the tax was paid are again exported, and the storage of goods declared not to be intended for consumption or use within the municipality into which they are brought;

(*m*) as to the rates of toll chargeable on vehicles or animals entering the municipality, or boats moored therein, the exhibition of tables shewing such rates, the exemptions to be made, and the terms on which residents outside municipal limits may compound for such tolls; and

(*n*) generally as to the assessment and collection of taxes imposed under this Act;

(*o*) as to the authority on which money may be paid from the municipal fund;

(*p*) as to the conditions on which property vested in the committee may be transferred by sale, mortgage, lease, exchange or otherwise;

(*q*) as to the intermediate office or offices, if any, through which correspondence between committees or members of committees and the Local Government or officers of that Government shall pass;

(*r*) as to the preparation of plans and estimates for works to be partly or wholly constructed at the expense of committees, and as to the person by whom, and the conditions subject to which, such plans and estimates may be sanctioned;

(*s*) as to the accounts to be kept by committees, as to the conditions on which such accounts shall be open to inspection by inhabitants paying any tax under the Act, as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(*t*) as to the preparation of estimates of income and expenditure of committees, and as to the person by whom, and the conditions subject to which, such estimates may be sanctioned;

(*u*) as to the returns, statements and reports to be submitted by committees;

(*v*) as to the powers to be exercised by Commissioners and Deputy Commissioners under section 95;

(*w*) as to the language in which business shall be transacted; and

(*x*) for the guidance of committees acting under sections 26, 29, 67, 73 and 76, and generally for the guidance of committees and public officers in all matters connected with the carrying out of this Act.

CHAPTER VI.

MISCELLANEOUS.

[N. W. P. Bill, section 61; Panjáb Local Self-government Bill, section 71; Act IV of 1873, section 30; Madras Act III of 1871, section 21; Bombay Act VI of 1873, section 13; and Bengal Act V of 1876, section 57.]

98. If any member or servant of a committee is directly or indirectly interested in any contract made with the committee, he shall be thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine which may extend to five hundred rupees:

Members, officers or servants of committees not to be interested in contracts with the committee.

Provided that no person shall, by reason of being a shareholder in, or member of, any incorporated or registered company, be held to be interested in any contract entered into between such company and the committee.

Panjáb Municipal Bill, 1883.
(Chapter VII.—Supplemental and Temporary Provisions.)

[This clause was omitted in Act XV of 1873, having appeared in Acts IV & XI of 1873. It was restored in Act VII of 1874.]

Nevertheless, it shall not be lawful for such shareholder or member to act as a member of the committee in any matter relating to such contract.

[Panjáb Local Self-government Bill, section 66; Madras Act III of 1871, section 168; Bombay Act VI of 1873, section 86; and Civil Procedure Code, section 424.]

99. *(1)* No suit for compensation for anything done or purporting to be done, or for the omission of anything which ought to have been done, under this Act shall be brought against a committee, or any of its officers, or any person acting under its direction, until the expiration of one month next after notice in writing has been delivered or left at the office of the committee or at the place of abode of such person, stating the circumstances constituting the cause of action and the name or place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left.

Suits against committees or their officers.

(2) Every such suit shall be commenced within six months next after the accrual of the right to sue, and not afterwards.

(3) And if any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

[Act IV of 1873, section 18; Act XV of 1873, section 42; Act VII of 1874, section 39; N. W. P. Bill, section 63.]

100. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to the committee, to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty as member of committee; and he shall be liable to be sued for compensation for the same, in such Court as the Local Government directs, by the committee with the sanction of the Commissioner or by the Local Government.

Liability of members for loss, waste or misapplication.

[Act IV of 1873, section 22; British Burma Bill, section 68; Criminal Procedure Code, section 555.]

X of 1882.

101. *(1)* Prosecutions under this Act for the infringement of rules may be instituted by the committee or by any person authorized by it in this behalf and not otherwise.

Prosecutions for infringement of rules.

(2) A member of committee under this Act shall be deemed to be a municipal commissioner within the meaning of section 555, Criminal Procedure Code.

[N. W. P. Bill, section 65; Panjáb Local Self-government Bill, section 69.]

X of 1870.

[See Act X of 1870, s. 56.]

[N. W. P. Bill section 66]

102. Where any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the committee of the compensation awarded under that Act, and of any other charges incurred in acquiring the land, the same shall vest in the committee.

Acquisition of land.

103. *(1)* The authority empowered to make rules under section 7, section 67, section 71, section 72 or section 97 shall, before making them, publish, in such manner as may, in its opinion, be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or any suggestion which may be made by any person with respect to the draft before the date so specified.

Procedure for making rules.

(2) If, on such consideration of the draft, any modification is made, the Local Government shall determine whether it is necessary to republish the draft under this section.

(3) Every rule made under any of the said sections shall be published in the *Panjáb Government Gazette* in English, and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section.

[Criminal Procedure Code, section 557.]

104. All powers conferred by this Act on the Governor General in Council or on the Local Government may be exercised from time to time as occasion requires.

Powers of Governor General in Council and of Local Government exercisable from time to time.

CHAPTER VII.

SUPPLEMENTAL AND TEMPORARY PROVISIONS.

[N. W. P. Bill, section 68.]

105. *(1)* When a notification is issued under section 6 in respect of the whole area subject to the authority of a committee, withdrawing that area from the operation of this Act, all property which, at the time of the issue of the notification, is vested in the committee, shall vest in the Local Government, and be applied by it, in such manner as it thinks fit, for the promotion of the health, comfort, convenience or interests of the inhabitants.

Disposal of property vested in Committee when local area is withdrawn from operation of Act.

(2) When a notification is issued under section 6 in respect of a part of the area under the authority of a committee, withdrawing that part from the operation of this Act, such part of the property vested in the committee as the Commissioner of the division may determine shall vest in the Local Government and be applied as aforesaid.

[N. W. P. Local Boards Bill, section 50.]

106. *(1)* If the circumstances of any municipality are such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification, except the municipality from the operation of those provisions; and thereupon those provisions shall not apply to the excepted municipality until again applied thereto by a like notification.

Power to except municipality from provisions of Act unsuited thereto.

(2) While such exception remains in force, the Local Government may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

[Panjáb Local Self-government Bill, section 72.]

107. Nothing in or done under this Act shall prejudicially affect the rights of any officer or servant of a committee appointed before the passing of the Act as to tenure of office, salary or pension.

Saving of rights of existing officers and servants.

[Panjáb Local Self-government Bill, section 73.]

108. In all matters connected with this Act, the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

General powers of Local Government and Commissioners.

STATEMENT OF OBJECTS AND REASONS.

THE law at present applicable to municipalities in the Panjáb is contained in Act IV of 1873.

2. Except in a few of the larger municipalities, all the members of the municipal committees constituted under that Act have hitherto been nominated; but, for the reasons stated in Panjáb Government Resolution No. 1777, dated 7th September, 1882, it is thought desirable to give the committees a more representative character than they have hitherto had, and for this purpose it is proposed that, unless where special reasons exist against resorting to a system of election, a portion at least of the members of each committee should be chosen by the inhabitants of the municipality.

3. It is further believed that greater powers of initiating action and of controlling the administration and expenditure of their funds for the benefit of the inhabitants of the municipality may with advantage be given to committees than, except in a few of the more important municipalities, they possess under existing rules, if sufficient powers of control are reserved to prevent the interests of the public from being endangered by neglect, abuse of powers or mistake as to the extent of their powers, on the part of the municipal bodies.

4. It would be possible to carry out the measures necessary for these purposes by rules under the existing Act, but the amendment of the Act appears to be a more suitable mode of giving effect to the proposals of the Local Government, and this course has therefore been preferred.

5. It has also for a considerable time past been known that Act IV of 1873 is very defective in omitting to provide for many of the powers with which it is usually considered desirable to invest municipal bodies and their servants, some of which were expressly given by the later Acts, XV of 1873 and VII of 1874, passed for the North-Western Provinces and British Burma respectively; and serious doubts have arisen as to the validity of some of the bye-laws framed to carry out and supplement its provisions, and as to the authority of municipalities to take action which it is important for the public interest that they should have the power to take. The opportunity has therefore been taken to redraft the entire Act, after referring to the corresponding Acts in force in other parts of India, with a view to remove the defects which have been brought to light by experience of its working for upwards of ten years.

6. The draft is divided into seven chapters nearly corresponding with those of the North-Western Provinces and Oudh Municipalities Bill, but it differs from that Bill in not proposing to treat the new committees as different bodies from the committees now in existence, and it also enters into greater detail in the chapters on the subjects of taxation and of the powers and duties of committees. In some other respects its provisions are necessarily different, being framed with reference to the peculiar circumstances of the Panjáb, and therefore corresponding more or less closely with those of the Panjáb Local Self-government Bill.

7. The preliminary chapter provides for the repeal of Act IV of 1873, and for the procedure to be adopted when it is proposed to establish a new municipality, to alter the limits of an existing municipality, or to withdraw any local area from the operation of the Act. It also provides for the division of municipalities into two classes, it being considered unnecessary to retain the third class committees, the orders and proceedings of which, under the rules now in force, are subject to the confirmation of the Deputy Commissioner before they can take effect. The power given by section 6 to withdraw any local area from the operation of the Act is required to meet cases in which petty municipalities have been established in places where experience has shown that municipal institutions cannot be continued with advantage, or that a sufficient municipal income cannot be raised without having recourse to forms of taxation which would either be extremely unpopular or would not meet with the approval of Government. The third class committees, where it is not necessary to abolish them for reasons of this nature, can be transferred to the second class.

8. Chapter II relates to the organization of committees. The provisions of section 7, as to the appointment or election of the members, are similar to those of the Local Self-government Bill, and, as in that Bill, the circumstances under which election, when once introduced, may be departed from are defined as far as possible. While the existing Act requires only two-fifths of the members to be other than salaried officers of Government, the Bill raises the proportion to two-thirds unless when such officers are elected as members.

9. The term of office, except in the case of members appointed *ex officio*, is to be fixed by the Local Government, but not to exceed three years, and, when this term is adopted, provision is made for the members retiring by rotation.

10. The provisions as to the removal of members are, with slight variations, the same as those contained in the Local Self-government Bill. The incorporation of committees and the control of transfers of property made by them and of investments by them of money in the public funds are also similarly provided for.

11. Section 15 provides for the election of the chairman by the committee, subject to the approval of the Local Government, unless where Government otherwise orders, but enables the

committee, instead of electing, to apply to the Local Government to appoint a chairman from among its members. Vice-chairmen will also be elected when necessary. The term of office of the chairman is fixed by section 16 at three years, if he so long continues to be a member of the committee, but power is given to the Local Government to remove him, if moved to do so by two-thirds of the members of committee present at a special meeting.

12. Sections 19 to 26 deal with the conduct of business and the framing of rules of business. Section 25, following the precedent of the Madras and Bengal Acts, enable the chairman, or, in his absence, the vice-chairman, in cases of emergency, to exercise all powers of the committee which the Act does not require to be exercised by the committee at a meeting.

13. Section 27 provides for the appointment of joint committees when co-operation between different committees is necessary, as in the Panjáb Local Self-government Bill.

14. Sections 28 to 30 relate to the officers and servants to be employed by committees. Of these, only section 28, which deals with the appointment of a secretary, has no corresponding provision in the Panjáb Local Self-government Bill. When a paid secretary is appointed, his appointment, removal, and salary are made subject to the sanction of the Commissioner, with a view to secure the appointment of a competent man to this important office, and to supply the guarantee against arbitrary dismissal, without which it might be difficult to get a competent man to accept office. The power of control in regard to other appointments, given by section 29 to the Deputy Commissioner, has been made applicable to all committees at the suggestion of the Delhi municipal committee, which considered such a check desirable in all cases.

15. Chapter III, on the subject of taxation and the municipal fund, is much fuller than the provisions of the existing Act upon the same subject. Section 7 of Act IV of 1873, which relates to the imposition of taxes, contains no description of the taxes which may be imposed. Section 33 now specifies the taxes which may, with the previous sanction of the Local Government, be imposed for general purposes, and authorizes the imposition of other taxes, with the previous sanction of the Governor General in Council; section 34 provides for additional taxes on property, when necessary for special objects, such as the improvement of the water-supply; and section 35 describes the tolls and fees which the committee may be empowered to levy; while section 36 prescribes the procedure to be followed in imposing taxes; and section 37 provides for exemptions. Some of the taxes specified, such as a tax on professions and tolls on vehicles and animals, are not at present levied in any municipality in the province; but it has been considered desirable to include them, as it may, in some cases, be necessary to find a substitute for octroi, which forms the chief source of income in almost all Panjáb municipalities, and these taxes have been resorted to for this purpose in other provinces. In the case of tolls, it is expressly provided that they may be imposed only where no octroi is levied. Other taxes are at present sanctioned for particular municipalities such as Simla, and it has therefore been necessary to include them, without reference to whether they are suitable for adoption in other cases.

16. Section 8, Act IV of 1873, prohibits the collection of taxes until the assessment has been confirmed as prescribed by rules made by the Local Government. This provision, which, however appropriate in the case of direct taxes, is clearly inapplicable to indirect taxes like the octroi, has been omitted from the present Bill, but sections 39 to 48 lay down rules for the assessment, confirmation and collection of taxes on immoveable property; and sections 49 and 50 provide for the collection of the octroi tax; while section 97 empowers the Local Government to make rules as to the assessment and collection of other taxes.

17. Section 51 gives a power to lease octroi and tolls, which is believed not to exist under the present Act, but which is likely to be found useful in some cases.

18. Section 52 enables the committee to call for returns and to enter premises in order to obtain such information as they may require for purposes of taxation.

19. Appeals against taxes or assessments are provided for by sections 55 to 57.

20. Under section 9 of Act IV of 1873, municipal taxes may be collected as if they were arrears of land-revenue. It is not proposed to maintain this rule now that committees are about to be placed in a more independent position than hitherto, and it is not well adapted to indirect taxes like the octroi. Power is, therefore, given by section 49 to seize any articles on which any octroi, tax or toll is chargeable in default of payment, and to recover arrears of taxes generally by distress and sale under the orders of a Magistrate.

21. Chapter IV deals with the subject of the powers and duties of committees, and is also much more in detail than the corresponding sections of Act IV of 1873.

22. Sections 60 to 65 relate to the municipal police. It is necessary to maintain the liability of the municipal fund for the charges of the establishment ordinarily employed on police-duty within municipal limits, as, when the Local Government takes over such charges, this will usually be done in consideration of the committee agreeing to undertake services within the municipality to which the municipal fund can properly be applied, the cost of which has hitherto been borne by Government, and such agreements may be for a limited period and have to be renewed from time to time. Section 61 provides for agreements of this nature.

23. The police-establishment may consist either of a part of the general police force or of a body of watchmen, as the Local Government thinks fit; and section 62 enables the

Local Government to regulate its duties in either case, and, where it is a body of watchmen, to fix its strength and the grades and pay of its members; and makes provisions for the powers, protection, responsibilities and punishment of the members of such body, which are considered to be more suitable than those contained in Act XXIV of 1881, which is the present law on the subject.

24. It is not the practice to entertain separate establishments for the preservation of the peace and the prevention of crime and for watch and ward, members of the general police force or municipal watchmen, as the case may be, being employed on both duties; and it is held to be desirable that they should continue to be available for both duties. Sections 62 to 64 therefore place municipal watchmen on a similar footing to members of the general police force, so far as is possible without enrolling them in that force, bringing them under the same rules as to pay and pension, and making them liable to general service. It is therefore proposed to place them under the orders of the District Superintendent of Police, and the Local Government may relieve committees of any charge for them, in the same way as it may do where a police-establishment enrolled under Act V of 1861 is entertained.

25. Section 66 gives a more detailed statement of the duties of municipal committees and the purposes to which the municipal fund may be applied than is to be found in section 11 of the present Act.

26. Sections 67 to 70 give powers to make rules prohibiting acts of the nature of nuisances. The powers to issue injunctions, and to make conditional orders for the removal of nuisances, have not hitherto been conferred upon committees in the Panjáb, but are taken, with some modifications, from the Municipal Acts in force in the North-Western Provinces and British Burma.

27. Section 71 specifies other purposes for which committees may make rules binding on the public, and section 72 adds a special power to committees in hill stations to make rules on subjects which, in such localities, it has been found necessary to enable committees to regulate. The confirmation of such rules, and the penalties incurred by infringing them, are provided for by section 73. Section 21 of the present Act prescribes a uniform penalty, but it has been thought better to enable the committees, when making a rule, to attach to it an appropriate penalty.

28. Sections 74 to 85 give powers of interference with trades and rights of property which have hitherto usually been taken in bye-laws. Such powers are expressly given in the Municipal Acts of the Bengal, Madras and Bombay Legislatures, and it has been thought better to give them in the Bill than to leave them to depend upon the authority of bye-laws. They may not be required in some of the minor municipalities, but a subsequent provision will admit of these municipalities being excepted from this part of the Bill.

29. Section 89 enables the Local Government to invest members of committee or officers of the committee by name or a sub-committee with the power to summon persons committing offences punishable under section 67 before a Magistrate, and to accept composition for such offences from persons who are willing to pay such composition in preference to appearing before a Magistrate to answer the charge. A provision of this nature was suggested by the Local Government as likely to be suitable in places like Simla, in reply to a proposal to give the secretary to the committee the powers of a Magistrate for the disposal of petty cases of nuisance; and, as the section is framed, no such power will exist unless where the Local Government thinks proper to confer it.

30. Chapter V, relating to control, differs in no material respect from the corresponding provisions of the Panjáb Local Self-government Bill.

31. Section 97 enables the Local Government to prescribe such forms as it may consider necessary, and specifies the subjects on which it may make rules supplementary to the provisions of the Act.

32. Chapter VI contains miscellaneous provisions as to the effect of a member or servant of a committee being interested in any contract with the committee, the liabilities of members, suit against committees, prosecutions for infringement of rules, the acquisition of land, the procedure to be followed in making rules, and the like.

33. Chapter VII provides for the disposal of property vested in committees when the area subject to their authority or part thereof is withdrawn from the operation of the Act under section 6; for excepting municipalities from any provisions of the Act unsuitable thereto; and, in the same way as in the Local Self-government Bill, for the saving of the rights of existing officers and servants, and for the control to which Commissioners and Deputy Commissioners are to be subject in the discharge of their duties under the Act.

D. G. BARKLEY.

The 3rd September, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 6, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th October, 1883, and was referred to a Select Committee:—

No. 21 OF 1883.

A Bill to amend the Legal Practitioners Act, 1879, and the Indian Stamp Act, 1879.

WHEREAS it is expedient to amend the Legal Practitioners Act, 1879, in manner in this Act appearing; XVIII of 1879.

And whereas it is also expedient to amend the Indian Stamp Act, 1879, in so far as it relates to the duty chargeable on the enrolment of legal practitioners; I of 1879.

It is hereby enacted as follows:—

Short title. **1.** (*1*) This Act may be called the Legal Practitioners Act, 1883; and

Commencement. (*2*) It shall come into force at once.

Amendment of section 4 of Act XVIII of 1879. **2.** In section 4 of the Legal Practitioners Act, 1879, for the words "as an advocate on the roll of the Chief Court of the Panjáb" the words "under section 41 of this Act" shall be substituted. XVIII of 1879.

Addition of a proviso to section 13 of same Act. **3.** To section 13 of the same Act the following proviso shall be added:—

"Provided that in any case in which the party on whose behalf any such pleader as aforesaid is retained is—

(*a*) a pardánashín woman, or

(*b*) unable for any sufficient cause to instruct the pleader in person,

the High Court shall not suspend or dismiss the pleader because he has taken instructions from a relative of the party deputed by him or her to instruct the pleader."

New section substituted for section 41 of same Act. **4.** For section 41 of the same Act the following section shall be substituted, namely:—

Power for certain High Courts to enrol advocates. "41. (*1*) A High Court not established by Royal Charter may, from time to time, with the previous sanction of the Local Government, make rules as to the qualifications and admission of proper persons to be advocates of the Court, and, subject to such rules, may enrol such and so many advocates as it thinks fit.

(*2*) Every advocate so enrolled shall be entitled to appear for the suitors of the Court and to plead or to act, or to plead and act, for those suitors, according as the Court may by its rules determine, and subject to those rules.

"(*3*) The High Court may dismiss any advocate so enrolled or suspend him from practice:

"(*4*) Provided that an advocate shall not be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the High Court which enrolled him, and, except in the case of the Chief Court of the Panjáb, unless the order of the High Court dismissing or suspending him has been confirmed by the Local Government."

New section added to same Act. **5.** To the same Act the following section shall be added, namely:—

Repeal of Acts I of 1846 and XX of 1853. "42. Act I of 1846 (*for amending the law regarding the appointment and remuneration of pleaders in the Courts of the East India Company*) and Act XX of 1853 (*to amend the law relating to pleaders in the Courts of the East India Company*) are repealed."

Amendment of Schedules I & II of Act I of 1879. (Duty on enrolment of advocates.) **6.** In Article 27 of Schedule I of the Indian Stamp Act, 1879, the words "in exercise of powers conferred on such Court by letters patent," and in clause (*a*) of Article 11 of Schedule II of the same Act, the words "established by Royal Charter" are repealed. I of 1879.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend the Legal Practitioners Act, 1879, in certain respects, in which experience has shown that the existing law is defective.

2. Section 13 of the Legal Practitioners Act, 1879, contains a provision that the High Court may suspend or dismiss any pleader who takes instructions in any case except from the party on whose behalf he is retained, or from a private servant of such party, or from some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure. It has been brought to the notice of the Government that the practical operation of this provision is in certain cases attended with inconvenience to litigants and pleaders. In litigation in which pardánashín women are concerned, instructions must often, as a matter of necessity, be given through their near relatives. Again, there are cases in which male litigants, who have not the means of employing private servants, are unable from various causes, such as physical incapacity or old age, to instruct their pleaders in person. In such cases it seems right to allow the relatives of the litigants to instruct pleaders on their behalf. Section 3 of the Bill accordingly adds a proviso to section 13 of the Act enabling pleaders to take instructions from a relative of the party deputed by him or her to instruct the pleader when the party is a pardánashín woman or unable for any sufficient cause to instruct the pleader in person.

3. Under the Legal Practitioners Act, 1879, an advocate not ordinarily practising in his own province must, if he wishes to practise in such a province as the Central Provinces, for example, where the Judicial Commissioner has at present no power of enrolling advocates, first enrol himself as a pleader. As this state of the law is felt by certain persons to be a grievance, a new section has been added to the Act, empowering all High Courts not established by Royal Charter to enrol advocates as the Chief Court of the Panjáb is at present empowered to enrol them. As the power of suspension or removal would, except in the case of the Panjáb Chief Court, be vested in a single officer if it were conferred absolutely on the High Court, it has been thought well to make every order by any High Court, other than the Panjáb Chief Court, suspending or removing an advocate subject to confirmation by the Local Government.

4. The new section 42, which section 5 of the Bill adds to the Act, provides for the repeal of Acts I of 1846 and XX of 1853 in all places to which that section may be extended. The Madras High Court has noticed that these Acts have not as yet been expressly repealed in that Presidency, though a great portion of the Legal Practitioners Act, 1879, has been brought into operation there. These Acts are, it is believed, already repealed in all the provinces to which the Legal Practitioners Act, 1879, extends *proprio vigore*; but it is possible that they may be still unrepealed in some of the other provinces to which that Act has either already been or may hereafter be extended under the power conferred by its first section. The new section 42, taken with the first section of the Legal Practitioners Act, will enable the Local Government of any such province to repeal these Acts if still in force in it.

5. Lastly, section 6 of the Bill amends article 27 of schedule I and article 11 of schedule II of the Indian Stamp Act, 1879, by omitting the words which confine their operation to advocates of the chartered High Courts. As section 41 of the Legal Practitioners Act, 1879, empowers the Chief Court of the Panjáb to enrol advocates, and as the Bill will confer similar powers on the other non-chartered High Courts, the words in question are, as represented by the North-Western Provinces High Court, out of place, so far as advocates are concerned, and should therefore be omitted.

C. P. ILBERT.

The 19th September, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 13, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th October, 1883, and was referred to a Select Committee :—

No. 21 of 1883.

A Bill to amend the Legal Practitioners Act, 1879, and the Indian Stamp Act, 1879.

WHEREAS it is expedient to amend the Legal Practitioners Act, 1879, in manner in this Act appearing; XVIII of 1879.

And whereas it is also expedient to amend the Indian Stamp Act, 1879, in so far as it relates to the duty chargeable on the enrolment of legal practitioners; I of 1879.

It is hereby enacted as follows :—

Short title. **1.** (*1*) This Act may be called the Legal Practitioners Act, 1883; and

Commencement. (*2*) It shall come into force at once.

Amendment of section 4 of Act XVIII of 1879. **2.** In section 4 of the Legal Practitioners Act, 1879, for the words "as an advocate on the roll of the Chief Court of the Panjáb" the words "under section 41 of this Act" shall be substituted. XVIII of 1879.

Addition of a proviso to section 13 of same Act. **3.** To section 13 of the same Act the following proviso shall be added :—

"Provided that in any case in which the party on whose behalf any such pleader as aforesaid is retained is—

(*a*) a pardánashín woman, or

(*b*) unable for any sufficient cause to instruct the pleader in person,

the High Court shall not suspend or dismiss the pleader because he has taken instructions from a relative of the party deputed by him or her to instruct the pleader."

New section substituted for section 41 of same Act. **4.** For section 41 of the same Act the following section shall be substituted, namely :—

"41. (*1*) A High Court not established by Royal Charter may, from time to time, with the previous sanction of the Local Government, make rules as to the qualifications and admission of proper persons to be advocates of the Court, and, subject to such rules, may enrol such and so many advocates as it thinks fit.

Power for certain High Courts to enrol advocates.

(*2*) Every advocate so enrolled shall be entitled to appear for the suitors of the Court and to plead or to act, or to plead and act, for those suitors, according as the Court may by its rules determine, and subject to those rules.

"(*3*) The High Court may dismiss any advocate so enrolled or suspend him from practice :

"(*4*) Provided that an advocate shall not be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the High Court which enrolled him, and, except in the case of the Chief Court of the Panjáb, unless the order of the High Court dismissing or suspending him has been confirmed by the Local Government."

New section added to same Act. **5.** To the same Act the following section shall be added, namely :—

"42. Act I of 1846 (*for amending the law regarding the appointment and remuneration of pleaders in the Courts of the East India Company*) and Act XX of 1853 (*to amend the law relating to pleaders in the Courts of the East India Company*) are repealed."

Repeal of Acts I of 1846 and XX of 1853.

Amendment of Schedules I & II of Act I of 1879. (Duty on enrolment of advocates.) **6.** In Article 27 of Schedule I of the Indian Stamp Act, 1879, the words "in exercise of powers conferred on such Court by letters patent," and in clause (*a*) of Article 11 of Schedule II of the same Act, the words "established by Royal Charter" are repealed. of 1879.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend the Legal Practitioners Act, 1879, in certain respects in which experience has shown that the existing law is defective.

2. Section 13 of the Legal Practitioners Act, 1879, contains a provision that the High Court may suspend or dismiss any pleader who takes instructions in any case except from the party on whose behalf he is retained, or from a private servant of such party, or from some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure. It has been brought to the notice of the Government that the practical operation of this provision is in certain cases attended with inconvenience to litigants and pleaders. In litigation in which pardánashín women are concerned, instructions must often, as a matter of necessity, be given through their near relatives. Again, there are cases in which male litigants, who have not the means of employing private servants, are unable from various causes, such as physical incapacity or old age, to instruct their pleaders in person. In such cases it seems right to allow the relatives of the litigants to instruct pleaders on their behalf. Section 3 of the Bill accordingly adds a proviso to section 13 of the Act enabling pleaders to take instructions from a relative of the party deputed by him or her to instruct the pleader when the party is a pardánashín woman or unable for any sufficient cause to instruct the pleader in person.

3. Under the Legal Practitioners Act, 1879, an advocate not ordinarily practising in his own province must, if he wishes to practise in such a province as the Central Provinces, for example, where the Judicial Commissioner has at present no power of enrolling advocates, first enrol himself as a pleader. As this state of the law is felt by certain persons to be a grievance, a new section has been added to the Act, empowering all High Courts not established by Royal Charter to enrol advocates as the Chief Court of the Panjáb is at present empowered to enrol them. As the power of suspension or removal would, except in the case of the Panjáb Chief Court, be vested in a single officer if it were conferred absolutely on the High Court, it has been thought well to make every order by any High Court, other than the Panjáb Chief Court, suspending or removing an advocate subject to confirmation by the Local Government.

4. The new section 42, which section 5 of the Bill adds to the Act, provides for the repeal of Acts I of 1846 and XX of 1853 in all places to which that section may be extended. The Madras High Court has noticed that these Acts have not as yet been expressly repealed in that Presidency, though a great portion of the Legal Practitioners Act, 1879, has been brought into operation there. These Acts are, it is believed, already repealed in all the provinces to which the Legal Practitioners Act, 1879, extends *proprio vigore*; but it is possible that they may be still unrepealed in some of the other provinces to which that Act has either already been or may hereafter be extended under the power conferred by its first section. The new section 42, taken with the first section of the Legal Practitioners Act, will enable the Local Government of any such province to repeal these Acts if still in force in it.

5. Lastly, section 6 of the Bill amends article 27 of schedule I and article 11 of schedule II of the Indian Stamp Act, 1879, by omitting the words which confine their operation to advocates of the chartered High Courts. As section 41 of the Legal Practitioners Act, 1879, empowers the Chief Court of the Panjáb to enrol advocates, and as the Bill will confer similar powers on the other non-chartered High Courts, the words in question are, as represented by the North-Western Provinces High Court, out of place, so far as advocates are concerned, and should therefore be omitted.

C. P. ILBERT.

The 19th September, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

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 October, 1883, and was referred to a Select Committee:—

No. 22 OF 1883.

A Bill to amend the Indian Ports Act, 1875.

WHEREAS it is expedient to amend section 47 of the Indian Ports Act, 1875, so as to provide that the pensions or gratuities (if any) of persons employed in any port under that Act shall be charged to the Port Fund account of the port; It is hereby enacted as follows:—

XII of 1875.

1. In the fourth paragraph of section 47 of the said Act, for the words "All expenses, including the pay and allowances of all persons upon the establishment of the port" the words "All expenses, including the pay, allowances, pensions and gratuities (if any) of all persons employed in the port" shall be substituted.

Amendment of section 47 of the Indian Ports Act, 1875.

STATEMENT OF OBJECTS AND REASONS.

IT has recently been ruled by the Government of India in the Finance Department that service in establishments paid from port funds managed by the Government is qualifying service for pension, provided that the port fund pays for such service. It has now been brought to notice by the Government of Bombay that section 47 of the Indian Ports Act, 1875, which regulates the accounts of port-dues, does not authorize provision for pensioning employés either by investment of part of the port funds, or by the purchase of pensions from Government, or otherwise. As it seems to the Government that, when it administers a port fund, it should have the power of ordering the payment of pensions out of that fund, the present Bill, which modifies section 47 of the Indian Ports Act so as to give the Government the desired powers, has been prepared.

C. P. ILBERT.

The 10th October, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

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 October, 1883 :—

No. 23 of 1883.

A Bill to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.

WHEREAS it is expedient to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby; It is hereby enacted as follows :—

Certain unregistered instruments of partition to have same force and effect as registered instruments.

1. Notwithstanding anything contained in any Act to the contrary, instruments of partition relating to immoveable property in the Madras Presidency, which have been executed before the passing of this Act and have not been registered, shall have the same force and effect as if they had been registered under the law in force at the time when they were executed :

Provided that this Act shall not—

(*a*) apply to any unregistered instrument of partition which has been superseded by an instrument of partition duly registered, or

(*b*) affect the title of a transferee in good faith of property, whether he has or has not had notice of an unregistered instrument of partition relating to that property, or

(*c*) affect any right established by a final decree of a Court of competent jurisdiction.

Compensation to person deprived of right owing to transfer under section 1, clause (*b*).

2. When any person to whom any right has accrued on the partition or any person claiming under that person has by any such transfer as is mentioned in section one, clause (*b*), been deprived of any right created by the partition, he shall be entitled to recover compensation in damages from any sharer who has joined in the transfer or, if the sharer is dead, from the assets, if any, in the hands of the heirs of the sharer :

Provided that suit be brought within three years after the date on which this Act comes into force or within three years from the date of the transfer, if the transfer is made after this Act come into force.

STATEMENT OF OBJECTS AND REASONS.

SECTION 17 of the Registration Act, XX of 1866, relates to instruments of which the registration is compulsory, and section 18 to instruments of which the registration is optional.

2. Clause (7) of the latter section includes "Instruments of Partition" among other instruments. The High Court at Madras shortly after the passing of the Act, recorded an extra-judicial opinion that partition-deeds relating to immoveable property were governed by section 18 of the Act, and that their registration was therefore optional. This opinion was promulgated and acted upon.

3. The Act of 1866 was repealed by the Registration Act, VIII of 1871, which, however, reproduced clause (7), section 18 of the former Act; but the Act of 1871 was in turn repealed by the Registration Act, III of 1877. Section 18 of this Act revised the list of documents the registration of which was optional, and partition-deeds have been omitted from the list.

4. The Madras High Court now says that, of late, grave doubts have been entertained as to the correctness of the opinion recorded by it in the matter of the registration of partition-deeds referred to above, and recommends that, in view of the serious consequences to persons who may have acted on the opinion of the Court, and of the dissensions which may be excited in families by the disturbance of such arrangements, resort should be had to legislation to quiet titles. The High Court further suggests that such legislation should take the form of the present Bill. Under these circumstances, the Government of India deems it the most fitting course to accept the proposals of the High Court without modification, and accordingly the present Bill has been prepared.

C. P. ILBERT.

The 11th October, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 20, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th October, 1883, and was referred to a Select Committee :—

No. 21 of 1883.

A Bill to amend the Legal Practitioners Act, 1879, and the Indian Stamp Act, 1879.

WHEREAS it is expedient to amend the Legal Practitioners Act, 1879, in manner hereinafter appearing; XVIII of 1879.

And whereas it is also expedient to amend the Indian Stamp Act, 1879, in so far as it relates to the duty chargeable on the enrolment of legal practitioners; I of 1879.

It is hereby enacted as follows :—

Short title. 1. (*1*) This Act may be called the Legal Practitioners Act, 1883; and

Commencement. (*2*) It shall come into force at once.

Amendment of section 4 of Act XVIII of 1879. 2. In section 4 of the Legal Practitioners Act, 1879, for the words "an advocate on the roll of the Chief Court of the Panjáb" the words "under section 4 of this Act" shall be substituted. XVIII of 1879.

Addition of proviso to section 13 of same Act. 3. To section 13 of the same Act the following proviso shall be added :—

"Provided that in any case in which the party on whose behalf any such pleader as aforesaid is retained—

(*a*) is ordinarily resident in a place at which there is a High Court, and

(*b*) is able for any sufficient cause to instruct the pleader in person,

the High Court shall not suspend or dismiss the pleader because he has taken instructions from a relative of the party deputed by him or her to instruct the pleader."

New section substituted for section 41 of same Act. 4. For section 41 of the same Act the following section shall be substituted, namely :—

Power for certain High Courts to enrol advocates. "41. (*1*) A High Court not established by Royal Charter may, from time to time, with the previous sanction of the Local Government, make rules as to the qualifications and admission of proper persons to be advocates of the Court, and, subject to such rules, may enrol such and so many advocates as it thinks fit.

(*2*) Every advocate so enrolled shall be entitled to appear for the suitors of the Court and to plead or to act, or to plead and act, for those suitors, according as the Court may by its rules determine, and subject to those rules.

"(*3*) The High Court may dismiss any advocate so enrolled or suspend him from practice :

"(*4*) Provided that an advocate shall not be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the High Court which enrolled him, and, except in the case of the Chief Court of the Panjáb, unless the order of the High Court dismissing or suspending him has been confirmed by the Local Government.

New section to be added to same Act. 5. To the same Act the following section shall be added, namely :—

Repeal of Acts I of 1846 and XX of 1853. "42. Act I of 1846 (*for amending the law regarding the appointment and remuneration of pleaders in the Courts of the East India Company*) and Act XX of 1853 (*to amend the law relating to pleaders in the Courts of the East India Company*) are repealed."

Amendment of Schedules I and II of Act I of 1879. (Duty on enrolment of advocates). 6. In Article 27 of Schedule I of the Indian Stamp Act, 1879, the words "in exercise of powers conferred upon such Court by letters patent," and in clause (*a*) of Article 11 of Schedule II of the same Act, the words "established by Royal Charter" are repealed. I of 1879.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend the Legal Practitioners Act, 1879, in certain respects in which experience has shown that the existing law is defective.

2. Section 13 of the Legal Practitioners Act, 1879, contains a provision that the High Court may suspend or dismiss any pleader who takes instructions in any case except from the party on whose behalf he is retained, or from a private servant of such party, or from some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure. It has been brought to the notice of the Government that the practical operation of this provision is in certain cases attended with inconvenience to litigants and pleaders. In litigation in which pardánashín women are concerned, instructions must often, as a matter of necessity, be given through their near relatives. Again, there are cases in which male litigants, who have not the means of employing private servants, are unable from various causes, such as physical incapacity or old age, to instruct their pleaders in person. In such cases it seems right to allow the relatives of the litigants to instruct pleaders on their behalf. Section 3 of the Bill accordingly adds a proviso to section 13 of the Act enabling pleaders to take instructions from a relative of the party deputed by him or her to instruct the pleader when the party is a pardánashín woman or unable for any sufficient cause to instruct the pleader in person.

3. Under the Legal Practitioners Act, 1879, an advocate not ordinarily practising in his own province must, if he wishes to practise in such a province as the Central Provinces, for example, where the Judicial Commissioner has at present no power of enrolling advocates, first enrol himself as a pleader. As this state of the law is felt by certain persons to be a grievance, a new section has been added to the Act, empowering all High Courts not established by Royal Charter to enrol advocates as the Chief Court of the Panjáb is at present empowered to enrol them. As the power of suspension or removal would, except in the case of the Panjáb Chief Court, be vested in a single officer if it were conferred absolutely on the High Court, it has been thought well to make every order by any High Court, other than the Panjáb Chief Court, suspending or removing an advocate subject to confirmation by the Local Government.

4. The new section 42, which section 5 of the Bill adds to the Act, provides for the repeal of Acts I of 1846 and XX of 1853 in all places to which that section may be extended. The Madras High Court has noticed that these Acts have not as yet been expressly repealed in that Presidency, though a great portion of the Legal Practitioners Act, 1879, has been brought into operation there. These Acts are, it is believed, already repealed in all the places to which the Legal Practitioners Act, 1879, extends *proprio vigore*; but it is possible that they may be still unrepealed in some of the other provinces to which that Act has either already been or may hereafter be extended under the power conferred by its first section. The new section 42, taken with the first section of the Legal Practitioners Act, will enable the Local Government of any such province to repeal these Acts if still in force in it.

5. Lastly, section 6 of the Bill amends article 27 of Schedule I and article 11 of Schedule II of the Indian Stamp Act, 1879, by omitting the words which confine their operation to advocates of the chartered High Courts. As section 41 of the Legal Practitioners Act, 1879, empowers the Chief Court of the Panjáb to enrol advocates, and as the Bill will confer similar powers on the other non-chartered High Courts, the words in question are represented by the North-Western Provinces High Court out of place, so far as advocates are concerned, and should therefore be omitted.

C. P. ILBERT.

The 13th September, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

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 October, 1883, and was referred to a Select Committee:—

No. 22 OF 1883.

A Bill to amend the Indian Ports Act, 1875.

WHEREAS it is expedient to amend section 47 of the Indian Ports Act, 1875, so as to provide that the pensions or gratuities (if any) of persons employed in any port under that Act shall be charged to the Port Fund account of the port; It is hereby enacted as follows:—

XII of 1875.

1. In the fourth paragraph of section 47 of the said Act, for the words "All expenses, including the pay and allowances of all persons upon the establishment of the port" the words "All expenses, including the pay, allowances, pensions and gratuities (if any) of all persons employed in the port" shall be substituted.

Amendment of section 47 of the Indian Ports Act, 1875.

STATEMENT OF OBJECTS AND REASONS.

IT has recently been ruled by the Government of India in the Finance Department that service in establishments paid from port funds managed by the Government is qualifying service for pension, provided that the port fund pays for such service. It has now been brought to notice by the Government of Bombay that section 47 of the Indian Ports Act, 1875, which regulates the accounts of port-dues, does not authorize provision for pensions of employés either by investment of part of the port funds or by purchase of pensions from Government, or otherwise. As it seems to the Government that the body which administers a port fund should have the power of ordering the payment of pensions out of that fund, the present Bill, which modifies section 47 of the Indian Ports Act so as to give the Government the desired powers, has been prepared.

C. P. ILBERT.

The 10th October, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

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 October, 1883 :—

No. 23 OF 1883.

A Bill to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.

WHEREAS it is expedient to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby; It is hereby enacted as follows :—

Certain unregistered instruments of partition to have same force and effect as registered instruments.

1. Notwithstanding anything contained in any Act to the contrary, instruments of partition relating to immoveable property in the Madras Presidency, which have been executed before the passing of this Act and have not been registered, shall have the same force and effect as if they had been registered under the law in force at the time when they were executed :

Provided that this Act shall not—

(*a*) apply to any unregistered instrument of partition which has been superseded by an instrument of partition duly registered, or

(*b*) affect the title of a transferee in good faith of property, whether he has or has not had notice of an unregistered instrument of partition relating to that property, or

(*c*) affect any right established by a final decree of a Court of competent jurisdiction.

Compensation to person deprived of right owing to transfer under section 1, clause (*b*).

2. When any person to whom any right has accrued on the partition or any person claiming under that person has by any such transfer as is mentioned in section one, clause (*b*), been deprived of any right created by the partition, he shall be entitled to recover compensation in damages from any sharer who has joined in the transfer or, if the sharer is dead, from the assets, if any, in the hands of the heirs of the sharer :

Provided that suit be brought within three years after the date on which this Act comes into force or within three years from the date of the transfer, if the transfer is made after this Act come into force.

STATEMENT OF OBJECTS AND REASONS.

Section [illegible] of the Registration Act, XX of 1866, relates to instruments of which the registration is compulsory, and section 18 to instruments of which the registration is optional.

Clause (7) of the latter section includes "Instruments of Partition" among other instruments. The High Court at Madras, shortly after the passing of the Act, recorded an extra-judicial opinion that partition-deeds relating to immoveable property were governed by section 18 of the Act, and that their registration was therefore optional. This opinion was promulgated and acted upon.

3. The Act of 1866 was repealed by the Registration Act, VIII of 1871, which, however, reproduced clause (7), section 18 of the former Act; but the Act of 1871 was in turn repealed by the Registration Act, III of 1877. Section 18 of this Act revised the list of documents the registration of which was optional, and partition-deeds have been omitted from the list.

4. The Madras High Court now says that, of late, grave doubts have been entertained as to the correctness of the opinion recorded by it in the matter of the registration of partition-deeds referred to above, and recommends that, in view of the serious consequences to persons who may have acted on the opinion of the Court, and of the dissensions which may be excited in families by the disturbance of such arrangements, resort should be had to legislation to quiet titles. The High Court further suggests that such legislation should take the form of the present Bill. Under these circumstances, the Government of India deems it the most fitting course to accept the proposals of the High Court without modification, and accordingly the present Bill has been prepared.

C. P. ILBERT.

The 11th October, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 27, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

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 October, 1883, and was referred to a Select Committee :—

No. 22 OF 1883.

A Bill to amend the Indian Ports Act, 1875.

WHEREAS it is expedient to amend section 47 of the Indian Ports Act, 1875, [illegible] as to provide that the pensions or gratuities (if any) of persons employed in any port under that Act shall be charged to the Port Fund account of the port; It is hereby enacted as follows :—

XII of 1875.

Amendment of section 47 of the Indian Ports Act, 1875.

1. In the fourth paragraph of section 47 of the said Act, for the words "All expenses, including the pay and allowances of persons upon the establishment of the [illegible]" the words "All expenses, including the pay, allowances, pensions and gratuities (if any) of all persons employed in the port" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

IT has recently been ruled by the Government of India in the Finance Department that service in establishments paid from port funds managed by [illegible] is qualifying service for pension, provided that the port fund pays for such service. It has now been brought to notice by the Government of Bombay that section 47 of the Indian Ports Act, 1875, which regulates the accounts of port-dues, does not authorize provision for pensioning employés either by investment of part of the port funds, or by the purchase of pensions from Government, or otherwise. As it seems to the Government that, when it administers a port fund, it should have the power of ordering the payment of pensions out of that fund, the present Bill, which modifies section 47 of the Indian Ports Act so as to give the Government the desired powers, has been prepared.

C. P. ILBERT.

The 10th October, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

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 October, 1883 :—

No. 23 OF 1883.

A Bill to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.

WHEREAS it is expedient to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby; It is hereby enacted as follows :—

Certain unregistered instruments of partition to have same force and effect as registered instruments.

1. Notwithstanding anything contained in any Act to the contrary, instruments of partition relating to immoveable property in the Madras Presidency, which have been executed before the passing of this Act and have not been registered, shall have the same force and effect as if they had been registered under the law in force at the time when they were executed :

Provided that this Act shall not—

(*a*) apply to any unregistered instrument of partition which has been superseded by an instrument of partition duly registered, or

(*b*) affect the title of a transferee in good faith of property, whether he has or has not had notice of an unregistered instrument of partition relating to that property, or

(*c*) affect any right established by a final decree of a Court of competent jurisdiction.

Compensation to person deprived of right owing to transfer under section 1, clause (*b*).

2. When any person to whom any right has accrued on the partition or any person claiming under that person has by any such transfer as is mentioned in section one, clause (*b*), been deprived of any right created by the partition, he shall be entitled to recover compensation in damages from any sharer who has joined in the transfer or, if the sharer is dead, from the assets, if any, in the hands of the heirs of the sharer :

Provided that suit be brought within three years after the date on which this Act comes into force or within three years from the date of the transfer, if the transfer is made after this Act come into force.

STATEMENT OF OBJECTS AND REASONS.

SECTION 17 of the Registration Act, XX of 1866, relates to instruments of which the registration is compulsory, and section 18 to instruments of which the registration is optional.

Clause (7) of the latter section includes "Instruments of Partition" among other instruments. The High Court at Madras, shortly after the passing of the Act, recorded an extra-judicial opinion that partition-deeds relating to immoveable property were governed by section 18 of the Act, and that their registration was therefore optional. This opinion was promulgated and acted upon.

3. The Act of 1866 was repealed by the Registration Act, VIII of 1871, which, however, reproduced clause (7), section 18 of the former Act ; but the Act of 1871 was in turn repealed by the Registration Act, III of 1877. Section 18 of this Act revised the list of documents the registration of which was optional, and partition-deeds have been omitted from the list.

4. The Madras High Court now says that, of late, grave doubts have been entertained as to the correctness of the opinion recorded by it in the matter of the registration of partition-deeds referred to above, and recommends that, in view of the serious consequences to persons who may have acted on the opinion of the Court, and of the dissensions which may be excited in families by the disturbance of such arrangements, resort should be had to legislation to quiet titles. The High Court further suggests that such legislation should take the form of the present Bill. Under these circumstances, the Government of India deems it the most fitting course to accept the proposals of the High Court without modification, and accordingly the present Bill has been prepared.

C. P. ILBERT.

The 11th October, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 15, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th December, 1883 :—

No. 24 OF 1883.

A Bill to repeal Bengal Regulation XIX of 1810 within the territories administered by the Lieutenant-Governor of the North-Western Provinces.

WHEREAS the provisions of Bengal Regulation XIX of 1810 (*for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples, colleges and other purposes ; for the maintenance and repair of bridges, seráis, kattras and other public buildings ; and for the custody and disposal of nazúl property or escheats,*) are, in so far as they are still in force within the territories administered by the Lieutenant-Governor of the North-Western Provinces, either obsolete or unnecessary, and it is therefore expedient entirely to repeal the Regulation within those territories ; It is hereby enacted as follows :—

Repeal of Bengal Regulation XIX of 1810 in the North-Western Provinces.

1. Bengal Regulation XIX of 1810 is hereby repealed within the territories administered by the Lieutenant-Governor of the North-Western Provinces.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill, which has been prepared on the recommendation of the Local Government, is to repeal Bengal Regulation XIX of 1810 (*for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples, colleges, and other purposes ; for the maintenance and repair of bridges, seráis, kattras, and other public buildings ; and for the custody and disposal of nazúl property or escheats*) within the territories administered by the Lieutenant-Governor of the North-Western Provinces. So far as the Regulation vests the superintendence of seráis in the Board of Revenue, it is at variance with the existing practice, as seráis are now managed in the North-Western Provinces entirely by the executive authorities under the immediate orders of the Government, and the Local Government reports that the other provisions of the Regulation, which provide for the management of lands granted as charitable and educational endowments and the superintendence of escheats, are not required for the territories under its administration.

Though the Regulation, in so far as it relates to seráis, is obsolete also in the Lower Provinces, it is still in active operation in those Provinces with regard to a few trusts and small endowments administered by the Board of Revenue, and still governs the procedure there with regard to escheats. Under these circumstances it has been considered best to confine the Bill to the North-Western Provinces and leave it to the Bengal Legislature to legislate for the Lower Provinces if it thinks necessary.

C. P. ILBERT.

The 7th December, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th December 1883, and was referred to a Select Committee:—

No. 25 OF 1883.

A Bill to amend the Burma Courts Act, 1875.

WHEREAS it is expedient to amend the Burma Courts Act, 1875; It is hereby enacted as follows:— XVII of 1875.

1. (*1*) This Act may be called the Burma Courts Act, 1883; and — Short title.

(*2*) It shall come into force at once. — Commencement.

2. In this Act, unless there is something repugnant in the subject or context, "section" means a section of the Burma Courts Act, 1875. — Definition of "section." XVII of 1875.

3. (*1*) In section 6, in clause (*a*), for the words "Extra Assistant Commissioner of the third class" the word "Myo-ôk" shall be substituted, and in clause (*b*) the words "of the second class, the Extra Assistant Commissioner of the first class" shall be omitted. — Alteration of names of certain Courts.

(*2*) In the table subjoined to section 12, in clause (*a*), for the words "Extra Assistant Commissioner of the third class" the word "Myo-ôk" shall be substituted, and in clause (*b*), the words "of the second class, the Court of the Extra Assistant Commissioner of the first class" shall be omitted.

(*3*) In section 18, the words "of the first or second class" shall be omitted.

(*4*) The substitutions and omissions made by this section shall be deemed to have been made from the thirty-first day of March, 1882.

4. For section 8 the following section shall be substituted:— — Substitution of new section for section 8.

"8. The Governor General in Council and the Chief Commissioner may, respectively, from time to time, vary the number of Courts mentioned in section six, in clauses (*c*), (*d*), (*e*) and (*f*), and in clauses (*a*) and (*b*)."

5. For section 9 the following section shall be substituted:— — Substitution of new section for section 9.

"9. The Chief Commissioner may, from time to time, vary the local limits of the jurisdiction of any Court mentioned in section six, clauses (*a*) and (*b*), and, with the previous sanction of the Governor General in Council, of any Court mentioned in section six, clauses (*c*), (*d*), (*e*) and (*f*)."

6. After section 9 the following section shall be inserted, namely:— — Insertion of section after section 9.

"9A. Any order heretofore passed, or decree made or proceeding taken by any Civil Court in British Burma acting as if it had the jurisdiction of a Court mentioned in section six, clause (*a*) or clause (*b*), shall not be invalid merely because the Court was established by the Chief Commissioner instead of by the Governor General in Council or because the local limits of its jurisdiction were varied by the Chief Commissioner without the previous sanction of the Governor General in Council." — Validation of certain proceedings already taken.

7. In section 23 the following amendments shall be made, namely:— — Amendment of section 23.

(*a*) after the word "Commissioner" each time it occurs, the words "or Deputy Commissioner,"

(*b*) after the words "Judicial Commissioner" the first time they occur, the words "or Commissioner respectively," and

(*c*) after the words "Judicial Commissioner," the second time they occur, the words "or Commissioner,"

shall be respectively inserted.

8. After section 23 the following section shall be inserted, namely:— — Insertion of section after section 23.

"23A. The Chief Commissioner may invest any Assistant Commissioner with power to hear appeals from decrees and orders in original suits and proceedings of any Court mentioned in section six, clause (*a*) or (*b*). — Power for Chief Commissioner to invest Assistant Commissioners with appellate powers.

"The Chief Commissioner may withdraw the power with which any Assistant Commissioner has been invested under this section."

9. For section 38 the following section shall be substituted, namely:— — Substitution of new section for section 38.

"38. The presiding officer of the Court of the Judicial Commissioner shall be appointed by the Governor General in Council. — Appointment of officers.

"The presiding officers of all the other Courts mentioned in section six may be appointed and may be removed by the Chief Commissioner."

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to make certain amendments in the Burma Courts Act, 1875 (XVII of 1875), which experience has shown to be required.

2. In the Act as it at present stands the presiding officers of the Courts of the lowest grades are termed Extra Assistant Commissioners of the 1st, 2nd and 3rd class respectively. In 1882 the Subordinate Executive and Judicial Service in British Burma was reorganized, and the designations of the service were changed. The term Extra Assistant Commissioner was restricted to Extra Assistant Commissioners of the 1st and 2nd classes under the old system; and Extra Assistant Commissioners of the 3rd class were styled Myo-ôks. The result is that the present designations of the Subordinate Judicial Officers do not correspond with the designations given to the Subordinate Civil Courts by the Act. This difficulty has hitherto been ignored. Now, however, the Judicial Commissioner, Mr. Jardine, is of opinion that, as the law stands, the nomenclature used in the Courts Act should be adhered to as regards all officers of the Subordinate Judicial Service appointed to preside in Civil Courts. He advises the Chief Commissioner that questions of jurisdiction may arise and may cause inconvenience and loss to suitors; and he reports that a case of the kind has already occurred. This being the view taken by the Judge of the highest Appellate Court, the Chief Commissioner has addressed the Government of India on the subject. He wishes that all doubt on the point should be removed by substituting the words "Extra Assistant Commissioner" for the words "Extra Assistant Commissioner of the 1st and 2nd class," and the word "Myo-ôk" for the words "Extra Assistant Commissioner of the 3rd class" wherever they occur in the Courts Act. With this view section 3 of the Bill has been drafted. It gives the amendments made by the section retrospective effect from the 1st April, 1882, the date of the re-organization of the Subordinate Service.

3. Further difficulties have also arisen from the provisions of sections 8 and 9 of the Act. Under recent orders the Chief Commissioner has power to create additional Myo-ôkships; but in consequence of the provisions of section 8 of the Act additional Myo-ôks appointed by the Chief Commissioner can do no civil work unless the sanction of the Government of India is first obtained to the creation of an additional Civil Court. Again, the duties performed by Extra Assistant Commissioners and those performed by Myo-ôks are practically of the same description. The exigencies of the public service often render necessary the appointment of a Myo-ôk to succeed an Extra Assistant Commissioner or of an Extra Assistant Commissioner to succeed a Myo-ôk in the charge of a township; and the result is that an officer who should preside in a Court of grade (*a*) is appointed to preside in a Court which has hitherto been a Court of grade (*b*), or *vice versâ*. Such changes have from time to time been made by the Chief Commissioner. The Judicial Commissioner is of opinion that, having regard to the provisions of sections 8 and 9 of the Act, such an interchange cannot legally be effected except by, or with the previous sanction of, the Governor General in Council. The inconvenience which would arise if it were held to be necessary to submit a reference to the Government of India on every occasion such as those described is apparent. The administration of the province, and particularly the administration of civil justice, would be seriously hampered. Sections 4 and 5 of the Bill therefore re-enact sections 8 and 9 of the Act in such a form that the Local Government is empowered to vary the number of Courts of grades (*a*) and (*b*), and to vary the local limits of the jurisdiction of these Courts without the previous sanction of the Government of India, and section 6 legalizes the variations in the numbers, and limits of the local jurisdictions, of these Courts, which have heretofore from time to time been made by the Chief Commissioner instead of by the Governor General in Council or by the Chief Commissioner without the previous sanction of the Governor General in Council.

4. The Chief Commissioner states that the Deputy Commissioners in certain districts are overburdened by the pressure of civil appellate duties to the detriment of their executive work, and that, in order to increase their efficiency as executive officers, it is necessary to relieve them of some portion of their appellate jurisdiction. With this object sections 7 and 8 of the Bill have been prepared. The latter section, which is based on the recommendation of the Chief Commissioner, gives him authority to invest an Assistant Commissioner with power to hear certain civil appeals which would ordinarily be heard by the Deputy Commissioner. The former section empowers the Chief Commissioner to transfer to Commissioners of Divisions all or any part of the appellate jurisdiction exercisable under the Act by Deputy Commissioners. It seems desirable to provide this second and additional mode of affording the proposed relief to Deputy Commissioners, as it is possible that the result of transferring civil appellate work from the Deputy Commissioner to the Assistant Commissioner may not always prove satisfactory.

Lastly, under section 38 of the Act, the Chief Commissioner is only empowered to appoint and remove the presiding officers of the Court of the Extra Assistant Commissioner of the 3rd class (now styled the Myo-ôk). The presiding officers of all the other Courts under the Act must be appointed by the Governor General in Council. These provisions have been found to cause practical inconvenience, and the Government of India see no reason why the Chief Commissioner should not have, in regard to civil jurisdiction, like powers to those which the Criminal Procedure Code gives him in regard to criminal jurisdiction. Accordingly, section 9 of the Bill amends section 38 of the Act, and confers power on the Chief Commissioner to appoint and remove the presiding officers of all the Courts mentioned in section 6 of the Act with the exception of the Court of the Judicial Commissioner; the power to appoint the presiding officer of that Court being reserved to the Governor General in Council.

C. P. ILBERT.

The 7th December, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 29, 1883.

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

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th December, 1883:—

No. 24 OF 1883.

A Bill to repeal Bengal Regulation XIX of 1810 within the territories administered by the Lieutenant-Governor of the North-Western Provinces.

WHEREAS the provisions of Bengal Regulation XIX of 1810 (*for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples, colleges, and other purposes; for the maintenance and repair of bridges, serâis, kattras, and other public buildings; and for the custody and disposal of nazúl property or escheats,*) are, in so far as they are still in force within the territories administered by the Lieutenant-Governor of the North-Western Provinces, either obsolete or unnecessary, and it is therefore expedient entirely to repeal the Regulation within those territories; It is hereby enacted as follows:—

Repeal of Bengal Regulation XIX of 1810 in the North-Western Provinces.

1. Bengal Regulation XIX of 1810 is hereby repealed within the territories administered by the Lieutenant-Governor of the North-Western Provinces.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill, which has been prepared on the recommendation of the Local Government, is to repeal Bengal Regulation XIX of 1810 (*for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples, colleges, and other purposes; for the maintenance and repair of bridges, serâis, kattras, and other public buildings; and for the custody and disposal of nazúl property or escheats*) within the territories administered by the Lieutenant-Governor of the North-Western Provinces. So far as the Regulation vests the superintendence of serâis in the Board of Revenue, it is at variance with the existing practice, as serâis are now managed in the North-Western Provinces entirely by the executive authorities under the immediate orders of the Government, and the Local Government reports that the other provisions of the Regulation, which provide for the management of lands granted as charitable and educational endowments and the superintendence of escheats, are not required for the territories under its administration.

Though the Regulation, in so far as it relates to serâis, is obsolete also in the Lower Provinces, it is still in active operation in those Provinces with regard to a few trusts and small endowments administered by the Board of Revenue, and still governs the procedure there with regard to escheats. Under these circumstances it has been considered best to confine the Bill to the North-Western Provinces and leave it to the Bengal Legislature to legislate for the Lower Provinces if it thinks necessary.

C. P. ILBERT.

The 7th December, 1883.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th December, 1883, and was referred to a Select Committee :—

No. 25 OF 1883.

A Bill to amend the Burma Courts Act, 1875.

WHEREAS it is expedient to amend the Burma Courts Act, 1875 ; It is hereby enacted as follows :— XVII of 1875.

Short title. Commencement.

1. (*1*) This Act may be called the Burma Courts Act, 1883 ; and

(*2*) It shall come into force at once.

Definition of "section."

2. In this Act, unless there is something repugnant in the subject or context, "section" means a section of the Burma Courts Act, 1875.

Alteration of names of certain Courts. XVII of 1875.

3. (*1*) In section 6, in clause (*a*), for the words "Extra Assistant Commissioner of the third class" the word "Myo-ôk" shall be substituted, and in clause (*b*) the words "of the second class, the Extra Assistant Commissioner of the first class" shall be omitted.

(*2*) In the table subjoined to section 12, in clause (*a*), for the words "Extra Assistant Commissioner of the third class" the word "Myo-ôk" shall be substituted, and in clause (*b*) the words "of the second class, the Court of the Extra Assistant Commissioner of the first class" shall be omitted.

(*3*) In section 13, the words "of the first or second class" shall be omitted.

(*4*) The substitutions and omissions made by this section shall be deemed to have been made from the thirty-first day of March, 1882.

Substitution of new section for section 8.

4. For section 8 the following section shall be substituted :—

"8. The Governor General in Council and the Chief Commissioner may, respectively, from time to time, vary the number of Courts mentioned in section six, in clauses (*c*), (*d*), (*e*) and (*f*), and in clauses (*a*) and (*b*)."

Substitution of new section for section 9.

5. For section 9 the following section shall be substituted :—

"9. The Chief Commissioner may, from time to time, vary the local limits of the jurisdiction of any Court mentioned in section six, clauses (*a*) and (*b*), and, with the previous sanction of the Governor General in Council, of any Court mentioned in section six, clauses (*c*), (*d*), (*e*) and (*f*)."

Insertion of section after section 9.

6. After section 9 the following section shall be inserted, namely :—

Validation of certain proceedings already taken.

"9A. Any order heretofore passed, or decree made or proceeding taken by any Civil Court in British Burma acting as if it had the jurisdiction of a Court mentioned in section six, clause (*a*) or clause (*b*), shall not be invalid merely because the Court was established by the Chief Commissioner instead of by the Governor General in Council or because the local limits of its jurisdiction were varied by the Chief Commissioner without the previous sanction of the Governor General in Council."

Amendment of section 23.

7. In section 23 the following amendments shall be made, namely :—

(*a*) after the word "Commissioner" each time it occurs, the words "or Deputy Commissioner,"

(*b*) after the words "Judicial Commissioner" the first time they occur, the words "or Commissioner respectively," and

(*c*) after the words "Judicial Commissioner," the second time they occur, the words "or Commissioner,"

shall be respectively inserted.

Insertion of section after section 23.

8. After section 23 the following section shall be inserted, namely :—

Power for Chief Commissioner to invest Assistant Commissioners with appellate powers.

"23A. The Chief Commissioner may invest any Assistant Commissioner with power to hear appeals from decrees and orders in original suits and proceedings of any Court mentioned in section six, clause (*a*) or (*b*).

"The Chief Commissioner may withdraw the power with which any Assistant Commissioner has been invested under this section."

Substitution of new section for section 38.

9. For section 38 the following section shall be substituted, namely :—

Appointment of officers.

"38. The presiding officer of the Court of the Judicial Commissioner shall be appointed by the Governor General in Council.

"The presiding officers of all the other Courts mentioned in section six may be appointed and may be removed by the Chief Commissioner."

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to make certain amendments in the Burma Courts Act, 1875 (XVII of 1875), which experience has shown to be required.

2. In the Act as it at present stands the presiding officers of the Courts of the lowest grades are termed Extra Assistant Commissioners of the 1st, 2nd and 3rd class respectively. In 1882 the Subordinate Executive and Judicial Service in British Burma was reorganized, and the designations of the service were changed. The term Extra Assistant Commissioner was restricted to Extra Assistant Commissioners of the 1st and 2nd classes under the old system; and Extra Assistant Commissioners of the 3rd class were styled Myo-ôks. The result is that the present designations of the Subordinate Judicial Officers do not correspond with the designations given to the Subordinate Civil Courts by the Act. This difficulty has hitherto been ignored. Now, however, the Judicial Commissioner, Mr. Jardine, is of opinion that, as the law stands, the nomenclature used in the Courts Act should be adhered to as regards all officers of the Subordinate Judicial Service appointed to preside in Civil Courts. He advises the Chief Commissioner that questions of jurisdiction may arise and may cause inconvenience and loss to suitors; and he reports that a case of the kind has already occurred. This being the view taken by the Judge of the highest Appellate Court, the Chief Commissioner has addressed the Government of India on the subject. He wishes that all doubt on the point should be removed by substituting the words "Extra Assistant Commissioner" for the words "Extra Assistant Commissioner of the 1st and 2nd class," and the word "Myo-ôk" for the words "Extra Assistant Commissioner of the 3rd class" wherever they occur in the Courts Act. With this view section 3 of the Bill has been drafted. It gives the amendments made by the section retrospective effect from the 1st April, 1882, the date of the reorganization of the Subordinate Service.

3. Further difficulties have also arisen from the provisions of sections 8 and 9 of the Act. Under recent orders the Chief Commissioner has power to create additional Myo-ôkships; but in consequence of the provisions of section 8 of the Act additional Myo-ôks appointed by the Chief Commissioner can do no civil work unless the sanction of the Government of India is first obtained to the creation of an additional Civil Court. Again, the duties performed by Extra Assistant Commissioners and those performed by Myo-ôks are practically of the same description. The exigencies of the public service often render necessary the appointment of a Myo-ôk to succeed an Extra Assistant Commissioner or of an Extra Assistant Commissioner to succeed a Myo-ôk in the charge of a township; and the result is that an officer who should preside in a Court of grade (*a*) is appointed to preside in a Court which has hitherto been a Court of grade (*b*), or *vice versâ*. Such changes have from time to time been made by the Chief Commissioner. The Judicial Commissioner is of opinion that, having regard to the provisions of sections 8 and 9 of the Act, such an interchange cannot legally be effected except by, or with the previous sanction of, the Governor General in Council. The inconvenience which would arise if it were held to be necessary to submit a reference to the Government of India on every occasion such as those described is apparent. The administration of the province, and particularly the administration of civil justice, would be seriously hampered. Sections 4 and 5 of the Bill therefore re-enact sections 8 and 9 of the Act in such a form that the Local Government is empowered to vary the number of Courts of grades (*a*) and (*b*), and to vary the local limits of the jurisdiction of these Courts without the previous sanction of the Government of India, and section 6 legalizes the variations in the numbers, and limits of the local jurisdictions, of these Courts, which have heretofore from time to time been made by the Chief Commissioner instead of by the Governor General in Council or by the Chief Commissioner without the previous sanction of the Governor General in Council.

4. The Chief Commissioner states that the Deputy Commissioners in certain districts are overburdened by the pressure of civil appellate duties to the detriment of their executive work, and that, in order to increase their efficiency as executive officers, it is necessary to relieve them of some portion of their appellate jurisdiction. With this object sections 7 and 8 of the Bill have been prepared. The latter section, which is based on the recommendation of the Chief Commissioner, gives him authority to invest an Assistant Commissioner with power to hear certain civil appeals which would ordinarily be heard by the Deputy Commissioner. The former section empowers the Chief Commissioner to transfer to Commissioners of Divisions all or any part of the appellate jurisdiction exercisable under the Act by Deputy Commissioners. It seems desirable to provide this second and additional mode of affording the proposed relief to Deputy Commissioners, as it is possible that the result of transferring civil appellate work from the Deputy Commissioner to the Assistant Commissioner may not always prove satisfactory.

Lastly, under section 38 of the Act, the Chief Commissioner is only empowered to appoint and remove the presiding officers of the Court of the Extra Assistant Commissioner of the 3rd class (now styled the Myo-ôk). The presiding officers of all the other Courts under the Act must be appointed by the Governor General in Council. These provisions have been found to cause practical inconvenience, and the Government of India see no reason why the Chief Commissioner should not have, in regard to civil jurisdiction, like powers to those which the Criminal Procedure Code gives him in regard to criminal jurisdiction. Accordingly, section 9 of the Bill amends section 38 of the Act, and confers power on the Chief Commissioner to appoint and remove the presiding officers of all the Courts mentioned in section 6 of the Act with the exception of the Court of the Judicial Commissioner; the power to appoint the presiding officer of that Court being reserved to the Governor General in Council.

C. P. ILBERT.

The 7th December, 1883.

D. FITZPATRICK,
Secretary to the Government of India.