

ent arising in any case pending under this chapter as if that case an appeal pending before him or it; of every reference so made, sections the said Code, both inclusive, shall

hat no reference shall be made under y any Assistant or Subordinate Judge, nch of which the District Judge or e is not a member, without the pre- us sanction of the District Judge or Special dge, as the case may be."

Amendment of section 57. (Powers-of-attorney.)

16. In section fifty-seven, after the words "power of-attorney" the following shall be inserted, namely:—"executed and authenticated in such manner as the Local Government may from time to time by rule prescribe."

Repeal of part of section 68. (Headers, &c., excluded in additional cases.)

17. The last thirteen words of the first clause of section sixty-eight are repealed.

Certain agricultural produce exempted from attachment, &c.

18. After section seventy-three the following section shall be inserted, namely:—

"73A. When the Collector has taken any immoveable property of a judgment-debtor or insolvent into his possession under section twenty-two or section twenty-nine, he may, by an order in writing, direct that any other such property not so taken shall be deemed to be reserved for the support of the judgment-debtor or insolvent and the members of his family dependent on him, and may rescind that order.

"While any such order continues in force in respect of any immoveable property, agricultural produce grown on that property shall not be attached or sold in execution of a decree passed whether before or after this Act comes into force, and shall not vest in the receiver appointed in any insolvency-proceedings."

Limitation of suits.

19. Notwithstanding anything contained in the foregoing sections of this Act, the period of limitation for any suit instituted within two years from the day on which this Act comes into force, and to which, if this Act had not been passed, section seventy-two of the Dekkhan Agriculturists' Relief Act, 1879, would have applied, shall be the period prescribed by that section.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 13, 1883.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th January, 1883, and is hereby promulgated for general information :—

ACT No. I OF 1883.

THE CENTRAL PROVINCES LOCAL SELF-GOVERNMENT ACT, 1883.

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An Act to make better provision for local self-government in the Central Provinces.

WHEREAS provision has been made by the Central Provinces Land-revenue Act, 1881, for the appointment of mukaddams for the several villages in the territories administered by the Chief Commissioner of the Central Provinces; and

Preamble.

XVIII of 1881.

Whereas provision has been made in the settlement-records of the districts in those territories for the levy of rates for the maintenance of roads, schools and the district post, and it is proposed that the Government shall, from time to time, assign certain sums, or the income accruing from certain sources, for expenditure on objects tending to promote the welfare and improvement of the inhabitants of each of those districts;

It is hereby enacted as follows:—

Preliminary.

1. This Act may be called the Central Provinces Local Self-government Act, 1883.

Short title.

It shall extend only to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

Local extent.

it shall come into force at once.

Commencement.

Definitions.

2. In this Act—

"Assistant Commissioner" includes an Extra Assistant Commissioner in any district where there is no Assistant Commissioner:

"Financial year" means the year commencing on the first day of April:

"Village" includes any tract of land which, at the last settlement of that land, has been recognized as a village, or which the Chief Commissioner may, from time to time, declare to be a village for the purposes of the Central Provinces Land-revenue Act, 1881; and

XVIII of 1881.

"Mukaddam" means the executive headman of a village appointed under that Act.

Formation of Local Administrative Areas.

Aggregation of villages in circles and groups for purposes of local self-government.

3. (1) The Chief Commissioner shall, by order in writing, for the purposes of the local self-government of each district, aggregate the several villages thereof in circles and the circles in groups.

(2) There shall be excluded from the circles and groups 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 town having a municipal committee.

(3) The Chief Commissioner may, from time to time, by order in writing, vary any order made under this section.

Constitution of Local Administrative Bodies.

Establishment of local boards for groups and of district councils for districts.

4. There shall be established for each group of circles a local board having authority over that group, and for each district a district council 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 town having a municipal committee.

Constitution of local board.

5. The local board for a group of circles shall consist of—

(*a*) representative members, one or more for each circle, being the mukaddam or mukaddams of a village or villages within that circle;

(*b*) representatives, one or more, of mercantile classes or professions, resident within the area comprised in the group, and elected by, or appointed on behalf of, those classes or profe-sions; and

(*c*) such person or persons, if any, not exceeding in number one-third of the board, as the Chief Commissioner may from time to time appoint.

Constitution of district council.

6. The district council of a district shall consist of—

(*a*) representatives of groups of circles within the district, one or more for each group, being a member or members of, and elected by, the local board for that group;

(*b*) representatives, one or more, of mercantile classes or professions, resident within the district, and elected by, or appointed on behalf of, those classes or professions; and

(*c*) such person or persons, if any, not exceeding in number one-third of the council, as the Chief Commissioner may from time to time appoint.

Power to set aside election or remove member in case of conviction of offence.

7. (1) If a person convicted by a criminal Court of an offence the commission of which in the opinion of the Chief Commissioner shows him to be unfit to be a member of a local board or district council is elected as such member, the Chief Commissioner may declare his election void.

(2) If a member of such a board or council is so convicted of any such offence, the Chief Commissioner may declare his office to be vacant.

Incorporation of district council.

8. Every district council shall be a body corporate by the name of the district council 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 Deputy Commissioner, 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.

Duties of District Councils and Local Boards.

Matters to be administered by board and council.

9. The following matters shall, subject to such exceptions as the Chief Commissioner may, from time to time, by order in writing make, be under the control and administration of the district council and of the local boards within the areas subject respectively to their authority:—

(*a*) The construction, repair and maintenance of roads and other means of communication:

(*b*) The management, maintenance and visiting of schools hospitals, dispensaries, markets, rest-houses, saráis 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, the supply of water from them and from other sources, and the preservation from pollution of water for drinking and cooking purposes:

(*d*) The planting and preservation of trees on public ground:

(*e*) The establishment and maintenance of relief-works in time of famine or scarcity:

(*f*) The establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in operation, 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.

(*g*) The management of such public ferries as may be entrusted to their charge under section 7 A of the Northern India Ferries Act, 1878, as amended by this Act:

XVII of 1878.

(*h*) Any other local works or measures likely to promote the health, comfort or convenience of the public, and

(*i*) The maintenance of any building, or other property, vested under this Act in the district council.

Relations of Local Boards to District Councils.

Duties of local board.

10. (1) A local board as the agent of, and subject to the control of, the district council, shall, within the area subject to its authority, have the control and administration of, and be responsible for, all the matters specified in section nine except such of those matters as the district council may think fit to take under its direct control and administration, and such as the Chief Commissioner may have excepted by order under section nine.

(2) It shall be the duty of the district council to enforce the responsibility imposed on a local board by sub-section (1).

Reports, estimates and accounts to be submitted by board to council.

11. Every local board shall submit annually to the district council of its district, on or before such date as the council may appoint in this behalf, a statement of the requirements, and an estimate of the probable expenditure, of the board for the coming financial year, and a report of its proceedings, and an account of its receipts and expenditure for the past financial year, and shall also submit to the council such other reports, if any, as the council may, from time to time, require.

Limits on expenditure of local board.

12. A local board shall not incur expenses or undertake liabilities, to any amount exceeding the limit imposed by the district council of its district.

Power for council to reverse or vary resolution of board

13. A district council may, by a majority of two-thirds of its whole number, reverse or vary any resolution of a local board for an area within its district.

Power for council to provide for performance of duty in default of board.

14. (1) If the local board makes default in the performance of any duty imposed on it by or under this Act, the district council may, by order in writing, fix a period for the performance of the duty.

(2) If the duty is not performed within that period, the council may appoint some person to perform it, and may provide for the expenses of, and incidental to, its performance out of the funds appropriated to or for the purposes of the local board.

Power to declare local boards independent.

15. (1) The Chief Commissioner may from time to time, by notification in the official Gazette, declare any local board established under this Act to be an independent board, and may in like manner cancel such notification.

(2) A local board so declared shall, while the notification is in force, so far as may be, have within the area subject to its authority, the powers, and perform the duties, of a district council under this Act, and shall cease to be the agent of, and under the control of, the district council.

School Committees.

Appointment of school committees.

16. (1) Every district council, and every local board as the agent of, and subject to the control of, its District Council, may from time to time appoint school committees for the several schools under its control and administration, and shall as far as may be practicable conduct the management of any school for which such a committee has been appointed through that committee.

(2) All school committees existing within the area subject to the authority of any district council or local board at the time that council or board comes into existence shall be deemed to have been appointed under this section.

Joint Committees.

17. (1) A local board may, from time to time, concur with any other local board or boards for an area or areas in the same district, in appointing, out of their respective bodies, joint committees for any purpose in which they are jointly interested, and in delegating to any such committee any power which might be exercised by either or any of the local boards, and in framing and modifying regulations as to the proceedings of any such joint committee.

Joint committee of two or more local boards.

(2) If any dispute arises between two or more local boards acting under this section, the decision thereon of the district council of their district shall be final.

18. (1) A district council may, from time to time, concur with any other district council or district councils in appointing, out of their respective bodies, joint committees for any purpose in respect of which they are jointly interested, and in delegating to any such committee any power which might be exercised by any or either of the district councils, and in framing and modifying regulations as to the proceedings of any such joint committee.

Joint committee of two or more district councils.

(2) If any dispute arises between two or more district councils acting under this section, the decision thereon of the Commissioner, if the councils are in the same division, or, if they are not in the same division, of the Chief Commissioner, shall be final.

Conduct of Business.

19. (1) Every district council and local board shall, from time to time, elect one of its members to be chairman for one financial year at all meetings at which he is present.

Chairman.

(2) If the chairman so elected dies, resigns or becomes incapable of acting, the council or board shall elect another of its members to be chairman for the period during which the person so dying, resigning or becoming incapable would have been entitled to continue in office, and no longer.

(3) An election under the foregoing provisions of this section shall not be valid until it is approved, in the case of the chairman of a local board, by the Commissioner of the division, and, in the case of the chairman of a district council, by the Chief Commissioner.

(4) If when any meeting is held the office of chairman is vacant or the chairman is absent from the meeting, the members present shall appoint one of their number to be chairman thereat.

20. (1) Every district council and local board may, from time to time, make regulations as to the time and place of its meetings, the conduct of proceedings at meetings, and the appointment, powers and proceedings of committees:

Regulations as to meetings and proceedings.

(2) Provided that every regulation made under this section must be consistent with this Act and with any rules made by the Chief Commissioner under this Act.

Officers and Servants.

21. (1) Every district council may employ such officers and servants as may be necessary and proper for the efficient execution of its duties and may assign to them such pay, leave allowances, gratuities and pensions as it thinks fit.

Employment of officers and servants.

(2) A local board may employ such officers and servants, and may assign to them such pay, leave allowances, gratuities and pensions, as the district council of its district thinks requisite and sufficient.

(3) In the case of an officer lent by the Government, the council or board may contribute to any leave allowance, gratuity, or pension, which he may become entitled to in accordance with the rules for the time being in force.

(4) If, in the opinion of the Commissioner,

(a) the number of persons employed by a council or board under this section, or the pay, allowances, gratuities or pensions assigned by the council or board to those persons, or to any particular person, is, or are excessive, or

(b) any such person is unfit for his employment,

the council or board shall, on the requirement of the Commissioner, reduce the number or remuneration, or, as the case may be, dismiss the unfit person.

Vesting of Property.

22. The Chief Commissioner 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 Central Provinces, shall vest in any district council; and thereupon that property shall vest in that council for the purposes of this Act, subject to all rights over, and all debts, liabilities and obligations (if any) affecting, that property.

Power to vest property in district council.

Finance.

23. (1) 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, custody and application of district fund.

(a) the net proceeds (after deducting the expenses of collection) of all rates levied in accordance with settlement-records in that district for the maintenance of roads or schools;

(b) such portion (if any) of the surplus of the rates so levied for the maintenance of the district post as the Chief Commissioner may from time to time assign in this behalf;

(c) the surplus accruing in that district under section eighteen of the Cattle-trespass Act, 1871; I of 1871.

(d) the proceeds of public ferries payable into the district fund of that district under section 7A of the Northern India Ferries Act, 1878, as amended by this Act; XVII of 1878.

(e) all sums assigned, from time to time, by the Chief Commissioner for expenditure on local works in that district, under section five of the Central Provinces Additional Rates Act, 1878, section seventeen of the Northern India Ferries Act, 1878, or any enactment amending either of those Acts; X of 1878. XVII of 1878.

(f) all such rents and profits accruing from nazul property in that district as the Chief Commissioner may, from time to time, direct to be paid to the district council;

(g) all sums contributed to the fund by the Government, local bodies, or private persons; and

(h) all sums received by the district council in the execution of this Act.

(2) The district fund shall be vested in the district council, and the balance standing to the credit of the fund shall be kept in the Government treasury of the district.

(3) 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 nine and twenty-one, within the area subject to the authority of the district council, and, with the sanction of the Chief Commissioner, outside of that area, and also to the following purposes:—

(a) the payment of school inspectors and normal school teachers appointed and controlled by the Government and employed in the district, and the provision of scholarships and prizes for schools in the district;

(b) the payment of subordinate medical officers (including vaccinators) appointed by the Government and employed in the district; and

(c) the expenses attending the audit of the accounts of the district council and of the local boards within the district.

Provided that the amount expended from the district fund in any financial year on primary education shall not be less than the estimated net proceeds for that year of the rates levied in the district in accordance with the settlement-records for the maintenance of schools.

(4) When a local board has been declared independent under section fifteen, such portion of the district fund as the Chief Commissioner may from time to time fix in this behalf shall, during its independence, be annually set apart and placed at its disposal, and shall, for the purposes of this Act, be treated as a separate district fund.

24. (1) Every district council shall appoint a finance committee consisting of not less than three of its number.

Annual estimates of income and expenditure.

(2) Every district council shall, on or before the prescribed day in each year, hold a meeting at which the finance committee shall submit to the council, in such form as the Chief Commissioner may, from time to time, by rule prescribe, an estimate of the income and expenditure of the council for the next financial year.

(3) The district council shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The district council shall, on or before the prescribed day, cause a copy of the estimate as provisionally approved by it to be sent to the Deputy Commissioner.

(5) The Deputy Commissioner may object to the estimate on the ground that any expenditure on salaries, works or otherwise, proposed therein, appears to him to be unnecessary or excessive, or that any particular contained therein appears to him to be erroneous, defective or improper.

(6) If the Deputy Commissioner so objects, he shall signify his objections in writing to the district council; if he does not so object, he shall signify his approval in like manner.

(7) When the Deputy Commissioner signifies, under sub-section (6), objections to an estimate, the district council shall consider his objections, and either modify the estimate so as to remove them, or refer the estimate with the statement of objections, through the Deputy Commissioner, to the Commissioner, and the Commissioner shall signify to the district council his approval of the estimate, with or without such modifications as may be needed to remove the objections wholly or in part as he thinks fit.

(8) When the Deputy Commissioner or Commissioner has signified his approval of an estimate, or the district council has modified an estimate so as to remove the Deputy Commissioner's objections, 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 Commissioner.

(9) "Prescribed day," for the purposes of sub-section (2) or sub-section (4) of this section, means such day as the Chief Commissioner may, from time to time, by rule prescribe for the purposes of that sub-section.

(10) When the Deputy Commissioner is a member of the district council, the Commissioner shall

take the place of the Deputy Commissioner for the purposes of this section, and the reference under sub-section (7) shall be to the Chief Commissioner.

Annual accounts and audit.

25. Accounts of the receipts and expenditure of every district council shall be made up to the last day of every financial year, in such form as the Chief Commissioner, 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 Chief Commissioner, from time to time, appoints in this behalf.

Inspection of estimates and accounts.

26. The district council shall cause a copy of every estimate provisionally or finally approved under section twenty-four, and of every account made up under section twenty-five, to be kept at its office; and any person may at all reasonable times inspect any such estimate or account.

Publication of abstract of accounts.

27. An abstract of every annual account of a district council, showing the income of the district fund under each head of receipts, 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 district council in such form as the Chief Commissioner from time to time prescribes, and published annually in the English and Vernacular official Gazettes.

Control.

Deputy Commissioner's power of supervision.

28. (*1*) The Deputy Commissioner of a district shall have power to supervise the proceedings of the district council, and of every local board, joint committee, or school committee in the district, and in exercise of that power may (among other things)—

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by the council, board or committee, or any work in progress under its direction;

(*b*) call for and inspect any document which may be for the purposes of this Act in the possession or under the control of the council, board or committee; and

(*c*) require the council, board or committee to furnish such statements, accounts and reports as he thinks fit.

(*2*) Where a joint committee is appointed by the district councils of several districts, the Deputy Commissioner of any of those districts may exercise a like power in respect of the proceedings of that committee; but if any difference arises between two or more Deputy Commissioners acting under this sub-section, it shall be referred, when the districts are in the same division, to the Commissioner, and, when the districts are not in the same division, to the Chief Commissioner, whose decision shall be final.

(*3*) The power given under this section to a Deputy Commissioner in respect of a local board or school committee may, with the sanction of the Chief Commissioner, be delegated by him to a subordinate not below the rank of an Extra Assistant Commissioner.

(*4*) When the Deputy Commissioner is a member of the district council, the powers given to him under this section shall, in respect of that council, vest in the Commissioner.

Power to suspend execution of orders, &c.

29. (*1*) If, in the opinion of the Deputy Commissioner, the execution of any order or resolution of a district council, local board, joint committee, or school 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.

(*2*) When a Deputy Commissioner makes any order under this section he shall forthwith forward to the Commissioner a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force, with or without modification, permanently, or for such period as he thinks fit.

(*3*) The Commissioner shall forthwith submit to the Chief Commissioner a report of every case occurring under this section, and the Chief Commissioner may rescind or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made in respect of the same.

Extraordinary powers of Deputy Commissioner in case of emergency.

30. (*1*) In cases of emergency the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a district council 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, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the district council.

(*2*) If the expense and remuneration are not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

(*3*) The Deputy Commissioner shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

Power to provide for performance of duties in default of district council.

31. (*1*) When the Chief Commissioner is informed, on complaint made or otherwise, that a district council has made default in performing any duty imposed on it by or under this Act, the Chief Commissioner, if satisfied after due inquiry that the district council has been guilty of the alleged default, may, by an 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 Chief 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 district council.

(*3*) If the expense and remuneration are not so paid, the Chief Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

Power to supersede council or board in case of incompetency, default or abuse of powers.

32. (*1*) If a district council or local 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 otherwise by law, or exceeds or abuses its powers, the Chief Commissioner 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 the council or 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 district council or local board is so superseded, the following consequences shall ensue:

(*a*) All members of the council or board shall, as from the date of the order, vacate their offices as such members;

(*b*) All powers and duties of the council or board may, during the period of supersession, be exercised and performed by such person or persons as the Chief Commissioner from time to time appoints in that behalf;

(*c*) Where a council is superseded, all property vested in it shall, during the period of supersession, vest in Her Majesty.

(*3*) On the expiration of the period of suspension specified in the order, the council or board shall be re-established by appointment or election, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified for appointment or election.

Powers of Commissioner.

33. In all matters connected with this Act, the Commissioner shall have and exercise the same authority and control over the Deputy Commissioners subordinate to him, as he has and exercises over them in the general and revenue administration.

Rules.

Power of Chief Commissioner to make rules as to district councils, local boards and school committees.

34. The Chief Commissioner may, from time to time, make rules consistent with this Act and with reference (if necessary) to the varying circumstances of different local areas—

(*a*) as to the qualifications, mode and time of election or appointment, term of office, and remuneration and allowances (if any) of members of district councils and local boards and as to the filling of casual vacancies in such councils and boards, and as to the number of the representative members for each circle or group of circles, and as to the number of the representatives of the mercantile classes or professions, to be elected or appointed to each local board or district council;

(*b*) as to the appointment, powers and duties of school committees, the term of office of members of such committees and the mode of removing them;

(*c*) as to the conduct of proceedings of district councils, local boards and school committees, including the fixing of a quorum, the giving of the casting vote in cases of equal division, the minimum number of meetings to be held and the maximum interval between successive meetings, the formation of committees other than school committees and the delegation of powers to such committees;

(*d*) as to the mode of entering into and executing contracts and transfers of property on behalf of district councils, and the authority on which money may be paid from the district fund;

(*e*) as to the appointment and payment of auditors of the accounts of district councils and local boards;

(*f*) as to the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district, and the appropriation of funds raised in a particular area to the purposes of that area; and

(*g*) generally, for the guidance of district councils, local boards, school committees and Government officers, in all matters connected with the administration of this Act and for settling their relations to one another.

Procedure for making rules under section 34.

35. The Chief Commissioner shall, before making any rules under section thirty-four, publish in such manner as may in his 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.

Exceptional Provision.

36. If the circumstances of any district or part of a district are, in the opinion of the Chief Commissioner, such that any of the provisions of this Act are unsuited thereto, he may, by order in writing, 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 subsequent order of the Chief Commissioner.

Power under special circumstances to except districts from operation of Act.

Supplemental Provisions.

37. Where any land is required for the purposes of this Act, the Chief Commissioner may, on the request of the district council, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the district council of the compensation awarded under that Act, the land shall vest in the district council.

Acquisition of land.

X of 1870.

38. If any member, officer or servant of a district council, local board, or joint committee appointed under this Act is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that council, board or 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 council, board or committee.

XLV of 1860.

39. (*1*) All rules and orders made by the Chief Commissioner under this Act shall be published in the official Gazette both in English and in such native languages as the Chief Commissioner may direct.

Publication of rules and orders.

(*2*) The publication in the official Gazette of a rule purporting to be made by the Chief Commissioner under section thirty-four shall be conclusive evidence that it has been made as required by section thirty-five.

40. The several district councils and local boards under this Act shall come into existence at such time as the Chief Commissioner, by order, appoints in that behalf.

Time for councils and boards coming into existence.

Rates payable under Settlement-record.

41. (*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, shall be deemed to have been legally imposed, and shall be 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 and accounts of same.

(*2*) An account of the gross receipts and of the charges (if any) of collection of all such rates in each district shall be kept by the Deputy Commissioner of that district, and shall be annually rendered by him to the district council of that district.

Powers of Chief Commissioner with respect to rates.

42. The Chief Commissioner may, from time to time, by notification in the official Gazette,

(*a*) prescribe in what instalments and at what times, the rates referred to in section forty-one shall be payable, and make rules for their collection by village-officers or others; and

(*b*) exempt any land from liability to pay the whole or any part of any such rate, and vary or cancel any such exemption.

Amendment of the Northern India Ferries Act, 1878.

43. 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 Chief Commissioner of the Central Provinces may direct that any public ferry wholly or partly within the area subject to the authority of a district council or local board in any district in those provinces, be managed by that council or 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 Central Provinces management may be vested in district council or local board;

and proceeds paid into district fund.

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

44. 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," where they first occur, the following shall be inserted, namely:—"and section 7A."

Amendment of sections 6 and 17 of same Act.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 20, 1883.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th January, 1883, and is hereby promulgated for general information:—

ACT No. I OF 1883.

THE CENTRAL PROVINCES LOCAL SELF-GOVERNMENT ACT, 1883.

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An Act to make better provision for local self-government in the Central Provinces.

WHEREAS provision has been made by the Central Provinces Land-revenue Act, 1881, for the appointment of mukaddams for the several villages in the territories administered by the Chief Commissioner of the Central Provinces; and

Preamble.

XVIII of 1881.

Whereas provision has been made in the settlement-records of the districts in those territories for the levy of rates for the maintenance of roads, schools and the district post, and it is proposed that the Government shall, from time to time, assign certain sums, or the income accruing from certain sources, for expenditure on objects tending to promote the welfare and improvement of the inhabitants of each of those districts;

It is hereby enacted as follows:—

Preliminary.

1. This Act may be called the Central Provinces Local Self-government Act, 1883.

Short title.

It shall extend only to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

Local extent.

it shall come into force at once.

Commencement.

Definitions.

2. In this Act—

"Assistant Commissioner" includes an Extra Assistant Commissioner in any district where there is no Assistant Commissioner:

"Financial year" means the year commencing on the first day of April:

"Village" includes any tract of land which, at the last settlement of that land, has been recognized as a village, or which the Chief Commissioner may, from time to time, declare to be a village for the purposes of the Central Provinces Land-revenue Act, 1881; and

XVIII of 1881.

"Mukaddam" means the executive headman of a village appointed under that Act.

Formation of Local Administrative Areas.

3. (*1*) The Chief Commissioner shall, by order in writing, for the purposes of the local self-government of each district, aggregate the several villages thereof in circles and the circles in groups.

Aggregation of villages in circles and groups for purposes of local self-government.

(*2*) There shall be excluded from the circles and groups 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 town having a municipal committee.

(*3*) The Chief Commissioner may, from time to time, by order in writing, vary any order made under this section.

Constitution of Local Administrative Bodies.

4. There shall be established for each group of circles a local board having authority over that group, and for each district a district council 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 town having a municipal committee.

Establishment of local boards for groups and of district councils for districts.

Constitution of local board.

5. The local board for a group of circles shall consist of—

(*a*) representative members, one or more for each circle, being the mukaddam or mukaddams of a village or villages within that circle;

(*b*) representatives, one or more, of mercantile classes or professions, resident within the area comprised in the group, and elected by, or appointed on behalf of, those classes or professions; and

(*c*) such person or persons, if any, not exceeding in number one-third of the board, as the Chief Commissioner may from time to time appoint.

Constitution of district council.

6. The district council of a district shall consist of—

(*a*) representatives of groups of circles within the district, one or more for each group, being a member or members of, and elected by, the local board for that group;

(*b*) representatives, one or more, of mercantile classes or professions, resident within the district, and elected by, or appointed on behalf of, those classes or professions; and

(*c*) such person or persons, if any, not exceeding in number one-third of the council, as the Chief Commissioner may from time to time appoint.

7. (*1*) If a person convicted by a criminal Court of an offence the commission of which in the opinion of the Chief Commissioner shows him to be unfit to be a member of a local board or district council is elected as such member, the Chief Commissioner may declare his election void.

Power to set aside election or remove member in case of conviction of offence.

(*2*) If a member of such a board or council is so convicted of any such offence, the Chief Commissioner may declare his office to be vacant.

8. Every district council shall be a body corporate by the name of the district council 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 Deputy Commissioner, 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.

Incorporation of district council.

Duties of District Councils and Local Boards.

9. The following matters shall, subject to such exceptions as the Chief Commissioner may, from time to time, by order in writing make, be under the control and administration of the district council and of the local boards within the areas subject respectively to their authority:—

Matters to be administered by board and council.

(*a*) The construction, repair and maintenance of roads and other means of communication;

(*b*) The management, maintenance and visiting of schools, hospitals, dispensaries, markets, rest-houses, saráis 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, the supply of water from them and from other sources, and the preservation from pollution of water for drinking and cooking purposes:

(*d*) The planting and preservation of trees on public ground:

(*e*) The establishment and maintenance of relief-works in time of famine or scarcity:

(*f*) The establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in operation, 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.

(*g*) The management of such public ferries as may be entrusted to their charge under section 7 A of the Northern India Ferries Act, 1878, as amended by this Act:

XVII of 1878.

(*h*) Any other local works or measures likely to promote the health, comfort or convenience of the public, and

(*i*) The maintenance of any building, or other property, vested under this Act in the district council.

Relations of Local Boards to District Councils.

10. (*1*) A local board as the agent of, and subject to the control of, the district council, shall, within the area subject to its authority, have the control and administration of, and be responsible for, all the matters specified in section nine except such of those matters as the district council may think fit to take under its direct control and administration, and such as the Chief Commissioner may have excepted by order under section nine.

Duties of local board.

(*2*) It shall be the duty of the district council to enforce the responsibility imposed on a local board by sub-section (1).

11. Every local board shall submit annually to the district council of its district, on or before such date as the council may appoint in this behalf, a statement of the requirements, and an estimate of the probable expenditure, of the board for the coming financial year, and a report of its proceedings, and an account of its receipts and expenditure for the past financial year, and shall also submit to the council such other reports, if any, as the council may, from time to time, require.

Reports, estimates and accounts to be submitted by board to council.

12. A local board shall not incur expenses or undertake liabilities, to any amount exceeding the limit imposed by the district council of its district.

Limits on expenditure of local board.

13. A district council may, by a majority of two-thirds of its whole number, reverse or vary any resolution of a local board for an area within its district.

Power for council to reverse or vary resolution of board.

14. (*1*) If the local board makes default in the performance of any duty imposed on it by or under this Act, the district council may, by order in writing, fix a period for the performance of the duty.

Power for council to provide for performance of duty in default of board.

(*2*) If the duty is not performed within that period, the council may appoint some person to perform it, and may provide for the expenses of, and incidental to, its performance out of the funds appropriated to or for the purposes of the local board.

15. (*1*) The Chief Commissioner may from time to time, by notification in the official Gazette, declare any local board established under this Act to be an independent board, and may in like manner cancel such notification.

Power to declare local boards independent.

(*2*) A local board so declared shall, while the notification is in force, so far as may be, have within the area subject to its authority, the powers, and perform the duties, of a district council under this Act, and shall cease to be the agent of, and under the control of, the district council.

School Committees.

16. (*1*) Every district council, and every local board as the agent of, and subject to the control of, its District Council, may from time to time appoint school committees for the several schools under its control and administration, and shall as far as may be practicable conduct the management of any school for which such a committee has been appointed through that committee.

Appointment of school committees.

(2) All school committees existing within the area subject to the authority of any district council or local board at the time that council or board comes into existence shall be deemed to have been appointed under this section.

Joint Committees.

17. (1) A local board may, from time to time, concur with any other local board or boards for an area or areas in the same district, in appointing, out of their respective bodies, joint committees for any purpose in which they are jointly interested, and in delegating to any such committee any power which might be exercised by either or any of the local boards, and in framing and modifying regulations as to the proceedings of any such joint committee.

Joint committee of two or more local boards.

(2) If any dispute arises between two or more local boards acting under this section, the decision thereon of the district council of their district shall be final.

18. (1) A district council may, from time to time, concur with any other district council or district councils in appointing, out of their respective bodies, joint committees for any purpose in respect of which they are jointly interested, and in delegating to any such committee any power which might be exercised by any or either of the district councils, and in framing and modifying regulations as to the proceedings of any such joint committee.

Joint committee of two or more district councils.

(2) If any dispute arises between two or more district councils acting under this section, the decision thereon of the Commissioner, if the councils are in the same division, or, if they are not in the same division, of the Chief Commissioner, shall be final.

Conduct of Business.

19. (1) Every district council and local board shall, from time to time, elect one of its members to be chairman for one financial year at all meetings at which he is present.

Chairman.

(2) If the chairman so elected dies, resigns or becomes incapable of acting, the council or board shall elect another of its members to be chairman for the period during which the person so dying, resigning or becoming incapable would have been entitled to continue in office, and no longer.

(3) An election under the foregoing provisions of this section shall not be valid until it is approved, in the case of the chairman of a local board, by the Commissioner of the division, and, in the case of the chairman of a district council, by the Chief Commissioner.

(4) If when any meeting is held the office of chairman is vacant or the chairman is absent from the meeting, the members present shall appoint one of their number to be chairman thereat.

20. (1) Every district council and local board may, from time to time, make regulations as to the time and place of its meetings, the conduct of proceedings at meetings, and the appointment, powers and proceedings of committees:

Regulations as to meetings and proceedings.

(2) Provided that every regulation made under this section must be consistent with this Act and with any rules made by the Chief Commissioner under this Act.

Officers and Servants.

21. (1) Every district council may employ such officers and servants as may be necessary and proper for the efficient execution of its duties and may assign to them such pay, leave allowances, gratuities and pensions as it thinks fit.

Employment of officers and servants.

(2) A local board may employ such officers and servants, and may assign to them such pay, leave allowances, gratuities and pensions, as the district council of its district thinks requisite and sufficient.

(3) In the case of an officer lent by the Government, the council or board may contribute to any leave allowance, gratuity, or pension, which he may become entitled to in accordance with the rules for the time being in force.

(4) If, in the opinion of the Commissioner,

(a) the number of persons employed by a council or board under this section, or the pay, allowances, gratuities or pensions assigned by the council or board to those persons, or to any particular person, is or are excessive, or

(b) any such person is unfit for his employment,

the council or board shall, on the requirement of the Commissioner, reduce the number or remuneration, or, as the case may be, dismiss the unfit person.

Vesting of Property.

22. The Chief Commissioner 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 Central Provinces, shall vest in any district council; and thereupon that property shall vest in that council for the purposes of this Act, subject to all rights over, and all debts, liabilities and obligations (if any) affecting, that property.

Power to vest property in district council.

Finance.

23. (1) 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, custody and application of district fund.

(a) the net proceeds (after deducting the expenses of collection) of all rates levied in accordance with settlement-records in that district for the maintenance of roads or schools;

(b) such portion (if any) of the surplus of the rates so levied for the maintenance of the district post as the Chief Commissioner may from time to time assign in this behalf;

(c) the surplus accruing in that district under section eighteen of the Cattle-trespass Act, 1871;

(d) the proceeds of public ferries payable into the district fund of that district under section 7A of the Northern India Ferries Act, 1878, as amended by this Act;

XVII of 1878.

(e) all sums assigned, from time to time, by the Chief Commissioner for expenditure on local works in that district, under section five of the Central Provinces Additional Rates Act, 1878, section seventeen of the Northern India Ferries Act, 1878, or any enactment amending either of those Acts;

X of 1878.
XVII of 1878.

(f) all such rents and profits accruing from nazul property in that district as the Chief Commissioner may, from time to time, direct to be paid to the district council;

(g) all sums contributed to the fund by the Government, local bodies, or private persons; and

(h) all sums received by the district council in the execution of this Act.

(2) The district fund shall be vested in the district council, and the balance standing to the credit of the fund shall be kept in the Government treasury of the district.

(3) 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 nine and twenty-one, within the area subject to the authority of the district council, and, with the sanction of the Chief Commissioner, outside of that area, and also to the following purposes:—

(a) the payment of school inspectors and normal school teachers appointed and controlled by the Government and employed in the district, and the provision of scholarships and prizes for schools in the district;

(b) the payment of subordinate medical officers (including vaccinators) appointed by the Government and employed in the district; and

(c) the expenses attending the audit of the accounts of the district council and of the local boards within the district.

Provided that the amount expended from the district fund in any financial year on primary education shall not be less than the estimated net proceeds for that year of the rates levied in the district in accordance with the settlement-records for the maintenance of schools.

(4) When a local board has been declared independent under section fifteen, such portion of the district fund as the Chief Commissioner may from time to time fix in this behalf shall, during its independence, be annually set apart and placed at its disposal, and shall, for the purposes of this Act, be treated as a separate district fund.

24. (1) Every district council shall appoint a finance committee consisting of not less than three of its number.

Annual estimates of income and expenditure.

(2) Every district council shall, on or before the prescribed day in each year, hold a meeting at which the finance committee shall submit to the council, in such form as the Chief Commissioner may, from time to time, by rule prescribe, an estimate of the income and expenditure of the council for the next financial year.

(3) The district council shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The district council shall, on or before the prescribed day, cause a copy of the estimate as provisionally approved by it to be sent to the Deputy Commissioner.

(5) The Deputy Commissioner may object to the estimate on the ground that any expenditure on salaries, works or otherwise, proposed therein, appears to him to be unnecessary or excessive, or that any particular contained therein appears to him to be erroneous, defective or improper.

(6) If the Deputy Commissioner so objects, he shall signify his objections in writing to the district council; if he does not so object, he shall signify his approval in like manner.

(7) When the Deputy Commissioner signifies, under sub-section (6), objections to an estimate, the district council shall consider his objections, and either modify the estimate so as to remove them, or refer the estimate with the statement of objections, through the Deputy Commissioner, to the Commissioner, and the Commissioner shall signify to the district council his approval of the estimate, with or without such modifications as may be needed to remove the objections wholly or in part as he thinks fit.

(8) When the Deputy Commissioner or Commissioner has signified his approval of an estimate, or the district council has modified an estimate so as to remove the Deputy Commissioner's objections, 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 Commissioner.

(9) "Prescribed day," for the purposes of sub-section (2) or sub-section (4) of this section, means such day as the Chief Commissioner may, from time to time, by rule prescribe for the purposes of that sub-section.

(10) When the Deputy Commissioner is a member of the district council, the Commissioner shall

take the place of the Deputy Commissioner for the purposes of this section, and the reference under sub-section (7) shall be to the Chief Commissioner.

Annual accounts and audit.

25. Accounts of the receipts and expenditure of every district council shall be made up to the last day of every financial year, in such form as the Chief Commissioner, 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 Chief Commissioner, from time to time, appoints in this behalf.

Inspection of estimates and accounts.

26. The district council shall cause a copy of every estimate provisionally or finally approved under section twenty-four, and of every account made up under section twenty-five, to be kept at its office; and any person may at all reasonable times inspect any such estimate or account.

Publication of abstract of accounts.

27. An abstract of every annual account of a district council, showing the income of the district fund under each head of receipts, 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 district council in such form as the Chief Commissioner from time to time prescribes, and published annually in the English and Vernacular official Gazettes.

Control.

Deputy Commissioner's power of supervision.

28. (*1*) The Deputy Commissioner of a district shall have power to supervise the proceedings of the district council, and of every local board, joint committee, or school committee in the district, and in exercise of that power may (among other things)—

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by the council, board or committee, or any work in progress under its direction;

(*b*) call for and inspect any document which may be for the purposes of this Act in the possession or under the control of the council, board or committee; and

(*c*) require the council, board or committee to furnish such statements, accounts and reports as he thinks fit.

(*2*) Where a joint committee is appointed by the district councils of several districts, the Deputy Commissioner of any of those districts may exercise a like power in respect of the proceedings of that committee; but if any difference arises between two or more Deputy Commissioners acting under this sub-section, it shall be referred, when the districts are in the same division, to the Commissioner, and, when the districts are not in the same division, to the Chief Commissioner, whose decision shall be final.

(*3*) The power given under this section to a Deputy Commissioner in respect of a local board or school committee may, with the sanction of the Chief Commissioner, be delegated by him to a subordinate not below the rank of an Extra Assistant Commissioner.

(*4*) When the Deputy Commissioner is a member of the district council, the powers given to him under this section shall, in respect of that council, vest in the Commissioner.

Power to suspend execution of orders, &c.

29. (*1*) If, in the opinion of the Deputy Commissioner, the execution of any order or resolution of a district council, local board, joint committee, or school 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.

(*2*) When a Deputy Commissioner makes any order under this section he shall forthwith forward to the Commissioner a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force, with or without modification, permanently, or for such period as he thinks fit.

(*3*) The Commissioner shall forthwith submit to the Chief Commissioner a report of every case occurring under this section, and the Chief Commissioner may rescind or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made in respect of the same.

Extraordinary powers of Deputy Commissioner in case of emergency.

30. (*1*) In cases of emergency the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a district council 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, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the district council.

(*2*) If the expense and remuneration are not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

(*3*) The Deputy Commissioner shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

Power to provide for performance of duties in default of district council.

31. (*1*) When the Chief Commissioner is informed, on complaint made or otherwise, that a district council has made default in performing any duty imposed on it by or under this Act, the Chief Commissioner, if satisfied after due inquiry that the district council has been guilty of the alleged default, may, by an 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 Chief 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 district council.

(*3*) If the expense and remuneration are not so paid, the Chief Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

Power to supersede council or board in case of incompetency, default or abuse of powers.

32. (*1*) If a district council or local 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 otherwise by law, or exceeds or abuses its powers, the Chief Commissioner 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 the council or 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 district council or local board is so superseded, the following consequences shall ensue:

(*a*) All members of the council or board shall, as from the date of the order, vacate their offices as such members;

(*b*) All powers and duties of the council or board may, during the period of supersession, be exercised and performed by such person or persons as the Chief Commissioner from time to time appoints in that behalf;

(*c*) Where a council is superseded, all property vested in it shall, during the period of supersession, vest in Her Majesty.

(*3*) On the expiration of the period of suspension specified in the order, the council or board shall be re-established by appointment or election, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified for appointment or election.

Powers of Commissioner.

33. In all matters connected with this Act, the Commissioner shall have and exercise the same authority and control over the Deputy Commissioners subordinate to him, as he has and exercises over them in the general and revenue administration.

Rules.

Power of Chief Commissioner to make rules as to district councils, local boards and school committees.

34. The Chief Commissioner may, from time to time, make rules consistent with this Act and with reference (if necessary) to the varying circumstances of different local areas—

(*a*) as to the qualifications, mode and time of election or appointment, term of office, and remuneration and allowances (if any) of members of district councils and local boards and as to the filling of casual vacancies in such councils and boards, and as to the number of the representative members for each circle or group of circles, and as to the number of the representatives of the mercantile classes or professions, to be elected or appointed to each local board or district council;

(*b*) as to the appointment, powers and duties of school committees, the term of office of members of such committees and the mode of removing them;

(*c*) as to the conduct of proceedings of district councils, local boards and school committees, including the fixing of a quorum, the giving of the casting vote in cases of equal division, the minimum number of meetings to be held and the maximum interval between successive meetings, the formation of committees other than school committees and the delegation of powers to such committees;

(*d*) as to the mode of entering into and executing contracts and transfers of property on behalf of district councils, and the authority on which money may be paid from the district fund;

(*e*) as to the appointment and payment of auditors of the accounts of district councils and local boards;

(*f*) as to the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district, and the appropriation of funds raised in a particular area to the purposes of that area; and

(*g*) generally, for the guidance of district councils, local boards, school committees and Government officers, in all matters connected with the administration of this Act and for settling their relations to one another.

Procedure for making rules under section 34.

35. The Chief Commissioner shall, before making any rules under section thirty-four, publish in such manner as may in his 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.

Exceptional Provision.

36. If the circumstances of any district or part of a district are, in the opinion of the Chief Commissioner, such that any of the provisions of this Act are unsuited thereto, he may, by order in writing, 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 subsequent order of the Chief Commissioner.

Power under special circumstances to except districts from operation of Act.

Supplemental Provisions.

37. Where any land is required for the purposes of this Act, the Chief Commissioner may, on the request of the district council, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the district council of the compensation awarded under that Act, the land shall vest in the district council.

Acquisition of land.

I of 1870.

38. If any member, officer or servant of a district council, local board, or joint committee appointed under this Act is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that council, board or 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 council, board or committee.

XLV of 1860.

39. (*1*) All rules and orders made by the Chief Commissioner under this Act shall be published in the official Gazette both in English and in such native languages as the Chief Commissioner may direct.

Publication of rules and orders.

(*2*) The publication in the official Gazette of a rule purporting to be made by the Chief Commissioner under section thirty-four shall be conclusive evidence that it has been made as required by section thirty-five.

40. The several district councils and local boards under this Act shall come into existence at such time as the Chief Commissioner, by order, appoints in that behalf.

Time for councils and boards coming into existence.

Rates payable under Settlement-record.

41. (*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, shall be deemed to have been legally imposed, and shall be 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 and accounts of same.

(*2*) An account of the gross receipts and of the charges (if any) of collection of all such rates in each district shall be kept by the Deputy Commissioner of that district, and shall be annually rendered by him to the district council of that district.

42. The Chief Commissioner may, from time to time, by notification in the official Gazette,

Powers of Chief Commissioner with respect to rates.

(*a*) prescribe in what instalments, and at what times, the rates referred to in section forty-one shall be payable, and make rules for their collection by village-officers or others; and

(*b*) exempt any land from liability to pay the whole or any part of any such rate, and vary or cancel any such exemption.

Amendment of the Northern India Ferries Act, 1878.

43. 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 Chief Commissioner of the Central Provinces may direct that any public ferry wholly or partly within the area subject to the authority of a district council or local board in any district in those provinces, be managed by that council or 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 Central Provinces management may be vested in district council or local board;

and proceeds paid into district fund.

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

44. 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," where they first occur, the following shall be inserted, namely:—"and section 7A."

Amendment of sections 6 and 17 of same Act.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th January, 1883, and is hereby promulgated for general information:—

ACT No. I OF 1883.

THE CENTRAL PROVINCES LOCAL SELF-GOVERNMENT ACT, 1883.

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An Act to make better provision for local self-government in the Central Provinces.

WHEREAS provision has been made by the Central Provinces Land-revenue Act, 1881, for the appointment of mukaddams for the several villages in the territories administered by the Chief Commissioner of the Central Provinces; and

Preamble.

XVIII of 1881.

Whereas provision has been made in the settlement-records of the districts in those territories for the levy of rates for the maintenance of roads, schools and the district post, and it is proposed that the Government shall, from time to time, assign certain sums, or the income accruing from certain sources, for expenditure on objects tending to promote the welfare and improvement of the inhabitants of each of those districts;

It is hereby enacted as follows:—

Preliminary.

1. This Act may be called the Central Provinces Local Self-government Act, 1883.

Short title.

It shall extend only to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

Local extent.

it shall come into force at once.

Commencement.

Definitions.

2. In this Act—

"Assistant Commissioner" includes an Extra Assistant Commissioner in any district where there is no Assistant Commissioner:

"Financial year" means the year commencing on the first day of April:

"Village" includes any tract of land which, at the last settlement of that land, has been recognized as a village, or which the Chief Commissioner may, from time to time, declare to be a village for the purposes of the Central Provinces Land-revenue Act, 1881; and

XVIII of 1881.

"Mukaddam" means the executive headman of a village appointed under that Act.

Formation of Local Administrative Areas.

3. (*1*) The Chief Commissioner shall, by order in writing, for the purposes of the local self-government of each district, aggregate the several villages thereof in circles and the circles in groups.

Aggregation of villages in circles and groups for purposes of local self-government.

(*2*) There shall be excluded from the circles and groups 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 town having a municipal committee.

(*3*) The Chief Commissioner may, from time to time, by order in writing, vary any order made under this section.

Constitution of Local Administrative Bodies.

4. There shall be established for each group of circles a local board having authority over that group, and for each district a district council 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 town having a municipal committee.

Establishment of local boards for groups and of district councils for districts.

5. The local board for a group of circles shall consist of—

Constitution of local board.

(*a*) representative members, one or more for each circle, being the mukaddam or mukaddams of a village or villages within that circle;

(*b*) representatives, one or more, of mercantile classes or professions, resident within the area comprised in the group, and elected by, or appointed on behalf of, those classes or professions; and

(*c*) such person or persons, if any, not exceeding in number one-third of the board, as the Chief Commissioner may from time to time appoint.

6. The district council of a district shall consist of—

Constitution of district council.

(*a*) representatives of groups of circles within the district, one or more for each group, being a member or members of, and elected by, the local board for that group;

(*b*) representatives, one or more, of mercantile classes or professions, resident within the district, and elected by, or appointed on behalf of, those classes or professions; and

(*c*) such person or persons, if any, not exceeding in number one-third of the council, as the Chief Commissioner may from time to time appoint.

7. (*1*) If a person convicted by a criminal Court of an offence the commission of which in the opinion of the Chief Commissioner shows him to be unfit to be a member of a local board or district council is elected as such member, the Chief Commissioner may declare his election void.

Power to set aside election or remove member in case of conviction of offence.

(*2*) If a member of such a board or council is so convicted of any such offence, the Chief Commissioner may declare his office to be vacant.

8. Every district council shall be a body corporate by the name of the district council 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 Deputy Commissioner, 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.

Incorporation of district council.

Duties of District Councils and Local Boards.

9. The following matters shall, subject to such exceptions as the Chief Commissioner may, from time to time, by order in writing make, be under the control and administration of the district council and of the local boards within the areas subject respectively to their authority:—

Matters to be administered by board and council.

(*a*) The construction, repair and maintenance of roads and other means of communication:

(*b*) The management, maintenance and visiting of schools, hospitals, dispensaries, markets, rest-houses, saráis 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, the supply of water from them and from other sources, and the preservation from pollution of water for drinking and cooking purposes:

(*d*) The planting and preservation of trees on public ground:

(*e*) The establishment and maintenance of relief-works in time of famine or scarcity:

(*f*) The establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in operation, 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.

(*g*) The management of such public ferries as may be entrusted to their charge under section 7 A of the Northern India Ferries Act, 1878, as amended by this Act:

XVII of 878.

(*h*) Any other local works or measures likely to promote the health, comfort or convenience of the public, and

(*i*) The maintenance of any building, or other property, vested under this Act in the district council.

Relations of Local Boards to District Councils.

10. (*1*) A local board as the agent of, and subject to the control of, the district council, shall, within the area subject to its authority, have the control and administration of, and be responsible for, all the matters specified in section nine except such of those matters as the district council may think fit to take under its direct control and administration, and such as the Chief Commissioner may have excepted by order under section nine.

Duties of local board.

(*2*) It shall be the duty of the district council to enforce the responsibility imposed on a local board by sub-section (1).

11. Every local board shall submit annually to the district council of its district, on or before such date as the council may appoint in this behalf, a statement of the requirements, and an estimate of the probable expenditure, of the board for the coming financial year, and a report of its proceedings, and an account of its receipts and expenditure for the past financial year, and shall also submit to the council such other reports, if any, as the council may, from time to time, require.

Reports, estimates and accounts to be submitted by board to council.

12. A local board shall not incur expenses or undertake liabilities, to any amount exceeding the limit imposed by the district council of its district.

Limits on expenditure of local board.

13. A district council may, by a majority of two-thirds of its whole number, reverse or vary any resolution of a local board for an area within its district.

Power for council to reverse or vary resolution of board.

14. (*1*) If the local board makes default in the performance of any duty imposed on it by or under this Act, the district council may, by order in writing, fix a period for the performance of the duty.

Power for council to provide for performance of duty in default of board.

(*2*) If the duty is not performed within that period, the council may appoint some person to perform it, and may provide for the expenses of, and incidental to, its performance out of the funds appropriated to or for the purposes of the local board.

15. (*1*) The Chief Commissioner may from time to time, by notification in the official Gazette, declare any local board established under this Act to be an independent board, and may in like manner cancel such notification.

Power to declare local boards independent.

(*2*) A local board so declared shall, while the notification is in force, so far as may be, have within the area subject to its authority, the powers, and perform the duties, of a district council under this Act, and shall cease to be the agent of, and under the control of, the district council.

School Committees.

16. (*1*) Every district council, and every local board as the agent of, and subject to the control of, its District Council, may from time to time appoint school committees for the several schools under its control and administration, and shall as far as may be practicable conduct the management of any school for which such a committee has been appointed through that committee.

Appointment of school committees.

(2) All school committees existing within the area subject to the authority of any district council or local board at the time that council or board comes into existence shall be deemed to have been appointed under this section.

Joint Committees.

17. (1) A local board may, from time to time, concur with any other local board or boards for an area or areas in the same district, in appointing, out of their respective bodies, joint committees for any purpose in which they are jointly interested, and in delegating to any such committee any power which might be exercised by either or any of the local boards, and in framing and modifying regulations as to the proceedings of any such joint committee.

Joint committee of two or more local boards.

(2) If any dispute arises between two or more local boards acting under this section, the decision thereon of the district council of their district shall be final.

18. (1) A district council may, from time to time, concur with any other district council or district councils in appointing, out of their respective bodies, joint committees for any purpose in respect of which they are jointly interested, and in delegating to any such committee any power which might be exercised by any or either of the district councils, and in framing and modifying regulations as to the proceedings of any such joint committee.

Joint committee of two or more district councils.

(2) If any dispute arises between two or more district councils acting under this section, the decision thereon of the Commissioner, if the councils are in the same division, or, if they are not in the same division, of the Chief Commissioner, shall be final.

Conduct of Business.

19. (1) Every district council and local board shall, from time to time, elect one of its members to be chairman for one financial year at all meetings at which he is present.

Chairman.

(2) If the chairman so elected dies, resigns or becomes incapable of acting, the council or board shall elect another of its members to be chairman for the period during which the person so dying, resigning or becoming incapable would have been entitled to continue in office, and no longer.

(3) An election under the foregoing provisions of this section shall not be valid until it is approved, in the case of the chairman of a local board, by the Commissioner of the division, and, in the case of the chairman of a district council, by the Chief Commissioner.

(4) If when any meeting is held the office of chairman is vacant or the chairman is absent from the meeting, the members present shall appoint one of their number to be chairman thereat.

20. (1) Every district council and local board may, from time to time, make regulations as to the time and place of its meetings, the conduct of proceedings at meetings, and the appointment, powers and proceedings of committees:

Regulations as to meetings and proceedings.

(2) Provided that every regulation made under this section must be consistent with this Act and with any rules made by the Chief Commissioner under this Act.

Officers and Servants.

21. (1) Every district council may employ such officers and servants as may be necessary and proper for the efficient execution of its duties and may assign to them such pay, leave allowances, gratuities and pensions as it thinks fit.

Employment of officers and servants.

(2) A local board may employ such officers and servants, and may assign to them such pay, leave allowances, gratuities and pensions, as the district council of its district thinks requisite and sufficient.

(3) In the case of an officer lent by the Government, the council or board may contribute to any leave allowance, gratuity, or pension, which he may become entitled to in accordance with the rules for the time being in force.

4) If, in the opinion of the Commissioner,

(a) the number of persons employed by a council or board under this section, or the pay, allowances, gratuities or pensions assigned by the council or board to those persons, or to any particular person, is or are excessive, or

(b) any such person is unfit for his employment,

the council or board shall, on the requirement of the Commissioner, reduce the number or remuneration, or, as the case may be, dismiss the unfit person.

Vesting of Property.

22. The Chief Commissioner 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 Central Provinces, shall vest in any district council; and thereupon that property shall vest in that council for the purposes of this Act, subject to all rights over, and all debts, liabilities and obligations (if any) affecting, that property.

Power to vest property in district council.

Finance.

23. (1) 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, custody and application of district fund.

(a) the net proceeds (after deducting the expenses of collection) of all rates levied in accordance with settlement-records in that district for the maintenance of roads or schools;

(b) such portion (if any) of the surplus of the rates so levied for the maintenance of the district post as the Chief Commissioner may from time to time assign in this behalf;

(c) the surplus accruing in that district under section eighteen of the Cattle-trespass Act, 1871; I of 1871.

(d) the proceeds of public ferries payable into the district fund of that district under section 7A of the Northern India Ferries Act, 1878, as amended by this Act; XVII of 1878.

(e) all sums assigned, from time to time, by the Chief Commissioner for expenditure on local works in that district, under section five of the Central Provinces Additional Rates Act, 1878, section seventeen of the Northern India Ferries Act, 1878, or any enactment amending either of those Acts; X of 1878. XVII of 1878.

(f) all such rents and profits accruing from nazul property in that district as the Chief Commissioner may, from time to time, direct to be paid to the district council;

(g) all sums contributed to the fund by the Government, local bodies, or private persons; and

(h) all sums received by the district council in the execution of this Act.

(2) The district fund shall be vested in the district council, and the balance standing to the credit of the fund shall be kept in the Government treasury of the district.

(3) 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 nine and twenty-one, within the area subject to the authority of the district council, and, with the sanction of the Chief Commissioner, outside of that area, and also to the following purposes:—

(a) the payment of school inspectors and normal school teachers appointed and controlled by the Government and employed in the district, and the provision of scholarships and prizes for schools in the district;

(b) the payment of subordinate medical officers (including vaccinators) appointed by the Government and employed in the district; and

(c) the expenses attending the audit of the accounts of the district council and of the local boards within the district.

Provided that the amount expended from the district fund in any financial year on primary education shall not be less than the estimated net proceeds for that year of the rates levied in the district in accordance with the settlement-records for the maintenance of schools.

(4) When a local board has been declared independent under section fifteen, such portion of the district fund as the Chief Commissioner may from time to time fix in this behalf shall, during its independence, be annually set apart and placed at its disposal, and shall, for the purposes of this Act, be treated as a separate district fund.

24. (1) Every district council shall appoint a finance committee consisting of not less than three of its number.

Annual estimates of income and expenditure.

(2) Every district council shall, on or before the prescribed day in each year, hold a meeting at which the finance committee shall submit to the council, in such form as the Chief Commissioner may, from time to time, by rule prescribe, an estimate of the income and expenditure of the council for the next financial year.

(3) The district council shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The district council shall, on or before the prescribed day, cause a copy of the estimate as provisionally approved by it to be sent to the Deputy Commissioner.

(5) The Deputy Commissioner may object to the estimate on the ground that any expenditure on salaries, works or otherwise, proposed therein, appears to him to be unnecessary or excessive, or that any particular contained therein appears to him to be erroneous, defective or improper.

(6) If the Deputy Commissioner so objects, he shall signify his objections in writing to the district council; if he does not so object, he shall signify his approval in like manner.

(7) When the Deputy Commissioner signifies, under sub-section (6), objections to an estimate, the district council shall consider his objections, and either modify the estimate so as to remove them, or refer the estimate with the statement of objections, through the Deputy Commissioner, to the Commissioner, and the Commissioner shall signify to the district council his approval of the estimate, with or without such modifications as may be needed to remove the objections wholly or in part as he thinks fit.

(8) When the Deputy Commissioner or Commissioner has signified his approval of an estimate, or the district council has modified an estimate so as to remove the Deputy Commissioner's objections, 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 Commissioner.

(9) "Prescribed day," for the purposes of sub-section (2) or sub-section (4) of this section, means such day as the Chief Commissioner may, from time to time, by rule prescribe for the purposes of that sub-section.

(10) When the Deputy Commissioner is a member of the district council, the Commissioner shall

take the place of the Deputy Commissioner for the purposes of this section, and the reference under sub-section (7) shall be to the Chief Commissioner.

Annual accounts and audit.

25. Accounts of the receipts and expenditure of every district council shall be made up to the last day of every financial year, in such form as the Chief Commissioner, 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 Chief Commissioner, from time to time, appoints in this behalf.

Inspection of estimates and accounts.

26. The district council shall cause a copy of every estimate provisionally or finally approved under section twenty-four, and of every account made up under section twenty-five, to be kept at its office; and any person may at all reasonable times inspect any such estimate or account.

Publication of abstract of accounts.

27. An abstract of every annual account of a district council, showing the income of the district fund under each head of receipts, 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 district council in such form as the Chief Commissioner from time to time prescribes, and published annually in the English and Vernacular official Gazettes.

Control.

Deputy Commissioner's power of supervision.

28. (*1*) The Deputy Commissioner of a district shall have power to supervise the proceedings of the district council, and of every local board, joint committee, or school committee in the district, and in exercise of that power may (among other things)—

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by the council, board or committee, or any work in progress under its direction;

(*b*) call for and inspect any document which may be for the purposes of this Act in the possession or under the control of the council, board or committee; and

(*c*) require the council, board or committee to furnish such statements, accounts and reports as he thinks fit.

(*2*) Where a joint committee is appointed by the district councils of several districts, the Deputy Commissioner of any of those districts may exercise a like power in respect of the proceedings of that committee; but if any difference arises between two or more Deputy Commissioners acting under this sub-section, it shall be referred, when the districts are in the same division, to the Commissioner, and, when the districts are not in the same division, to the Chief Commissioner, whose decision shall be final.

(*3*) The power given under this section to a Deputy Commissioner in respect of a local board or school committee may, with the sanction of the Chief Commissioner, be delegated by him to a subordinate not below the rank of an Extra Assistant Commissioner.

(*4*) When the Deputy Commissioner is a member of the district council, the powers given to him under this section shall, in respect of that council, vest in the Commissioner.

Power to suspend execution of orders, &c.

29. (*1*) If, in the opinion of the Deputy Commissioner, the execution of any order or resolution of a district council, local board, joint committee, or school 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.

(*2*) When a Deputy Commissioner makes any order under this section he shall forthwith forward to the Commissioner a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force, with or without modification, permanently, or for such period as he thinks fit.

(*3*) The Commissioner shall forthwith submit to the Chief Commissioner a report of every case occurring under this section, and the Chief Commissioner may rescind or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made in respect of the same.

Extraordinary powers of Deputy Commissioner in case of emergency.

30. (*1*) In cases of emergency the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a district council 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, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the district council.

(*2*) If the expense and remuneration are not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

(*3*) The Deputy Commissioner shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

Power to provide for performance of duties in default of district council.

31. (*1*) When the Chief Commissioner is informed, on complaint made or otherwise, that a district council has made default in performing any duty imposed on it by or under this Act, the Chief Commissioner, if satisfied after due inquiry that the district council has been guilty of the alleged default, may, by an 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 Chief 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 district council.

(*3*) If the expense and remuneration are not so paid, the Chief Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

Power to supersede council or board in case of incompetency, default or abuse of powers.

32. (*1*) If a district council or local 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 otherwise by law, or exceeds or abuses its powers, the Chief Commissioner 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 the council or 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 district council or local board is so superseded, the following consequences shall ensue:

(*a*) All members of the council or board shall, as from the date of the order, vacate their offices as such members;

(*b*) All powers and duties of the council or board may, during the period of supersession, be exercised and performed by such person or persons as the Chief Commissioner from time to time appoints in that behalf;

(*c*) Where a council is superseded, all property vested in it shall, during the period of supersession, vest in Her Majesty.

(*3*) On the expiration of the period of suspension specified in the order, the council or board shall be re-established by appointment or election, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified for appointment or election.

Powers of Commissioner.

33. In all matters connected with this Act, the Commissioner shall have and exercise the same authority and control over the Deputy Commissioners subordinate to him, as he has and exercises over them in the general and revenue administration.

Rules.

Power of Chief Commissioner to make rules as to district councils, local boards and school committees.

34. The Chief Commissioner may, from time to time, make rules consistent with this Act and with reference (if necessary) to the varying circumstances of different local areas—

(*a*) as to the qualifications, mode and time of election or appointment, term of office, and remuneration and allowances (if any) of members of district councils and local boards and as to the filling of casual vacancies in such councils and boards, and as to the number of the representative members for each circle or group of circles, and as to the number of the representatives of the mercantile classes or professions, to be elected or appointed to each local board or district council;

(*b*) as to the appointment, powers and duties of school committees, the term of office of members of such committees and the mode of removing them;

(*c*) as to the conduct of proceedings of district councils, local boards and school committees, including the fixing of a quorum, the giving of the casting vote in cases of equal division, the minimum number of meetings to be held, and the maximum interval between successive meetings, the formation of committees other than school committees and the delegation of powers to such committees;

(*d*) as to the mode of entering into and executing contracts and transfers of property on behalf of district councils, and the authority on which money may be paid from the district fund;

(*e*) as to the appointment and [illegible] auditors of the accounts of [illegible] and local boards;

(*f*) as to the apportionment of the [illegible] between the general purposes of [illegible] and the purposes of particular [illegible] the district, and the appropriation of [illegible] raised in a particular area to the [illegible] of that area; and

(*g*) generally, for the guidance of [illegible] councils, local boards, school committees and Government officers, in all matters connected with the administration of this Act and for settling their relations to one another.

Procedure for making rules under section 34.

35. The Chief Commissioner shall, before making any rules under section thirty-four, publish in such manner as may in his 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.

Exceptional Provision.

36. If the circumstances of any district or part of a district are, in the opinion of the Chief Commissioner, such that any of the provisions of this Act are unsuited thereto, he may, by order in writing, 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 subsequent order of the Chief Commissioner.

Power under special circumstances to except districts from operation of Act.

Supplemental Provisions.

37. Where any land is required for the purposes of this Act, the Chief Commissioner may, on the request of the district council, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the district council of the compensation awarded under that Act, the land shall vest in the district council.

Acquisition of land.

38. If any member, officer or servant of a district council, local board, or joint committee appointed under this Act is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that council, board or 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 council, board or committee.

39. (*1*) All rules and orders made by the Chief Commissioner under this Act shall be published in the official Gazette both in English and in such native languages as the Chief Commissioner may direct.

Publication of rules and orders.

(*2*) The publication in the official Gazette of a rule purporting to be made by the Chief Commissioner under section thirty-four shall be conclusive evidence that it has been made as required by section thirty-five.

40. The several district councils and local boards under this Act shall come into existence at such time as the Chief Commissioner, by order, appoints in that behalf.

Time for councils and boards coming into existence.

Rates payable under Settlement-record.

41. (*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, shall be deemed to have been legally imposed, and shall be 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 and accounts of same.

(*2*) An account of the gross receipts and of the charges (if any) of collection of all such rates in each district shall be kept by the Deputy Commissioner of that district, and shall be annually rendered by him to the district council of that district.

42. The Chief Commissioner may, from time to time, by notification in the official Gazette,

Powers of Chief Commissioner with respect to rates.

(*a*) prescribe in what instalments, and at what times, the rates referred to in section forty-one shall be payable, and make rules for their collection by village-officers or others; and

(*b*) exempt any land from liability to pay the whole or any part of any such rate, and vary or cancel any such exemption.

Amendment of the Northern India Ferries Act, 1878.

43. 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.

"7A. The Chief Commissioner of the Central Provinces may direct that any public ferry wholly or partly within the area subject to the authority of a district council or local board in any district in those provinces, be managed by that council or 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 Central Provinces management may be vested in district council or local board;

and proceeds paid into district fund.

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

44. 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," where they first occur, the following shall be inserted, namely:—"and section 7A."

Amendment of sections 6 and 17 of same Act.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

First publication.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th January, 1883, and is hereby promulgated for general information:—

ACT No. II OF 1883.

An Act to amend the Elephants Preservation Act, 1879.

WHEREAS it is expedient to amend the Elephants Preservation Act, 1879, in manner hereinafter appearing; It is hereby enacted as follows:— VI of 1879.

Preamble.

For section 4 of the said Act, the following shall be substituted, namely:—

Rights of Government with respect to certain elephants and tusks.

"4. Every wild elephant captured, and the tusks of every wild elephant killed, by any person not licensed under this Act, shall be the property of Government."

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th January, 1883, and is hereby promulgated for general information :—

ACT No. II OF 1883.

An Act to amend the Elephants Preservation Act, 1879.

Preamble.

WHEREAS it is expedient to amend the Elephants Preservation Act, 1879, in manner hereinafter appearing; It is hereby enacted as follows :—

For section 4 of the said Act, the following shall be substituted, namely :—

Rights of Government with respect to certain elephants and tusks.

"4. Every wild elephant captured, and the tusks of every wild elephant killed, by any person not licensed under this Act, shall be the property of Government."

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

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PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 26th January, 1883, and is hereby promulgated for general information :—

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An Act to amend the Elephants Preservation Act, 1879.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 9th February, 1883, and is hereby promulgated for general information :—

ACT No. III OF 1883.

An Act to repeal Act XXVII of 1854.

Preamble.

WHEREAS Act XXVII of 1854 (*to amend the law relating to the Názim of Bengal*) provides for the service and execution of processes within the precincts of the palace of the Názim at Murshidábád, through the Superintendent of the affairs of the Nizámat, or other officer discharging like functions;

And whereas by an indenture dated the first day of November, 1880, and made between His Highness Sayyad Mansúr Alí, Nawáb Názim of Bengal, of the first part, the Secretary of State for India in Council of the second part, and certain other persons of the third part, the Nawáb Názim of Bengal has, for certain valuable considerations in the indenture mentioned, relinquished and retired from the Nizámat and Súbahdárí of Bengal, Bihár and Orissa, and his position as Názim and Súbahdár of Bengal, Bihár and Orissa, and his right as Nawáb Názim for the time being to the authority, dignities, stipend, pay, allowances, properties, privileges and rights thereof, or in any wise thereunto annexed or appertaining or therewith enjoyed, and all right and title to interfere or intermeddle hereafter in any way, directly or indirectly, with anything concerning the said Nizámat and Súbahdári;

And whereas, in consequence of the arrangements made by the said indenture, the office of Superintendent of the affairs of the Nizámat has been abolished, and there will in future be no officer discharging the like functions, and it is therefore expedient to repeal Act XXVII of 1854; It is hereby enacted as follows :—

Repeal of Act XXVII of 1854.

1. Act XXVII of 1854 is repealed.

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

The Gazette of India.

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CALCUTTA, SATURDAY, FEBRUARY 17, 1883.

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PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 9th February, 1883, and is hereby promulgated for general information :—

ACT No. III OF 1883.

An Act to repeal Act XXVII of 1854.

Preamble.

WHEREAS Act XXVII of 1854 (*to amend the law relating to the Názim of Bengal*) provides for the service and execution of processes within the precincts of the palace of the Názim at Murshidábád, through the Superintendent of the affairs of the Nizámat, or other officer discharging like functions;

And whereas by an indenture dated the first day of November, 1880, and made between His Highness Sayyad Mansúr Alí, Nawáb Názim of Bengal, of the first part, the Secretary of State for India in Council of the second part, and certain other persons of the third part, the Nawáb Názim of Bengal has, for certain valuable considerations in the indenture mentioned, relinquished and retired from the Nizámat and Súbahdárí of Bengal, Bihár and Orissa, and his position as Názim and Súbahdár of Bengal, Bíhár and Orissa, and his right as Nawáb Názim for the time being to the authority, dignities, stipend, pay, allowances, properties, privileges and rights thereof, or in any wise thereunto annexed or appertaining or therewith enjoyed, and all right and title to interfere or intermeddle hereafter in any way, directly or indirectly, with anything concerning the said Nizámat and Súbahdári;

And whereas, in consequence of the arrangements made by the said indenture, the office of Superintendent of the affairs of the Nizámat has been abolished, and there will in future be no officer discharging the like functions, and it is therefore expedient to repeal Act XXVII of 1854; It is hereby enacted as follows :—

Repeal of Act XXVII of 1854.

1. Act XXVII of 1854 is repealed.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 16th February, 1883, and is hereby promulgated for general information :—

ACT No. IV OF 1883.

An Act 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, 1883;

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 5 A, 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.

Powers of Inspector of Railways.

"5D. (1) Every officer appointed under section 5 A 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 :— XLV of 1860

"(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 5F, and keeping open after order under section 5E.

"21. Any Railway Administration opening or using, in contravention of section five, section 5B, 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 so used."

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

The Gazette of India.

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CALCUTTA, SATURDAY, FEBRUARY 24, 1883.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 9th February, 1883, and is hereby promulgated for general information:—

ACT No. III OF 1883.

An Act to repeal Act XXVII of 1854.

Preamble.

WHEREAS Act XXVII of 1854 (*to amend the law relating to the Názim of Bengal*) provides for the service and execution of processes within the precincts of the palace of the Názim at Murshidábád, through the Superintendent of the affairs of the Nizámat, or other officer discharging like functions;

And whereas by an indenture dated the first day of November, 1880, and made between His Highness Sayyad Mansúr 'Alí, Nawáb Názim of Bengal, of the first part, the Secretary of State for India in Council of the second part, and certain other persons of the third part, the Nawáb Názim of Bengal has, for certain valuable considerations in the indenture mentioned, relinquished and retired from the Nizámat and Súbahdárí of Bengal, Bihár and Orissa, and his position as Názim and Súbahdár of Bengal, Bihár and Orissa, and his right as Nawáb Názim for the time being to the authority, dignities, stipend, pay, allowances, properties, privileges and rights thereof, or in any wise thereunto annexed or appertaining or therewith enjoyed, and all right and title to interfere or intermeddle hereafter in any way, directly or indirectly, with anything concerning the said Nizámat and Súbahdári;

And whereas, in consequence of the arrangements made by the said indenture, the office of Superintendent of the affairs of the Nizámat has been abolished, and there will in future be no officer discharging the like functions, and it is therefore expedient to repeal Act XXVII of 1854; It is hereby enacted as follows:—

Repeal of Act XXVII of 1854.

1. Act XXVII of 1854 is repealed.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 16th February, 1883, and is hereby promulgated for general information:—

ACT No. IV OF 1883.

An Act to amend the Indian Railway Act, 1879.

WHEREAS it is expedient to amend the Indian Railway Act, 1879, in manner hereinafter appearing; Preamble.

IV of 1879.

It is hereby enacted as follows:—

1. This Act may be called the Indian Railway Act, 1883; Short title.

and it shall come into force at once. Commencement.

2. For section five of the said Act the following sections shall be substituted, namely:— New sections substituted for section 5 of Act IV of 1879.

"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. Railway when to be opened.

"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. Governor General in Council may appoint Inspecting-officers.

"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. Sanction not to be given until after report by Inspecting-officer.

"(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.

"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. When alterations affecting safety of passengers are made in Railway, sanction to be again obtained for opening.

"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:— Powers of Inspector of Railways.

XLV of 1860.

"(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 5F, and keeping open after order under section 5E.

"21. Any Railway Administration opening or using, in contravention of section five, section 5B, 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 so used."

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 23rd February, 1883, and is hereby promulgated for general information:—

ACT NO. V OF 1883.

THE INDIAN MERCHANT SHIPPING ACT, 1883.

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Merchant Shipping Act, 1883.

(Chapter II.—Investigations into Shipping Casualties.)

An Act for the further amendment of the law relating to Merchant Shipping.

WHEREAS it is expedient to amend the law relating to investigations into casualties affecting ships and charges against masters, mates and engineers;

and whereas it is also expedient to provide, in other respects hereinafter appearing, for the regulation and control of Merchant Shipping;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

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

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

Commencement. (*3*) and it shall come into force on the first day of January, 1884.

IV of 1875. **2.** (*1*) The Indian Merchant Shipping Act, 1875, and Act XIII of 1878 (*an Act to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices, and to amend the Indian Merchant Shipping Act, 1875, and the Indian Ports Act, 1875*), are hereby repealed.

Repeal of enactments.

(*2*) But all proceedings commenced, officers appointed, powers conferred, investigations held, certificates cancelled or suspended, agreements made and persons authorized under the said Acts or either of them, shall be deemed to have been respectively commenced, appointed, conferred, held, cancelled or suspended, made and authorized under this Act.

Definitions. **3.** In this Act—

"ship" includes every description of vessel used in navigation not propelled by oars; and

"master" means any person (except a pilot or harbour-master) having for the time being control or charge of a ship.

17 & 18 Vic., c. 104. **4.** (*1*) Nothing in this Act shall affect the powers conferred by section two hundred and forty of the Merchant Shipping Act, 1854, or by section eighty of Act I of 1859 (*for the amendment of the law relating to Merchant Shipping*), on Courts having admiralty jurisdiction in India.

Saving and provision as to powers for removal of master.

(*2*) The powers conferred by the last-mentioned enactment may, at any port in British India where there is no Court having admiralty jurisdiction, be exercised by the principal Court of ordinary criminal jurisdiction at that port.

CHAPTER II.

INVESTIGATIONS INTO SHIPPING CASUALTIES.

5. Nothing in this chapter shall apply to any ship belonging to, or in the service of, Her Majesty or of the Government of India, or belonging to any foreign Prince or State.

Chapter not to apply to certain ships.

6. (*1*) Whenever any Magistrate, or any officer appointed by the Local Government in this behalf, receives credible information that—

Report of casualties to be made to Local Government.

(*a*) any ship has been lost, abandoned, stranded or materially damaged on or near the coasts of British India; or

(*b*) by reason of any casualty happening to or on board of any ship on or near those coasts, loss of life has ensued; or

(*c*) any ship has caused loss or material damage to any other ship on or near those coasts; or

(*d*) any such loss, abandonment, stranding, damage or casualty has happened elsewhere to, or on board of, any British ship, and any competent witnesses thereof have arrived or are to be found at any place in British India; or

(*e*) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of;

he shall forthwith report in writing the information to the Local Government.

(*2*) In the cases mentioned in clauses (*a*), (*b*) and (*c*), the master, pilot, harbour-master, or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the loss, abandonment, stranding, damage or casualty, and

in cases under clause (*d*), where the master of the ship concerned, or (except in the case of a loss) where the ship concerned, proceeds to any place in British India from the place where the loss, abandonment, stranding, damage or casualty has occurred, the master of the ship,

shall, on arriving in British India, give immediate notice of the loss, abandonment, stranding, damage or casualty to the nearest Magistrate, or, when he arrives at a port in British India, to the officer appointed as aforesaid at that port.

(*3*) Any person bound to give notice under this section and wilfully failing to give the same 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.

7. (*1*) If in any such case a formal investigation into the facts mentioned in section six, clause (*a*), (*b*), (*c*), (*d*) or (*e*), 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 that 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; and the other or others (if any) shall be conversant with either maritime or mercantile affairs.

Merchant Shipping Act, 1883.

(Chapter II.—Investigations into Shipping Casualties.)

8. Every Court having admiralty jurisdiction in British India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no Court having admiralty jurisdiction, is hereby authorized, when so directed by the Local Government, to make the investigations referred to in section seven.

Power for other Courts to hold investigations into casualties when so directed.

9. (*1*) Any Court making an investigation under section seven or section eight may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing any such loss, abandonment, stranding, damage or casualty as aforesaid.

Power for Court of Investigation to inquire into charges against masters, mates and engineers.

(*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, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

10. (*1*) If the Local Government has reason to believe that there are grounds for charging any master, mate or engineer, holding a certificate granted by the Board of Trade or a Local Government, with incompetency or misconduct, otherwise than in the course of an investigation under section seven or section eight, it may transmit a statement of the case to any Court mentioned in section eight, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that Court to make an investigation into that charge.

Power for Local Government to direct investigation into charges of incompetency or misconduct.

(*2*) Before commencing the investigation, the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.

11. For the purpose of an investigation under this chapter into any charge against a master, mate 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.

12. 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—

Powers of Courts as to evidence and regulation of 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 Court having admiralty jurisdiction or a principal Court of ordinary criminal jurisdiction—the same powers as are exerciseable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

13. (*1*) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, mate or engineer, the Court making the investigation shall constitute as its assessors for the purpose of the investigation two persons having experience in the Merchant Service; 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 and willing to act as its assessor.

Assessors.

(*2*) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act or any other enactment for the time being in force shall rest with the Court.

14. (*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.

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. XLV of 1860.

(*3*) No person shall be detained by virtue of this section for more than forty-eight hours.

15. (*1*) Whenever, in the course of any such 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.

16. (*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

Depositions.

Merchant Shipping Act, 1883.
(Chapter III.—Suspension and Cancellation of Certificates, &c.)

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, 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 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.

17. (*1*) The Court shall, in the case of all investigations 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.

(*2*) In cases in which, under the Merchant Shipping Acts, 1854 to 1882, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

CHAPTER III.

SUSPENSION AND CANCELLATION OF CERTIFICATES AND GRANT OF FRESH CERTIFICATES.

18. Nothing in this Act shall affect the powers conferred by the Merchant Shipping Acts, 1854 to 1882, on the Courts conducting investigations under sections seven, eight, nine and ten of this Act, to cancel or suspend certificates granted under any of the said Merchant Shipping Acts, or certificates to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

Saving of power to cancel and suspend certificates under English Acts.

32 & 33 Vic., c. 11.

19. (*1*) When any such Court cancels or suspends any such certificate, the Local Government may, if it thinks fit, and if it is so empowered by any enactment of a British Indian legislature for the time being in force, grant under that enactment, but without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate, and, when the certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

Power to issue local certificates in lieu of cancelled or suspended certificates.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under that Act.

32 & 33 Vic., c. 11.

(*3*) The Local Government may act under this section either in pursuance of a recommendation from the Court, or of its own motion.

20. Any certificate (whether of competency or service) which has been granted by any Local Government to any master, mate or engineer, but has not been granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act, may be suspended or cancelled, by that or any other Local Government, in the following cases, that is to say:—

Power for Local Government to suspend or cancel certificates in certain cases.

32 & 33 Vic., c. 11.

(*a*) if, on any investigation made under this Act, the Court reports that the loss, stranding or abandonment of, or damage to, any ship, 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;

(*b*) if, on any investigation made under the Merchant Shipping Acts, 1854 to 1882, or on any investigation made by any Court or tribunal for the time being authorized by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default;

(*c*) if he is proved to have been convicted of any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony; and

(*d*) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1854, or by any other law for the time being in force:

17 & 18 Vic., c. 104.

Provided that, in any case in which an investigation has been made into a charge against any master, mate or engineer, a certificate shall not be suspended or cancelled under clause (*a*) unless the Local Government is satisfied that the holder of the certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section nine or section ten, as the case may be.

21. Every master, mate or engineer whose certificate is cancelled or suspended under section twenty shall deliver it to the Shipping Master or to such other person as the Local Government which cancelled or suspended the certificate directs, and in default of such delivery shall, for each offence, be punished with fine which may extend to five hundred rupees.

Obligation to deliver up cancelled or suspended certificate.

Merchant Shipping Act, 1883.
(Chapter IV.—Agreements with Seamen.)

22. If the Local Government which cancels or suspends, under section twenty, a certificate of a master, mate or engineer is not the Local Government that granted the same, 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.

23. Every Local Government cancelling or suspending under section twenty the certificate of a master, mate or engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

Report to Board of Trade.

24 (*1*) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section twenty, or grant, without examination, to any person, whose certificate it has so cancelled, a new certificate of the same or of any lower grade.

Power to revoke cancellation or suspension and grant new certificate.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act.

32 & 33 Vic., c. 11.

(*3*) A certificate of competency for a Home-trade ship under Act I of 1859 shall be deemed, for the purposes of this section, to be of a lower grade than a certificate of competency for a foreign-going ship under the same Act.

CHAPTER IV.

AGREEMENTS WITH SEAMEN.

25. This chapter shall be read with, and taken as part of, Act I of 1859.

Chapter to be read with Act I of 1859.

26. The master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every seaman whom he engages in, and carries to sea from, any port in British India as one of his crew, in the manner hereinafter mentioned.

Masters to enter into agreements with seamen.

27. (*1*) Every such agreement shall be in a form sanctioned by the Governor General in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof, that is to say:—

Form and contents of agreement.

(*a*) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;

(*b*) the number and description of the crew, specifying how many are engaged as sailors;

(*c*) the time at which each seaman is to be on board or to begin work;

(*d*) the capacity in which each seaman is to serve;

(*e*) the amount of wages which each seaman is to receive;

(*f*) a scale of the provisions which are to be furnished to each seaman; and

(*g*) any regulations as to conduct on board, and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Governor General in Council as regulations proper to be adopted, and which the parties agree to adopt.

(*2*) Every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

28. (*1*) In the case of such agreements with lascars or other Native seamen, the scale of the provisions agreed to be furnished to each of such seamen shall not be less than a scale to be from time to time fixed and published by the Local Government with the previous sanction of the Governor General in Council.

Scale of provisions to be furnished to lascars.

(*2*) Any master entering into an agreement with any lascar or other Native seaman for a scale of provisions less than the scale so fixed and published shall be punished with fine which may extend to two hundred rupees.

29. (*1*) Whenever it is agreed that the service of any lascar or other Native seaman shall end at any port not in British India, the agreement shall, in addition to the particulars specified in section twenty-seven, contain a stipulation that fit employment shall be provided for him on board some other ship bound to the port at which he was shipped, or such other port in British India as may be agreed on; or

Stipulation where lascars are shipped.

that a passage shall be provided for him to some port in British India free of charge, or on such other terms as may be agreed on.

(*2*) Every such stipulation shall be signed by the owner of the ship, or by the master on his behalf.

(*3*) In this section the word "seaman" shall include also any Native of British India carried to sea from any port in British India as one of the crew of a ship.

30. If the master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which the ship belongs, or in which her crew were engaged, and engages a single seaman, not being a lascar or other Native seaman, in any port in British India, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

Forms for British or Colonial ships.

Merchant Shipping Act, 1883.
(Chapter V.—Health-Officers.)

CHAPTER V.

HEALTH-OFFICERS.

XII of 1875.

31. In the Indian Ports Act, 1875, after section eighteen, the following section shall be inserted, that is to say :—

Addition to Act XII of 1875.

"18A. The Local Government may, from time to time, appoint, at any port subject to this Act, an officer to be called the Health-officer, and may suspend or remove from office any officer so appointed.

Appointment and powers of Health-officer.

"A Health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, that is to say :—

"(*a*) with respect to any ship, the powers conferred on a Shipping Master by Act I of 1859, section 71;

"(*b*) power to enter on board any ship and medically examine all or any of the seamen or apprentices on board the ship;

"(*c*) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the ship;

"(*d*) power to call before him and examine for any such purpose all or any of those persons and to require answers to any inquiries he thinks fit to make;

"(*e*) power to require any person so examined to make and subscribe a declaration of the truth of the statements made by him.

CHAPTER VI.

MISCELLANEOUS.

32. (*1*) Where any wages or expenses recoverable under section 213 of the Merchant Shipping Act, 1854, or under section 16 of the Merchant Shipping Act Amendment Act, 1855, are, under the same sections, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor General in Council may from time to time, by notification in the *Gazette of India*, authorize, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Act, 1854, section 213, provided, those wages or expenses.

Power to appoint persons to sue.

17 & 18 Vic., c. 104.

18 & 19 Vic., c. 91.

17 & 18 Vic.,

(*2*) Every person so authorized shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause 7.

I of 1872.

33. All suits and proceedings under section thirty-two shall be instituted and carried on in the name of the Secretary of State for India in Council.

Proceedings to be instituted in name of Secretary of State for India in Council.

34. In section 10 of Act I of 1859, for the words "Fees at the following rates shall be paid by all applicants for examination :—

Amendment of section 10 of Act I of 1859.

For a certificate as master	...	ten rupees.
Ditto ditto as mate	...	five „ "

the following shall be substituted, namely :—"Fees at such rates as the Local Government may, from time to time, with the previous sanction of the Governor General in Council, fix in this behalf shall be paid by all applicants for examination."

35. To section 11 of Act I of 1859 the following shall be added, namely :—

Addition to section 11 of Act I of 1859.

"Provided that the Local Government may, in any case in which it has reason to believe that such 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."

36. For the last fifteen words of section 79 of Act I of 1859, the following shall be substituted, namely :—"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."

Amendment of section 79 of Act I of 1859.

37. Sections 9 to 16 (both inclusive) of Act I of 1859 shall not apply to ships registered under Act X of 1841 and trading between ports in India and the coasts of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen.

Provisions as to examinations, &c., of masters not to apply to certain ships.

38. In sections 2, 15, 17 and 23 of the said Act X of 1841, for the words "on information in any Court of Her Majesty or the East India Company by the Advocates General of the respective Presidencies," "by information as aforesaid," "on information as aforesaid," "upon information as aforesaid," in each of the places where they occur, the following words shall be substituted, namely :—"on conviction before a Presidency Magistrate or a Magistrate of the first class."

Amendment of Act X of 1841, secs. 2, 15, 17 and 23.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 23rd February 1883, and is hereby promulgated for general information :—

ACT No. VI OF 1883.

An Act to give power to arrest persons whose evidence is needed under Act XII of 1859.

WHEREAS it is expedient to empower the Judges holding trials under Act XII of 1859 (*An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty*) to arrest persons whose evidence is required on such trials; It is hereby enacted as follows :—

Preamble.

1. The following section shall be inserted immediately after section 14 of the said Act, namely :—

Addition to Act XII of 1859, after section 14.

"15. (*1*) Whenever the Judge of the said Court thinks it necessary for obtaining evidence that any person should be arrested, he 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.

XLV of 1860.

"(*3*) No person shall be detained under this section for more than forty-eight hours."

2. This Act shall come into force on the first day of January, 1884.

Commencement of Act.

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

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 16th February, 1883, and is hereby promulgated for general information :—

ACT No. IV OF 1883.

An Act to amend the Indian Railway Act, 1879.

WHEREAS it is expedient to amend the Indian Railway Act, 1879, in manner hereinafter appearing; Preamble.

IV of 1879. It is hereby enacted as follows :—

1. This Act may be called the Indian Railway Act, 1883; Short title.

and it shall come into force at once. Commencement.

2. For section five of the said Act the following sections shall be substituted, namely :— New sections substituted for section 5 of Act IV of 1879.

"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. Railway when to be opened.

"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. Governor General in Council may appoint Inspecting-officers.

"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. Sanction not to be given until after report by Inspecting-officer.

"(*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.

"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. When alterations affecting safety of passengers are made in Railway, sanction to be again obtained for opening.

"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 XLV of 1860. Powers of Inspector of Railways.

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 5F, and keeping open after order under section 5E.

"21. Any Railway Administration opening or using, in contravention of section five, section 5B, 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 so used."

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 23rd February, 1883, and is hereby promulgated for general information:—

ACT NO. V OF 1883.

THE INDIAN MERCHANT SHIPPING ACT, 1883.

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Merchant Shipping Act, 1883.
(Chapter II.—Investigations into Shipping Casualties.)

An Act for the further amendment of the law relating to Merchant Shipping.

WHEREAS it is expedient to amend the law relating to investigations into casualties affecting ships and charges against masters, mates and engineers;

and whereas it is also expedient to provide, in other respects hereinafter appearing, for the regulation and control of Merchant Shipping;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

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

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

Commencement. (*3*) and it shall come into force on the first day of January, 1884.

IV of 1875. **2.** (*1*) The Indian Merchant Shipping Act, 1875, and Act XIII of 1878 (*an Act to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices, and to amend the Indian Merchant Shipping Act, 1875, and the Indian Ports Act, 1875*), are hereby repealed.

Repeal of enactments.

(*2*) But all proceedings commenced, officers appointed, powers conferred, investigations held, certificates cancelled or suspended, agreements made and persons authorized under the said Acts or either of them, shall be deemed to have been respectively commenced, appointed, conferred, held, cancelled or suspended, made and authorized under this Act.

Definitions. **3.** In this Act—

"ship" includes every description of vessel used in navigation not propelled by oars; and

"master" means any person (except a pilot or harbour-master) having for the time being control or charge of a ship.

Saving and provision as to powers for removal of master. **4.** (*1*) Nothing in this Act shall affect the powers conferred by section two hundred and forty of the Merchant Shipping Act, 17 & 18 Vic., c. 104. 1854, or by section eighty of Act I of 1859 (*for the amendment of the law relating to Merchant Shipping*), on Courts having admiralty jurisdiction in India.

(*2*) The powers conferred by the last-mentioned enactment may, at any port in British India where there is no Court having admiralty jurisdiction, be exercised by the principal Court of ordinary criminal jurisdiction at that port.

CHAPTER II.

INVESTIGATIONS INTO SHIPPING CASUALTIES.

Chapter not to apply to certain ships. **5.** Nothing in this chapter shall apply to any ship belonging to, or in the service of, Her Majesty or of the Government of India, or belonging to any foreign Prince or State.

Report of casualties to be made to Local Government. **6.** (*1*) Whenever any Magistrate, or any officer appointed by the Local Government in this behalf, receives credible information that—

(*a*) any ship has been lost, abandoned, stranded or materially damaged on or near the coasts of British India; or

(*b*) by reason of any casualty happening to or on board of any ship on or near those coasts, loss of life has ensued; or

(*c*) any ship has caused loss or material damage to any other ship on or near those coasts; or

(*d*) any such loss, abandonment, stranding, damage or casualty has happened elsewhere to, or on board of, any British ship, and any competent witnesses thereof have arrived or are to be found at any place in British India; or

(*e*) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of;

he shall forthwith report in writing the information to the Local Government.

(*2*) In the cases mentioned in clauses (*a*), (*b*) and (*c*), the master, pilot, harbour-master, or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the loss, abandonment, stranding, damage or casualty, and

in cases under clause (*d*), where the master of the ship concerned, or (except in the case of a loss) where the ship concerned, proceeds to any place in British India from the place where the loss, abandonment, stranding, damage or casualty has occurred, the master of the ship,

shall, on arriving in British India, give immediate notice of the loss, abandonment, stranding, damage or casualty to the nearest Magistrate, or, when he arrives at a port in British India, to the officer appointed as aforesaid at that port.

(*3*) Any person bound to give notice under this section and wilfully failing to give the same 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.

Power for Local Government to appoint special Court of Investigation. **7.** (*1*) If in any such case a formal investigation into the facts mentioned in section six, clause (*a*), (*b*), (*c*), (*d*) or (*e*), 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 that 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; and the other or others (if any) shall be conversant with either maritime or mercantile affairs.

Merchant Shipping Act, 1883.
(Chapter II.—Investigations into Shipping Casualties.)

Power for other Courts to hold investigations into casualties when so directed. **8.** Every Court having admiralty jurisdiction in British India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no Court having admiralty jurisdiction, is hereby authorized, when so directed by the Local Government, to make the investigations referred to in section seven.

Power for Court of Investigation to inquire into charges against masters, mates and engineers. **9.** (*1*) Any Court making an investigation under section seven or section eight may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing any such loss, abandonment, stranding, damage or casualty as aforesaid.

(*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, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

Power for Local Government to direct investigation into charges of incompetency or misconduct. **10.** (*1*) If the Local Government has reason to believe that there are grounds for charging any master, mate or engineer, holding a certificate granted by the Board of Trade or a Local Government, with incompetency or misconduct, otherwise than in the course of an investigation under section seven or section eight, it may transmit a statement of the case to any Court mentioned in section eight, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that Court to make an investigation into thatcharge.

(*2*) Before commencing the investigation, the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.

Person accused to be heard. For the purpose of an investigation under this chapter into any charge against a master, mate or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.

Powers of Courts as to evidence and regulation of proceedings. **12.** 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 Court having admiralty jurisdiction or a principal Court of ordinary criminal jurisdiction—the same powers as are exerciseable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

Assessors. **13.** (*1*) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, mate or engineer, the Court making the investigation shall constitute as its assessors for the purpose of the investigation two persons having experience in the Merchant Service; 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 and willing to act as its assessor.

(*2*) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act or any other enactment for the time being in force shall rest with the Court.

Power to arrest witnesses and cause entry and detention of vessels. **14.** (*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 XLV of 1860. Indian Penal Code, section 186.

(*3*) No person shall be detained by virtue of this section for more than forty-eight hours.

Power to commit for trial and bind over witnesses. **15.** (*1*) Whenever, in the course of any such 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.

Depositions. **16.** (*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

Merchant Shipping Act, 1883.

(Chapter III.—Suspension and Cancellation of Certificates, &c.)

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, 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 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.

Report by Court to Local Government.

17. (*1*) The Court shall, in the case of all investigations under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

(*2*) In cases in which, under the Merchant Shipping Acts, 1854 to 1882, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

CHAPTER III.

SUSPENSION AND CANCELLATION OF CERTIFICATES AND GRANT OF FRESH CERTIFICATES.

Saving of power to cancel and suspend certificates under English Acts.

18. Nothing in this Act shall affect the powers conferred by the Merchant Shipping Acts, 1854 to 1882, on the Courts conducting investigations under sections seven, eight, nine and ten of this Act, to cancel or suspend certificates granted under any of the said Merchant Shipping Acts, or certificates to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

32 & 33 Vic., c. 11.

Power to issue local certificates in lieu of cancelled or suspended certificates.

19. (*1*) When any such Court cancels or suspends any such certificate, the Local Government may, if it thinks fit, and if it is so empowered by any enactment of a British Indian legislature for the time being in force, grant under that enactment, but without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate, and, when the certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under that Act.

32 & 33 Vic., c. 11.

(*3*) The Local Government may act under this section either in pursuance of a recommendation from the Court, or of its own motion.

Power for Local Government to suspend or cancel certificates in certain cases.

20. Any certificate (whether of competency or service) which has been granted by any Local Government to any master, mate or engineer, but has not been granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act, may be suspended or cancelled, by that or any other Local Government, in the following cases, that is to say:—

32 & 33 Vic., c. 11.

(*a*) if, on any investigation made under this Act, the Court reports that the loss, stranding or abandonment of, or damage to, any ship, 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;

(*b*) if, on any investigation made under the Merchant Shipping Acts, 1854 to 1882, or on any investigation made by any Court or tribunal for the time being authorized by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default;

(*c*) if he is proved to have been convicted of any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony; and

(*d*) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1854, or by any other law for the time being in force:

17 & 18 Vic., c. 104.

Provided that, in any case in which an investigation has been made into a charge against any master, mate or engineer, a certificate shall not be suspended or cancelled under clause (*a*) unless the Local Government is satisfied that the holder of the certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section nine or section ten, as the case may be.

Obligation to deliver up cancelled or suspended certificate.

21. Every master, mate or engineer whose certificate is cancelled or suspended under section twenty shall deliver it to the Shipping Master or to such other person as the Local Government which cancelled or suspended the certificate directs, and in default of such delivery shall, for each offence, be punished with fine which may extend to five hundred rupees.

Merchant Shipping Act, 1883.

(Chapter IV.—Agreements with Seamen.)

Report to other Local Governments.

22. If the Local Government which cancels or suspends, under section twenty, a certificate of a master, mate or engineer is not the Local Government that granted the same, 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 Board of Trade.

23. Every Local Government cancelling or suspending under section twenty the certificate of a master, mate or engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

Power to revoke cancellation or suspension and grant new certificate.

24 (*1*) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section twenty, or grant, without examination, to any person, whose certificate it has so cancelled, a new certificate of the same or of any lower grade.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act.

32 & 33 Vic., c. 11.

(*3*) A certificate of competency for a Home-trade ship under Act I of 1859 shall be deemed, for the purposes of this section, to be of a lower grade than a certificate of competency for a foreign-going ship under the same Act.

CHAPTER IV.

AGREEMENTS WITH SEAMEN.

Chapter to be read with Act I of 1859.

25. This chapter shall be read with, and taken as part of, Act I of 1859.

Masters to enter into agreements with seamen.

26. The master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every seaman whom he engages in, and carries to sea from, any port in British India as one of his crew, in the manner hereinafter mentioned.

Form and contents of agreement.

27. (*1*) Every such agreement shall be in a form sanctioned by the Governor General in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain, the following particulars as terms thereof, that is to say:—

(*a*) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;

(*b*) the number and description of the crew, specifying how many are engaged as sailors;

(*c*) the time at which each seaman is to be on board or to begin work;

(*d*) the capacity in which each seaman is to serve;

(*e*) the amount of wages which each seaman is to receive;

(*f*) a scale of the provisions which are to be furnished to each seaman; and

(*g*) any regulations as to conduct on board, and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Governor General in Council as regulations proper to be adopted, and which the parties agree to adopt.

(*2*) Every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

Scale of provisions to be furnished to lascars.

28. (*1*) In the case of such agreements with lascars or other Native seamen, the scale of the provisions agreed to be furnished to each of such seamen shall not be less than a scale to be from time to time fixed and published by the Local Government with the previous sanction of the Governor General in Council.

(*2*) Any master entering into an agreement with any lascar or other Native seaman for a scale of provisions less than the scale so fixed and published shall be punished with fine which may extend to two hundred rupees.

Stipulation where lascars are shipped.

29. (*1*) Whenever it is agreed that the service of any lascar or other Native seaman shall end at any port not in British India, the agreement shall, in addition to the particulars specified in section twenty-seven, contain a stipulation that fit employment shall be provided for him on board some other ship bound to the port at which he was shipped, or such other port in British India as may be agreed on; or

that a passage shall be provided for him to some port in British India free of charge, or on such other terms as may be agreed on.

(*2*) Every such stipulation shall be signed by the owner of the ship, or by the master on his behalf.

(*3*) In this section the word "seaman" shall include also any Native of British India carried to sea from any port in British India as one of the crew of a ship.

Forms for British or Colonial ships.

30. If the master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which the ship belongs, or in which her crew were engaged, and engages a single seaman, not being a lascar or other Native seaman, in any port in British India, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

Merchant Shipping Act, 1883.

(Chapter V.—Health-Officers.)

CHAPTER V.

HEALTH-OFFICERS.

XII of 1875.

31. In the Indian Ports Act, 1875, after section eighteen, the following section shall be inserted, that is to say :—

Addition to Act XII of 1875.

"18A. The Local Government may, from time to time, appoint, at any port subject to this Act, an officer to be called the Health-officer, and may suspend or remove from office any officer so appointed.

Appointment and powers of Health-officer.

"A Health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, that is to say :—

"(*a*) with respect to any ship, the powers conferred on a Shipping Master by Act I of 1859, section 71

"(*b*) power to enter on board any ship and medically examine all or any of the seamen or apprentices on board the ship ;

"(*c*) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the ship ;

"(*d*) power to call before him and examine for any such purpose all or any of those persons and to require answers to any inquiries he thinks fit to make ;

"(*e*) power to require any person so examined to make and subscribe a declaration of the truth of the statements made by him.

CHAPTER VI.

MISCELLANEOUS.

32. (*1*) Where any wages or expenses recoverable under section 213 of the Merchant Shipping Act, 1854, or under section 16 of the Merchant Shipping Act Amendment Act, 1855, are, under the same sections, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor General in Council may from time to time, by notification in the *Gazette of India*, authorize, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Act, 1854, section 213, provided, those wages or expenses.

Power to appoint persons to sue.

17 & 18 Vic., c. 104.

18 & 19 Vic., c. 91.

17 & 18 Vic., c. 104.

(*2*) Every person so authorized shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause 7.

I of 1872.

33. All suits and proceedings under section thirty-two shall be instituted and carried on in the name of the Secretary of State for India in Council.

Proceedings to be instituted in name of Secretary of State for India in Council.

34. In section 10 of Act I of 1859, for the words "Fees at the following rates shall be paid by all applicants for examination :—

Amendment of section 10 of Act I of 1859.

For a certificate as master	...	ten rupees.
Ditto ditto as mate	...	five „ "

the following shall be substituted, namely :—"Fees at such rates as the Local Government may, from time to time, with the previous sanction of the Governor General in Council, fix in this behalf shall be paid by all applicants for examination."

35. To section 11 of Act I of 1859 the following shall be added, namely :—

Addition to section 11 of Act I of 1859.

"Provided that the Local Government may, in any case in which it has reason to believe that such 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."

36. For the last fifteen words of section 79 of Act I of 1859, the following shall be substituted, namely :—"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."

Amendment of section 79 of Act I of 1859.

37. Sections 9 to 16 (both inclusive) of Act I of 1859 shall not apply to ships registered under Act X of 1841 and trading between ports in India and the coasts of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen.

Provisions as to examinations, &c., of masters not to apply to certain ships.

38. In sections 2, 15, 17 and 23 of the said Act X of 1841, for the words "on information in any Court of Her Majesty or the East India Company by the Advocates General of the respective Presidencies," "by information as aforesaid," "on information as aforesaid," "upon information as aforesaid," in each of the places where they occur, the following words shall be substituted, namely :—"on conviction before a Presidency Magistrate or a Magistrate of the first class."

Amendment of Act X of 1841, secs. 2, 15, 17 and 23.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 23rd February 1883, and is hereby promulgated for general information :—

ACT No. VI OF 1883.

An Act to give power to arrest persons whose evidence is needed under Act XII of 1859.

WHEREAS it is expedient to empower the Judges holding trials under Act XII of 1859 (*An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty*) to arrest persons whose evidence is required on such trials ; It is hereby enacted as follows :—

Preamble.

1. The following section shall be inserted immediately after section 14 of the said Act, namely :—

Addition to Act XII of 1859, after section 14.

"15. (*1*) Whenever the Judge of the said Court thinks it necessary for obtaining evidence that any person should be arrested, he 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.

XLV of 1860.

"(*3*) No person shall be detained under this section for more than forty-eight hours."

2. This Act shall come into force on the first day of January, 1884.

Commencement of Act.

R. J. CROSTHWAITE,
Addl. 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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

Tne following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 23rd February, 1883, and is hereby promulgated for general information:—

ACT NO. V OF 1883.

THE INDIAN MERCHANT SHIPPING ACT, 1883.

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38. Amendment of Act X of 1841, sections 2, 15, 17 and 23.

Merchant Shipping Act, 1883.
(Chapter II.—Investigations into Shipping Casualties.)

An Act for the further amendment of the law relating to Merchant Shipping.

WHEREAS it is expedient to amend the law relating to investigations into casualties affecting ships and charges against masters, mates and engineers;

and whereas it is also expedient to provide, in other respects hereinafter appearing, for the regulation and control of Merchant Shipping;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

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

Extent.

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

Commencement.

(*3*) and it shall come into force on the first day of January, 1884.

IV of 1875.

Repeal of enactments.

2. (*1*) The Indian Merchant Shipping Act, 1875, and Act XIII of 1878 (*an Act to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices, and to amend the Indian Merchant Shipping Act, 1875, and the Indian Ports Act, 1875*), are hereby repealed.

(*2*) But all proceedings commenced, officers appointed, powers conferred, investigations held, certificates cancelled or suspended, agreements made and persons authorized under the said Acts or either of them, shall be deemed to have been respectively commenced, appointed, conferred, held, cancelled or suspended, made and authorized under this Act.

Definitions.

3. In this Act—

"ship" includes every description of vessel used in navigation not propelled by oars; and

"master" means any person (except a pilot or harbour-master) having for the time being control or charge of a ship.

Saving and provision as to powers for removal of master.

17 & 18 Vic., c. 104.

4. (*1*) Nothing in this Act shall affect the powers conferred by section two hundred and forty of the Merchant Shipping Act, 1854, or by section eighty of Act I of 1859 (*for the amendment of the law relating to Merchant Shipping*), on Courts having admiralty jurisdiction in India.

(*2*) The powers conferred by the last-mentioned enactment may, at any port in British India where there is no Court having admiralty jurisdiction, be exercised by the principal Court of ordinary criminal jurisdiction at that port.

CHAPTER II.

INVESTIGATIONS INTO SHIPPING CASUALTIES.

Chapter not to apply to certain ships.

5. Nothing in this chapter shall apply to any ship belonging to, or in the service of, Her Majesty or of the Government of India, or belonging to any foreign Prince or State.

Report of casualties to be made to Local Government.

6. (*1*) Whenever any Magistrate, or any officer appointed by the Local Government in this behalf, receives credible information that—

(*a*) any ship has been lost, abandoned, stranded or materially damaged on or near the coasts of British India; or

(*b*) by reason of any casualty happening to or on board of any ship on or near those coasts, loss of life has ensued; or

(*c*) any ship has caused loss or material damage to any other ship on or near those coasts; or

(*d*) any such loss, abandonment, stranding, damage or casualty has happened elsewhere to, or on board of, any British ship, and any competent witnesses thereof have arrived or are to be found at any place in British India; or

(*e*) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of;

he shall forthwith report in writing the information to the Local Government.

(*2*) In the cases mentioned in clauses (*a*), (*b*) and (*c*), the master, pilot, harbour-master, or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the loss, abandonment, stranding, damage or casualty, and

in cases under clause (*d*), where the master of the ship concerned, or (except in the case of a loss) where the ship concerned, proceeds to any place in British India from the place where the loss, abandonment, stranding, damage or casualty has occurred, the master of the ship,

shall, on arriving in British India, give immediate notice of the loss, abandonment, stranding, damage or casualty to the nearest Magistrate, or, when he arrives at a port in British India, to the officer appointed as aforesaid at that port.

(*3*) Any person bound to give notice under this section and wilfully failing to give the same 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.

Power for Local Government to appoint special Court of Investigation.

7. (*1*) If in any such case a formal investigation into the facts mentioned in section six, clause (*a*), (*b*), (*c*), (*d*) or (*e*), 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 that 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; and the other or others (if any) shall be conversant with either maritime or mercantile affairs.

Merchant Shipping Act, 1883.
(Chapter II.—Investigations into Shipping Casualties.)

Power for other Courts to hold investigations into casualties when so directed.

8. Every Court having admiralty jurisdiction in British India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no Court having admiralty jurisdiction, is hereby authorized, when so directed by the Local Government, to make the investigations referred to in section seven.

Power for Court of Investigation to inquire into charges against masters, mates and engineers.

9. (*1*) Any Court making an investigation under section seven or section eight may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing any such loss, abandonment, stranding, damage or casualty as aforesaid.

(*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, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

Power for Local Government to direct investigation into charges of incompetency or misconduct.

10. (*1*) If the Local Government has reason to believe that there are grounds for charging any master, mate or engineer, holding a certificate granted by the Board of Trade or a Local Government, with incompetency or misconduct, otherwise than in the course of an investigation under section seven or section eight, it may transmit a statement of the case to any Court mentioned in section eight, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that Court to make an investigation into that charge.

(*2*) Before commencing the investigation, the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.

Person accused to be heard.

11. For the purpose of an investigation under this chapter into any charge against a master, mate or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.

Powers of Courts as to evidence and regulation of proceedings.

12. 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 Court having admiralty jurisdiction or a principal Court of ordinary criminal jurisdiction—the same powers as are exerciseable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

Assessors.

13. (*1*) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, mate or engineer, the Court making the investigation shall constitute as its assessors for the purpose of the investigation two persons having experience in the Merchant Service; 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 and willing to act as its assessor.

(*2*) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act or any other enactment for the time being in force shall rest with the Court.

Power to arrest witnesses and cause entry and detention of vessels.

14. (*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. XLV of 1860.

(*3*) No person shall be detained by virtue of this section for more than forty-eight hours.

Power to commit for trial and bind over witnesses.

15. (*1*) Whenever, in the course of any such 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.

Depositions.

16. (*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

Merchant Shipping Act, 1883.

(Chapter III.—Suspension and Cancellation of Certificates, &c.)

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, 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 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.

Report by Court to Local Government.

17. (*1*) The Court shall, in the case of all investigations under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

(*2*) In cases in which, under the Merchant Shipping Acts, 1854 to 1882, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

CHAPTER III.

SUSPENSION AND CANCELLATION OF CERTIFICATES AND GRANT OF FRESH CERTIFICATES.

Saving of power to cancel and suspend certificates under English Acts.

18. Nothing in this Act shall affect the powers conferred by the Merchant Shipping Acts, 1854 to 1882, on the Courts conducting investigations under sections seven, eight, nine and ten of this Act, to cancel or suspend certificates granted under any of the said Merchant Shipping Acts, or certificates to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

32 & 33 Vic., c. 11.

Power to issue local certificates in lieu of cancelled or suspended certificates.

19. (*1*) When any such Court cancels or suspends any such certificate, the Local Government may, if it thinks fit, and if it is so empowered by any enactment of a British Indian legislature for the time being in force, grant under that enactment, but without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate, and, when the certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under that Act. 32 & 33 Vic., c. 11.

(*3*) The Local Government may act under this section either in pursuance of a recommendation from the Court, or of its own motion.

Power for Local Government to suspend or cancel certificates in certain cases.

20. Any certificate (whether of competency or service) which has been granted by any Local Government to any master, mate or engineer, but has not been granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act, may be suspended or cancelled, by that or any other Local Government, in the following cases, that is to say:— 32 & 33 Vic., c. 11.

(*a*) if, on any investigation made under this Act, the Court reports that the loss, stranding or abandonment of, or damage to, any ship, 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;

(*b*) if, on any investigation made under the Merchant Shipping Acts, 1854 to 1882, or on any investigation made by any Court or tribunal for the time being authorized by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default;

(*c*) if he is proved to have been convicted of any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony; and

(*d*) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1854, or by any other law for the time being in force: 17 & 18 Vic., c. 104.

Provided that, in any case in which an investigation has been made into a charge against any master, mate or engineer, a certificate shall not be suspended or cancelled under clause (*a*) unless the Local Government is satisfied that the holder of the certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section nine or section ten, as the case may be.

Obligation to deliver up cancelled or suspended certificate.

21. Every master, mate or engineer whose certificate is cancelled or suspended under section twenty shall deliver it to the Shipping Master or to such other person as the Local Government which cancelled or suspended the certificate directs, and in default of such delivery shall, for each offence, be punished with fine which may extend to five hundred rupees.

Merchant Shipping Act, 1883.

(Chapter IV.—Agreements with Seamen.)

Report to other Local Governments.

22. If the Local Government which cancels or suspends, under section twenty, a certificate of a master, mate or engineer is not the Local Government that granted the same, 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 Board of Trade.

23. Every Local Government cancelling or suspending under section twenty the certificate of a master, mate or engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

Power to revoke cancellation or suspension and grant new certificate.

24 (*1*) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section twenty, or grant, without examination, to any person, whose certificate it has so cancelled, a new certificate of the same or of any lower grade.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act. 32 & 33 Vic., c. 11.

(*3*) A certificate of competency for a Home-trade ship under Act I of 1859 shall be deemed, for the purposes of this section, to be of a lower grade than a certificate of competency for a foreign-going ship under the same Act.

CHAPTER IV.

AGREEMENTS WITH SEAMEN.

Chapter to be read with Act I of 1859.

25. This chapter shall be read with, and taken as part of, Act I of 1859.

Masters to enter into agreements with seamen.

26. The master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every seaman whom he engages in, and carries to sea from, any port in British India as one of his crew, in the manner hereinafter mentioned.

Form and contents of agreement.

27. (*1*) Every such agreement shall be in a form sanctioned by the Governor General in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof, that is to say:—

(*a*) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;

(*b*) the number and description of the crew, specifying how many are engaged as sailors;

(*c*) the time at which each seaman is to be on board or to begin work;

(*d*) the capacity in which each seaman is to serve;

(*e*) the amount of wages which each seaman is to receive;

(*f*) a scale of the provisions which are to be furnished to each seaman; and

(*g*) any regulations as to conduct on board, and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Governor General in Council as regulations proper to be adopted, and which the parties agree to adopt.

(*2*) Every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

Scale of provisions to be furnished to lascars.

28. (*1*) In the case of such agreements with lascars or other Native seamen, the scale of the provisions agreed to be furnished to each of such seamen shall not be less than a scale to be from time to time fixed and published by the Local Government with the previous sanction of the Governor General in Council.

(*2*) Any master entering into an agreement with any lascar or other Native seaman for a scale of provisions less than the scale so fixed and published shall be punished with fine which may extend to two hundred rupees.

Stipulation where lascars are shipped.

29. (*1*) Whenever it is agreed that the service of any lascar or other Native seaman shall end at any port not in British India, the agreement shall, in addition to the particulars specified in section twenty-seven, contain a stipulation that fit employment shall be provided for him on board some other ship bound to the port at which he was shipped, or such other port in British India as may be agreed on; or

that a passage shall be provided for him to some port in British India free of charge, or on such other terms as may be agreed on.

(*2*) Every such stipulation shall be signed by the owner of the ship, or by the master on his behalf.

(*3*) In this section the word "seaman" shall include also any Native of British India carried to sea from any port in British India as one of the crew of a ship.

Forms for British or Colonial ships.

30. If the master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which the ship belongs, or in which her crew were engaged, and engages a single seaman, not being a lascar or other Native seaman, in any port in British India, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

Merchant Shipping Act, 1883.
(Chapter V.—Health-Officers.)

CHAPTER V.

HEALTH-OFFICERS.

XII of 1875.

31. In the Indian Ports Act, 1875, after section eighteen, the following section shall be inserted, that is to say :—

Addition to Act XII of 1875.

"18A. The Local Government may, from time to time, appoint, at any port subject to this Act, an officer to be called the Health-officer, and may suspend or remove from office any officer so appointed.

Appointment and powers of Health-officer.

"A Health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, that is to say :—

"(*a*) with respect to any ship, the powers conferred on a Shipping Master by Act I of 1859, section 71

"(*b*) power to enter on board any ship and medically examine all or any of the seamen or apprentices on board the ship ;

"(*c*) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the ship ;

"(*d*) power to call before him and examine for any such purpose all or any of those persons and to require answers to any inquiries he thinks fit to make ;

"(*e*) power to require any person so examined to make and subscribe a declaration of the truth of the statements made by him.

CHAPTER VI.

MISCELLANEOUS.

32. (*1*) Where any wages or expenses recoverable under section 213 of the Merchant Shipping Act, 1854, or under section 16 of the Merchant Shipping Act Amendment Act, 1855, are, under the same sections, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor General in Council may from time to time, by notification in the *Gazette of India*, authorize, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Act, 1854, section 213, provided, those wages or expenses.

Power to appoint persons to sue.

17 & 18 Vic., c. 104.

18 & 19 Vic., c. 91.

17 & 18 Vic., c. 104.

(*2*) Every person so authorized shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 51, clause 7.

1 of 1872.

33. All suits and proceedings under section thirty-two shall be instituted and carried on in the name of the Secretary of State for India in Council.

Proceedings to be instituted in name of Secretary of State for India in Council.

34. In section 10 of Act I of 1859, for the words "Fees at the following rates shall be paid by all applicants for examination :—

Amendment of section 10 of Act I of 1859.

For a certificate as master	...	ten rupees.
Ditto ditto as mate	...	five " "

the following shall be substituted, namely :—"Fees at such rates as the Local Government may, from time to time, with the previous sanction of the Governor General in Council, fix in this behalf shall be paid by all applicants for examination."

35. To section 11 of Act I of 1859 the following shall be added, namely :—

Addition to section 11 of Act I of 1859.

"Provided that the Local Government may, in any case in which it has reason to believe that such 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."

36. For the last fifteen words of section 79 of Act I of 1859, the following shall be substituted, namely :—"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."

Amendment of section 79 of Act I of 1859.

37. Sections 9 to 16 (both inclusive) of Act I of 1859 shall not apply to ships registered under Act X of 1841 and trading between ports in India and the coasts of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen.

Provisions as to examinations, &c., of masters not to apply to certain ships.

38. In sections 2, 15, 17 and 23 of the said Act X of 1841, for the words "on information in any Court of Her Majesty or the East India Company by the Advocates General of the respective Presidencies," "by information as aforesaid," "on information as aforesaid," "upon information as aforesaid," in each of the places where they occur, the following words shall be substituted, namely :—"on conviction before a Presidency Magistrate or a Magistrate of the first class."

Amendment of Act X of 1841, secs. 2, 15, 17 and 23.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 23rd February 1883, and is hereby promulgated for general information :—

ACT No. VI OF 1883.

An Act to give power to arrest persons whose evidence is needed under Act XII of 1859.

Preamble.

WHEREAS it is expedient to empower the Judges holding trials under Act XII of 1859 (*An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty*) to arrest persons whose evidence is required on such trials ; It is hereby enacted as follows :—

Addition to Act XII of 1859, after section 14.

1. The following section shall be inserted immediately after section 14 of the said Act, namely :—

"15. (*1*) Whenever the Judge of the said Court thinks it necessary for obtaining evidence that any person should be arrested, he 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.

XLV of 1860.

"(*3*) No person shall be detained under this section for more than forty-eight hours."

Commencement of Act.

2. This Act shall come into force on the first day of January, 1884.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, APRIL 21, 1883.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th April, 1883, and is hereby promulgated for general information:—

ACT No. VII OF 1883.

An Act to repeal the British Burma Labour Law, 1876.

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

Preamble. It is hereby enacted as follows:—

The British Burma Labour Law, 1876, is repealed.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th April, 1883, and is hereby promulgated for general information :—

ACT No. VIII OF 1883.

An Act 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 Islands 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.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, APRIL 28, 1883.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th April, 1883, and is hereby promulgated for general information:—

ACT No. VII OF 1883.

An Act to repeal the British Burma Labour Law, 1876.

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

Preamble. It is hereby enacted as follows:—

The British Burma Labour Law, 1876, is repealed.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th April, 1883, and is hereby promulgated for general information:—

ACT No. VIII OF 1883.

An Act 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 Islands 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.

D. FITZPATRICK,
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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th April, 1883, and is hereby promulgated for general information :—

ACT No. VII OF 1883.

An Act to repeal the British Burma Labour Law, 1876.

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

Preamble. It is hereby enacted as follows :—

The British Burma Labour Law, 1876, is repealed.

D. FITZPATRICK,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th April, 1883, and is hereby promulgated for general information :—

ACT No. VIII OF 1883.

An Act 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 Islands 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.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd June, 1883, and is hereby promulgated for general information:—

ACT No. IX OF 1883.

THE CENTRAL PROVINCES TENANCY ACT, 1883.

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SCHEDULE—ACTS REPEALED.

An Act to consolidate and amend the law relating to Agricultural Tenancies in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Central Provinces Tenancy Act, 1883: and

Short title.

(*2*) It extends to all the territories for the time being administered by the Chief Commissioner of the Central Provinces, except those specified in the Scheduled Districts Act, 1874, Schedule I, Part VI. XIV of 1874.

Local extent.

(*3*) This Act shall come into force on such day as the Chief Commissioner, with the previous sanction of the Governor General in Council, may by notification in the local official Gazette direct.

Commencement.

Central Provinces Tenancy Act, 1883.

Chapter II.—Of Tenants generally.

Nevertheless, any notification, rule, order or appointment to an office may be made under this Act at any time after the passing thereof, but shall not take effect before this Act comes into force.

2. On and from the day on which this Act comes into force, the Acts mentioned in the schedule hereto annexed shall be repealed.

Repeal of Acts.

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

Definitions.

(1) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land:

(2) "tenant" means a person who holds land of another person, and is, or, but for a special contract, would be, liable to pay rent for that land to that other person. But it does not include a farmer, mortgagee or thíkadár of proprietary rights:

Explanation.—An inferior proprietor is not, as such a tenant:

(3) "landlord" means the person of whom a tenant holds land, and to whom the tenant is, or, but for a special contract, would be, liable to pay rent for that land:

(4) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:

(5) "pay," "payable," and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery":

(6) "arrear" means an instalment or part of an instalment of rent which is not paid on or before the date on which it is payable:

(7) "holding" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions:

(8) "improvement" means, with reference to a holding, 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:

Explanation I.—It includes the reclaiming, enclosing or clearing of lands for agricultural purposes; but it does not include such embankments, temporary wells and water-channels as are made by tenants in the ordinary course of agriculture; and no work executed by the tenant of a holding is an improvement if it substantially diminishes the value of any other part of the estate of his landlord:

Explanation II.—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement:

(9) "Revenue-officer" and "Settlement-officer," in any provision of this Act, mean respectively such Revenue-officer or Settlement-officer appointed under the Central Provinces Land-revenue Act, 1881, as the Chief Commissioner may, from time to time, by notification in the official Gazette, direct by name or by virtue of his office to discharge the functions of a Revenue-officer or Settlement-officer (as the case may be) under that provision: XVIII of 1881.

(10) "agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified local area, from time to time, by notification in the official Gazette, appoint:

(11) "sír-land" means—

(*a*) land recorded as "sír" in the papers of the last preceding settlement of the local area in which the land is situate;

(*b*) land not so recorded, but which has been cultivated by the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years;

(*c*) waste land which has been broken up by the proprietor or one of the proprietors thereof, and cultivated by him for a period of not less than six consecutive years; and

(*d*) the "bhogra" lands of Sambalpúr:

Explanation.—Land which has, after the date of the above-mentioned settlement, or the expiration of the above-mentioned period of twelve years or six years (as the case may be), been for a period of six consecutive years unoccupied by the proprietor is not sír-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sír-rights:

(12) "village" includes any tract of land which, at the last settlement of the same, has been recognised as a village, or which the Chief Commissioner declares to be a village for the purposes of the Central Provinces Land-revenue Act, 1881: and XVIII of 1881.

(13) "record-of-rights" includes the supplementary administration paper prepared at or after the time of making a settlement before the Central Provinces Land-revenue Act, 1881, came into force. XVIII 1881.

CHAPTER II.

OF TENANTS GENERALLY.

A.—Classification of Tenants.

4. There shall be four classes of tenants, namely:—

Classes of tenants.

(1) Absolute occupancy-tenants;

(2) Occupancy-tenants;

(3) Sub-tenants;

(4) Ordinary tenants.

B.—Provisions relating to Rent.

5. In all suits and proceedings between landlord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of the holding in the agricultural year immediately preceding that year.

Presumption as to amount of rent payable.

6. An order fixing, altering or commuting the rent of a holding on an application under this Act may, as the officer making the order thinks fit, take effect from the commencement of the agricultural year next following the date of the application, or from any subsequent

Date from which order fixing rent operates.

Central Provinces Tenancy Act, 1883.

Chapter II.—Of Tenants generally.

day, or, if it is made on the ground of increase, diminution or deterioration of the holding, from the date of that increase, diminution or deterioration, or from any subsequent day.

Time for payment of rents.

7. Rents shall be payable in such instalments and on such dates as the Chief Commissioner may, from time to time, by notification in the official Gazette, prescribe, and, in the absence of any such notification applicable to the case, according to the contract between the parties, or, where there is no such contract, according to local usage.

Rents payable to a number of landlords.

8. When two or more persons are landlords of a tenant in respect of the same holding, the tenant, subject to any rule which the Chief Commissioner may, from time to time, by notification in the official Gazette, make in this behalf, and to any contract between the parties, shall not be bound to pay part of the rent of his holding to one of those persons and part to another or others; and, subject as aforesaid, those persons shall, if the tenant so desires, appoint one of their number or some other person to receive the rent.

Power to deposit rent in certain cases with Revenue-officer.

9. (*a*) When a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant,

(*b*) when a tenant, in the case mentioned in section eight, desires the appointment of a person to receive rent payable in money and the appointment is not made within a reasonable time, and

(*c*) when a tenant in any case is doubtful as to the person entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for permission to deposit in his court the amount of rent which he believes to be due; and that officer shall receive the deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application, and that it was made in good faith, and if the applicant pays the fee (if any) chargeable for the issue of the notice next hereinafter referred to.

Effect of depositing rent.

10. (*1*) When a deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(*2*) The officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(*3*) 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 clause 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 by a Revenue-officer.

Penalty for levy of anything in excess of rent by landlord.

11. Every tenant from whom, except under any special enactment for the time being in force, anything is levied by his landlord in excess of the rent legally payable, shall be entitled to recover from the landlord such sum as the Court thinks fit, not exceeding five hundred rupees, or, when double the amount or value of what is so levied exceeds five hundred rupees, not exceeding double that amount or value.

Penalty for refusing receipt, or giving defective receipt.

12. If a landlord refuses a receipt for rent paid by a tenant, or grants a receipt but refuses or neglects to specify therein the holding, and the period or crop, in respect of which the payment is made, or the amount paid, the tenant shall be entitled to recover from him such sum, not exceeding double the amount or value of the rent so paid, as the Court thinks fit.

Enhancement of rent when productive power of holding increased by landlord.

13. Notwithstanding anything in the record-of-rights, but subject to any contract in writing between the parties, the rent payable in money by any tenant may, on the application of his landlord, be enhanced by a Revenue-officer on the ground that an improvement has been made in accordance with this Act by or at the expense of the landlord whereby the productive power of the holding has been increased.

Power to alter rent when holding is increased, diminished or deteriorated.

14. When the area of a holding the rent of which is payable in money is increased or diminished by the encroachment of the tenant or the landlord, or by fluvial action or otherwise, or the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or other like calamity, a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to that increase, diminution or deterioration.

Power to alter rent in case of new assessment.

15. When a landlord grants a lease, or makes any other contract fixing the rent of any holding, and, while the lease or contract is in force,—

(*a*) land-revenue is for the first time made payable in respect of the holding, or

(*b*) land-revenue having been previously payable in respect of it, the revenue payable when the lease or other contract was granted or made is increased or diminished,

a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to the revenue.

Commutation of rent payable in kind.

16. (*1*) In all cases in which an absolute occupancy-tenant or occupancy-tenant pays rent for a holding in kind, or on the estimated value or a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another or others, the landlord or tenant may, notwithstanding anything in the record-of-rights or any contract between the parties, other than a contract whereby waste-land is let for the purpose of reclamation, apply during the progress of a settlement to a Settlement-officer, or at any other time, if the Chief Commissioner thinks fit to appoint a Revenue-officer in this behalf in that

Central Provinces Tenancy Act, 1883.

Chapter II.—Of Tenants generally.

officer, to commute the rent to a fixed money-rent.

(*2*) On the receipt of the application, the officer shall determine the sum to be paid as money-rent, and shall order that the tenant shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(*3*) If the application is opposed, the officer may, for reasons to be recorded by him in writing, refuse to grant the same.

C.—Of the Landlord's Lien on the Produce of a Holding.

Definition of produce of a holding.

17. In sections eighteen to twenty-four (both inclusive) the produce of a holding means—

(*a*) crops and other products of the earth standing or ungathered on the holding;

(*b*) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

Power of landlord, by notice, to prohibit removal of produce.

18. Where an arrear is due in respect of a holding, the landlord may, by notice served as hereinafter provided, prohibit the removal of the produce of the holding.

Provided that—

first, such a prohibition shall not be made on account of an arrear which has been due for a longer period than one year, or in respect of any produce which is under attachment by order of any Court; and

secondly, such a prohibition shall not be made more than once in respect of the same produce on account of the same arrear.

Contents and service of notice; time for which it remains in force.

19. (*1*) Every notice under section eighteen shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is claimed, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the decree, order or agreement, as the case may be, for the payment of that amount.

(*2*) The notice shall be served on the person in charge of the produce, and shall remain in force [illegible] the rent specified in the notice is paid, or, [illegible] is not previously paid, until the expiration of thirty-five days from the date of service of the notice.

Right to reap, &c., not affected.

20. A notice under section eighteen shall not prevent any person from reaping, gathering or storing any produce, or doing any [illegible] necessary for its due preservation.

[illegible] of instituting [illegible] notice.

21. If, while the notice is in force, the landlord institutes a suit for the recovery of the rent, the notice shall continue in force [illegible] Court trying the suit otherwise directs; and, if the landlord obtains a decree in the suit, [illegible] decree shall be the first charge

Procedure when produce is under attachment.

22. (*1*) If the produce of the holding on which the arrear is due is under attachment by order of a Court, the landlord may apply to the Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

(*a*) any rent which has fallen due to him in respect of the holding within the year immediately preceding the application; and

(*b*) the instalment of rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

And the Court, if on inquiry it finds the landlord's claim to the whole or any part of the rent to be proved, shall sell the produce or such portion thereof as it may deem necessary, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(*2*) The finding of a Court on an inquiry under this section shall have the force of a decision in a suit between the parties.

Conflict between rights of superior and inferior landlords.

23. Where land is sublet and any conflict arises under sections eighteen to twenty-two (both inclusive) between the rights of a superior and of an inferior landlord, the right of the superior landlord shall prevail.

Penalty for illegal distraint by landlord, and for illegal removal of produce.

24. (*1*) Any landlord of a holding who distrains or attempts to distrain the produce of the holding, or prevents or attempts to prevent, otherwise than in accordance with this Act, any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, and

where a notice in respect of the produce of a holding has been served under section nineteen and is in force, any person who, knowing or having reason to believe that the notice is in force, removes, attempts to remove or abets the removal of the produce, except for any of the purposes mentioned in section twenty,

shall be punished with fine which may extend to five hundred rupees.

(*2*) Nothing in this section, and, except as provided in section 546 of the Code of Criminal Procedure, no proceeding under this section, shall affect the right of any person to recover compensation in a civil suit. X of 1882.

D.—Commissions for dividing or estimating Crops.

Commission for dividing or estimating crops.

25. 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, a Revenue-officer may, on the application of either party, issue a commission to such person as the officer thinks fit, directing him to divide, estimate or appraise the crop.

Appointment of assessors, &c.

26. (*1*) When a Revenue-officer appoints a Commissioner for any of the purposes mentioned in section twenty-five, the officer

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.

Remedy for error in division.

27. (1) If in any division under the foregoing provisions 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 when crop has been estimated or appraised.

28. (1) When a crop has been estimated or appraised under the foregoing provisions, the estimate or appraisement shall be reduced to writing and signed by the Commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued.

(2) The Revenue-officer shall consider the Commissioner's report, 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.

E.—Of Improvements and Compensation therefor.

Right to make improvements.

29. (1) In respect of the holding of an absolute occupancy-tenant or occupancy-tenant, the tenant, and in respect of the holding of an ordinary tenant, the landlord, shall be entitled to make improvements.

(2) If an ordinary tenant whose holding does not consist entirely of sír land, or the landlord of an absolute occupancy-tenant or of an occupancy-tenant, desires that any improvement be made in respect of the holding, he may deliver, or cause to be delivered, to his landlord or tenant, as the case may be, a request in writing calling upon him to make the improvement within a reasonable time, and, if he is unable or neglects to comply with that request, may, subject to such rules of procedure as the Chief Commissioner from time to time, by notification in the official Gazette, prescribes in this behalf, make the improvement himself.

Liability to pay to tenant on ejectment compensation for improvements.

30. (1) If an absolute occupancy-tenant, occupancy-tenant or ordinary tenant is ejected from his holding, he shall be entitled to compensation for improvements which he or the persons under whom he claims may have made in accordance with this Act or with the landlord's consent otherwise than in accordance with this Act, and for which compensation has not already been made.

(2) Whenever a Court makes a decree or order for the ejectment of a tenant, it shall determine the amount of compensation (if any) due under this section to the tenant for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the tenant.

(3) No compensation shall be claimable under this section for an improvement where the tenant has made the improvement in pursuance of a contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained that advantage.

(4) Improvements made by a tenant before this Act comes into force, in lands other than sír-land, shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Assessment of compensation.

31. (1) The Chief Commissioner 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 thirty for an improvement, such number of assessors as the Chief Commissioner thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

(2) In estimating the compensation to be awarded under section thirty for an improvement, regard shall be had—

(*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 other advantage given by the landlord to the tenant in consideration of the improvement.

(3) When the amount of the compensation has been assessed, the landlord and tenant 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.

Avoidance of provisions barring right to make, or be compensated for, improvements.

32. An entry in the record-of-rights of any village or a stipulation in a contract providing—

(*a*) that a landlord shall be entitled to prevent a tenant from making, or to eject him for making, such improvements or his holding as he is entitled to make under this Act, or

(*b*) that a tenant ejected from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Act, be entitled to such compensation,

shall be void.

F.—Miscellaneous.

Surrender of holdings.

33. (1) Any tenant not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding.

(2) But notwithstanding the surrender, the tenant shall continue to be liable for the agricultural year next following the date of the surrender for the rent of the holding, unless he gives to his landlord, at least thirty days before he surrenders, notice of his intention to surrender.

(3) In the following cases, the Court shall presume that such notice was so given, that is to say:—

(*a*) if the tenant takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(*b*) if the tenant ceases, at least thirty days before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate; and

(*c*) if the landlord himself, at any time during the agricultural year next following the surrender, cultivates or lets to another tenant the holding or any part thereof.

Where land uncultivated and rent unpaid, tenant's right to be deemed surrendered.

34. Any tenant other than an absolute occupancy-tenant who leaves his holding uncultivated and the rent of it unpaid for a period of two years shall, at the expiration of that period, be deemed to have surrendered the holding:

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.

Tenant taking thíka or farm.

35. When a person, at the time of taking a thíka or farm, is a tenant of any land comprised therein, his interest as tenant shall not be affected by reason only of his taking the thíka or farm.

CHAPTER III.

OF ABSOLUTE OCCUPANCY-TENANTS.

Definition of absolute occupancy-tenant.

36. Every person who, on the day when this Act comes into force, is the tenant of any holding in respect of which he, or a person whose rights he has acquired, has been recorded in any record-of-rights made before that day as an "absolute occupancy-raiyat," or in terms equivalent thereto, shall, unless he has parted with his rights, be deemed to be an absolute occupancy-tenant of that holding.

Rents fixed for period of settlement.

37. (1) The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised, and the rent so fixed shall not be altered during the currency of the settlements, except under the provisions of section thirteen, section fourteen or section sixteen.

(2) The rent payable by any such tenant in respect of his holding when this Act comes into force shall be deemed to have been fixed at the last preceding settlement of the area in which his holding is comprised.

Right heritable and transferable after notice to landlord, who may claim to purchase.

38. (1) The right of an absolute occupancy-tenant in his holding shall on his death devolve as if it were land, and shall be transferable subject to the conditions contained in this section.

(2) If an absolute occupancy-tenant intends to transfer any right in his holding by sale or gift, or by mortgaging the same for a sum which, together with the interest payable thereon during the five years immediately succeeding the mortgage and the previous sums (if any) secured by mortgage of it, would exceed eight times the annual rent of the holding, or by sub-letting the same in consideration of a fine or premium exceeding five times that rent, he shall give to his landlord a written notice of his intention, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is given.

(3) If the intended transfer is by sale or gift, the landlord may within the said period of one month—

(*a*) claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix; or

(*b*) permit the sale or gift, in which case he shall be entitled to a sum equal to the rent for one year, and that sum shall be a first charge on the holding.

(4) If the intended transfer is by mortgage or sub-lease, the landlord may, within the said period of one month, claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(5) When the right of an absolute occupancy-tenant in his holding is sold by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall have the same right of pre-emption as is given in the case of a sale by sub-section (3), clause (*a*).

(6) When an application is made to a Revenue-officer under this section to fix the value of an absolute occupancy-right which is already mortgaged, he shall fix the value of the right as if it were not mortgaged; and if the landlord purchases the right, the mortgage-debt shall be a charge on the purchase-money in exoneration of the land.

(7) Any transfer made in contravention of this section shall be void.

Absolute occupancy-tenant not liable to ejectment.

39. Notwithstanding any contract to the contrary, or any provision of a record-of-rights, an absolute occupancy-tenant shall not be ejected from his holding by his landlord as such for any cause.

Rent first charge on holding.

40. The rent of the holding of an absolute occupancy-tenant shall be a first charge on that holding.

CHAPTER IV.

OF OCCUPANCY-TENANTS.

Definition of occupancy-tenant.

41. Every tenant who, when this Act comes into force, has held the same land continuously for twelve years, otherwise than as an absolute occupancy-tenant or a sub-tenant, and every person who is, when this Act comes into force, or thereafter becomes, a tenant (not being an absolute occupancy-tenant or a sub-tenant) of land in the districts of Chánda, Nimár and Sambalpúr, shall be deemed to be an occupancy-tenant of that land:

Provided that the land is not—

(*a*) sír-land, or

(*b*) held in lieu of wages, or

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(*c*) held, in any district other than Sambalpúr, under a written lease in which it is expressly agreed that a right of occupancy in the land shall not be acquired, or that the tenant shall quit the land at the termination of the lease.

Explanation I.—The occupation of any person from whom the tenant inherited his holding is, for the purposes of this section, deemed to be the occupation of the tenant.

Explanation II.—Where, by the custom of any village, the holdings of tenants are, or have been, liable to periodical redistribution, land which a tenant or any person under whom he claims has, in accordance with that custom, from time to time, received in exchange for land previously held by him is, for the purpose of calculating, under this section, the period of twelve years, deemed to be the same land as the land which he held before the exchange.

Cases in which ex-proprietors become occupancy-tenants of their sír-land.

42. Every person whose proprietary rights in land comprising sír-land are, after this Act comes into force, transferred in any of the following cases, namely:—

(*a*) when he sells those rights without expressly agreeing to transfer his right to cultivate the sír-land,

(*b*) when those rights are sold for an arrear of land-revenue,

(*c*) when those rights are sold in execution of any decree which does not expressly direct the sale of his rights in the sír-land,

shall become an occupancy-tenant of that sír-land, and the rent payable by him as such shall be fixed by a Revenue-officer on application made by him or by his landlord.

Devolution and transfer of occupancy-right.

43. (*1*) When an occupancy-tenant dies his right in his holding shall devolve as if it were land: Provided that, except in the districts of Chánda, Nimár and Sambalpúr, a collateral relative of the tenant shall not be entitled to inherit that right, unless at the death of the tenant he was a co-sharer in the holding.

(*2*) A transaction by which an occupancy-tenant attempts to effect a transfer of property in respect of his holding by sale, gift, mortgage, sub-lease or otherwise shall be void, unless—

(*a*) it is entered into with his landlord's consent, or

(*b*) the transfer is one to a person who, if he survived the tenant, would inherit the right of occupancy, or between persons in favour of whom, as co-sharers, the right of occupancy originally arose, or who have become, by succession, co-sharers therein;

(*3*) The right of an occupancy-tenant shall not be sold in execution of a decree.

Rent of occupancy-tenant to be fixed at settlement.

44. The rent of the holding of every occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised.

Fixation of rents during currency of settlement in Chánda, Nimár and Sambalpúr.

45. (*1*) In the districts of Chánda, Nimár and Sambalpúr, the rent fixed under section forty-four shall not be altered during the currency of any settlement except under section thirteen, section fourteen or section sixteen.

(*2*) The rent payable in respect of his holding by a tenant in any of those districts when this Act comes into force shall be deemed to have been fixed at the last preceding settlement of the area in which that holding is comprised.

(*3*) Subject to the provisions of sections thirteen, fourteen and sixteen, the rent payable by any such tenant in respect of a holding acquired by him after this Act comes into force shall, pending the recurrence of the settlement of the area in which that holding is comprised, be the rent fixed by agreement between him and his landlord at the time he acquires that holding, or, in the absence of any such agreement, or on the expiration of the term for which any such agreement has been made, a rent fixed by a Revenue-officer on the application of either party at the following rate, that is to say:—

(*a*) in the districts of Chánda and Nimár, the rate which the Chief Commissioner has prescribed for occupancy-tenants and caused to be entered in the record-of-rights at the last settlement;

(*b*) in the district of Sambalpúr, the average rate at which at the last settlement the rents of other lands in the same village of similar quality and possessing similar advantages were fixed.

Enhancement during currency of settlement in other districts.

46. The rate of rent payable in money by an occupancy-tenant in any other district may, during the currency of a settlement, on the application of the landlord to a Revenue-officer, be enhanced subject to the rules made under section eighty-two and for the time being in force:

Provided that—

(*a*) an application under this section shall not be entertained when the rent of the holding has within the ten years immediately preceding the application been fixed under any provision of this Act except section thirteen or section fourteen, or under any Act hereby repealed; and

(*b*) no order shall be made on any such application which is inconsistent with any contract made after the last preceding settlement and still in force.

Tenant's improvements how treated in fixing rent.

47. When the land in respect of which an application is made under section forty-five or section forty-six has been improved in accordance with this Act by the agency or at the expense of the tenant, the quality and advantages of the land shall, notwithstanding anything contained in any contract or record-of-rights, be deemed, for the purposes of that section, to be the quality and advantages which the land would have had, and enjoyed if the improvements had not been made.

Grounds for ejectment.

48. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an occupancy-tenant shall not be ejected from his holding by his landlord as such except,—

(*a*) as hereinafter provided, for arrears of rent, or

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(*b*) in execution of a decree of a Civil Court passed on the ground of his having diverted the land to non-agricultural purposes, or being chargeable with some other act or omission which, by custom not inconsistent with this Act or with any other enactment for the time being in force, renders him liable to be ejected.

Tenant changing land in accordance with village-custom.

49. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical redistribution, and exchanging that land in accordance with the custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

Tenant changing land in other cases.

50. If a tenant having a right of occupancy in any land ceases to hold that land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that the tenant has accepted that other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

CHAPTER V.

OF SUB-TENANTS.

Definition of sub-tenant.

51. A tenant who holds land from another tenant is a sub-tenant of that land.

Tenure according to agreement.

52. A sub-tenant shall, subject to the provisions of sections seven, fourteen and fifteen, hold on such terms as may be agreed upon between him and his landlord.

CHAPTER VI.

OF ORDINARY TENANTS.

Definition of ordinary tenant.

53. Every tenant who is not an absolute occupancy-tenant, or an occupancy-tenant or a sub-tenant, is an ordinary tenant.

Rent of ordinary tenant regulated by agreement.

54. An ordinary tenant shall, subject to the provisions of sections fourteen and fifteen, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

Grounds on which an ordinary tenant may be ejected.

55. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an ordinary tenant shall not be ejected from his holding by his landlord as such except—

(*a*) as provided in the case of an occupancy-tenant in section forty-eight;

(*b*) 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, or that the holding consists entirely of sír-land.

Notice of enhancement to be served through Civil Court.

56. When a landlord wishes to enhance the rent of an ordinary tenant whose holding does not consist entirely of sír-land and whose rent is not fixed by an agreement in writing, and the tenant does not agree to the enhancement, the landlord may cause to be served on the tenant 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.

Liability of tenant to ejectment in default of his agreeing to enhancement.

57. (*1*) If, within the period of one month from the service of a notice under section fifty-six, the tenant 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 tenant 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 tenant.

Procedure in ejectment-suit.

58. (*1*) If in any suit instituted under section fifty-seven 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 tenant as compensation for improvements; and

(*b*) a further sum as compensation for disturbance equal to seven times the yearly increase of rent demanded.

Conditions on which ejectment-decree is to be executed.

59. (*1*) If these sums are so deposited, the decree shall be made absolute, and the sums deposited shall be paid to the tenant.

(*2*) If these sums are not so deposited, the decree shall become void, and the tenant shall remain in occupation of his holding at the rent previously paid by him.

Fresh proceedings not to be taken for seven years.

60. When a tenant has agreed, under section fifty-seven or section fifty-eight, to pay an enhanced rent for his holding, or a decree to eject him from that holding has become void under section fifty-nine, no notice shall be served on him under section fifty-six in respect of that holding during the seven years next following the date on which he has so agreed, or the decree has become void, as the case may be.

Devolution and transfer of ordinary tenancy.

61. (*1*) When an ordinary tenant dies, his right in his holding shall devolve as if it were land:

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Provided that a collateral relative of the tenant shall not be entitled to inherit his right unless at the death of the tenant he was a co-sharer in the holding.

(2) A transaction by which an ordinary tenant attempts to effect a transfer of property in respect of his holding by sale, gift, mortgage, sub-lease or otherwise shall be void, unless it is entered into with his landlord's consent.

(3) The right of an ordinary tenant shall not be sold in execution of a decree.

Obligation of landlord to confer occupancy-rights on ordinary tenant.

62. (1) Notwithstanding any contract to the contrary, the landlord of any holding held by an ordinary tenant shall, at the request of the tenant and on the tender by the tenant to him of a sum equal to twice and one-half the annual rent payable in respect to the holding, together with the cost of preparing any instrument required for this purpose, confer upon the tenant the rights of an occupancy-tenant in respect of the holding; and when those rights have been so conferred, the rent of the tenant shall be deemed to be fixed under this Act, within the meaning of section forty-six, at the rate at which rent was payable by the tenant at the date of the request and tender:

Provided that the landlord may, upon any such request and tender being made to him, apply to a Revenue-officer to fix the rent of the holding for the purposes of this section; and if he proves to the satisfaction of the officer that the rate of rent payable in respect of the holding is less than the rate usually paid by ordinary tenants of holdings situate in the same or adjoining tahsíls for land of similar quality with like advantages, the officer shall fix the rent at the latter rate, and the rent so fixed shall, for the purposes of this section, be deemed to be, and to have been at the date of the request and tender, the rent payable by the tenant.

(2) If a landlord, to whom a request and tender is made by a tenant under sub-section (1), refuses or neglects for a period of one month to confer the rights of an occupancy-tenant on the tenant, the tenant may deposit the sum aforesaid in the court of a Revenue-officer, and apply to that officer to confer upon him the rights of an occupancy-tenant in respect of the holding.

(3) The officer, after giving notice of the application to the landlord and hearing him if he appears, and making such inquiry as he thinks necessary, may execute any instrument required for conferring those rights upon the tenant, and the execution shall have the same effect as an execution by the landlord.

(4) A person upon whom the rights of an occupancy-tenant are conferred under this section shall be deemed to be an occupancy-tenant for the purposes of this Act.

(5) Nothing in this section shall apply to a holding consisting entirely of sír-land.

CHAPTER VII.

JURISDICTION AND PROCEDURE.

Jurisdiction of Civil Courts barred in certain cases.

63. No Court other than the Court of a Revenue-officer or Settlement-officer shall fix any rent or call in question any rent fixed by a Revenue-officer or Settlement-officer, or shall take cognizance of any dispute or matter in which any of the following applications might be made, namely:—

(a) applications for permission to deposit rent in Court (section nine);

(b) applications to enhance rent on account of improvements made by, or at the expense of, the landlord (section thirteen);

(c) applications to alter the rent of a holding on account of increase or diminution or deterioration of the holding, or of a new assessment of revenue (sections fourteen and fifteen);

(d) applications for the commutation of rents paid in kind (section sixteen);

(e) applications for a commission to divide, estimate or appraise a crop (section twenty-five);

(f) applications to fix the price at which a landlord may purchase in case of an intended transfer (section thirty-eight);

(g) applications to fix rent or confer occupancy-rights (section sixty-two);

(h) applications to measure or ascertain the condition of holdings (section eighty); and

(i) applications relating to such other matters as Revenue-officers or Settlement-officers are empowered to deal with under this Act or the rules made under this Act.

Procedure on applications to Revenue and Settlement-officers, and appeals from their orders.

64. (1) In fixing rents and disposing of the matters referred to in section sixty-three, Revenue-officers and Settlement-officers shall, as nearly as may be practicable, subject to the provisions of this Act, exercise the same powers and follow the same procedure as they exercise and follow under the Central Provinces Land-revenue Act, 1881.

XVIII of 1881.

(2) From every decision or order of a Revenue-officer or Settlement-officer fixing rent or disposing of any matter referred to in section sixty-three, an appeal shall lie as if that decision or order had been passed by that officer under the said Land-revenue Act.

Jurisdiction of Civil Courts in suits between landlords and tenants.

65. Except as provided in section sixty-three, the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such:

Provided that—

(a) a Judge of a Civil Court of original jurisdiction shall not, unless he is also a Revenue-officer or Settlement-officer, hear any such suit; and

(b) the Chief Commissioner may, from time to time, subject to the provisions of this Act, direct that all or any class of such suits shall be heard and determined only in such Courts competent to try the same as he thinks fit, and not otherwise.

Power to direct that suits between landlords and tenants be entered in separate register.

66. The Chief Commissioner may, from time to time, direct that all suits, or any specified class of suits, between landlords and tenants as such, shall not be registered in the registers of civil suits kept under the Code of Civil Procedure, but in such other registers as he may prescribe.

XIV of 1882.

Central Provinces Tenancy Act, 1883.

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Plaint in such suits.

67. (1) In suits between landlords and tenants as such, the plaint shall, in addition to the matters mentioned in section 50 of the Code of Civil Procedure, specify the area of the land to which the suit relates, and, where the fields comprised in that land have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which it is payable.

XIV of 1882.

(2) When the land to which the suit relates comprises parts of numbered fields, or has not been divided into numbered fields, an accurate and sufficient description of the land and its boundaries shall be given in the plaint.

Legal practitioners' fees not allowed, unless for special reasons.

68. In suits between landlords and tenants as such, the fees of a legal practitioner shall not be allowed as costs, unless the Court considers, for reasons to be recorded by it in writing, that those fees ought to be allowed:

Set-off when allowed in suits for arrears.

69. No set-off shall be allowed in any suit for arrears unless the amount claimed as a set-off has been determined by a decree or order of a competent Court or of a Revenue-officer or Settlement-officer.

Interest on arrears.

70. In suits for arrears, interest on the arrears may be allowed up to the date of institution, at such rate, not exceeding twelve per cent. per annum, as the Court thinks fit.

No appeal in certain suits for arrears.

71. A decree or order passed in a suit for arrears, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class, as defined in the Central Provinces Courts Act, 1865, shall not be subject to appeal, unless—

XIV of 1865.

(a) the amount or value of the subject-matter of the suit exceeds one hundred rupees; or

(b) a question relating to a title to land, or some interest in land, has been determined as between parties having conflicting claims thereto.

Ejectment for non-payment of an arrear due under a decree.

72. (1) If a decree for an arrear is passed against a tenant other than an absolute occupancy-tenant and remains unsatisfied, the landlord may, at any time before the execution of the decree is barred by limitation, apply to the Court having authority to execute the decree to cause a notice to be served on the tenant, directing him either to pay the amount due under the decree not later than the expiration of the agricultural year, or to surrender his holding not later than that time.

(2) If that amount is not so paid, and the holding is not so surrendered, the Court may in its discretion, but subject to the provisions of this Act, make an order to eject the tenant from the holding.

Power of Court to deal with cases of drought or other calamity in suits for arrears.

73. (1) Where, in answer to a suit for an arrear, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period in respect of which the arrear is claimed has been diminished or destroyed by drought, hail or other extraordinary calamity beyond his control, the Court in its discretion may, notwithstanding any contract to the contrary, allow in its decree any deduction from the arrear, and direct payment of the amount decreed (if any) in such instalments (if any) as it thinks fit.

(2) In any such case the Court may order that the provisions of section seventy-two shall not apply to the decree.

(3) In making a decree under this section the Court shall have regard to—

(a) the value of the produce of the holding for the whole agricultural year in respect of which the arrear accrued; and

(b) the proportion which the amount of rent payable for that year by the tenant bears to that value.

(4) If in any such suit it appears that the land-revenue of the village in which the holding is situate has been suspended or remitted on account of drought, hail or other extraordinary calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that the diminution or destruction alleged by the tenant has taken place.

Relief against forfeitures.

74. (1) A suit for the ejectment of a tenant on the ground that he has done or omitted to do something for doing or omitting to do which he is liable to ejectment, 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.

(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 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.

Rights of ejected tenant in respect of crops and land prepared for sowing.

75. The following rules shall be applicable in the case of every tenant ejected from a holding:—

(a) When the tenant 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 estimated value of the labour and capital expended by the tenant in preparing the land and sowing, planting and tending the crops, together with reasonable interest thereon.

(*b*) When the tenant 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 estimated value of the labour and capital expended by him in so preparing the land, together with reasonable interest thereon.

Provided that a tenant 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.

Payment by tenant for occupation of land under section 75.

76. When a landlord elects, under section seventy-five, clause (*a*), to allow a tenant to retain possession of any land for the purpose specified in that clause, the tenant 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 may deem reasonable.

All claims between landlord and tenant to be determined in ejectment proceedings.

77. 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.

Procedure when, on ejectment, money is due by the landlord to the tenant.

78. (*1*) When it appears to a Court making an inquiry under section seventy-seven 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.

(*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.

Ejectment decrees and orders to have effect from beginning of agricultural year.

79. All decrees and orders for ejectment under this Act shall take effect from the beginning of the agricultural year next following the date of the decree or order.

Applications to measure or ascertain condition of holdings.

80. (*1*) If any landlord or tenant of a holding desires that the extent of that holding be ascertained, or that evidence relating to any improvement made in respect thereof, or to the state of the holding at any specified time, be recorded, he may apply to a Revenue-officer; and that officer shall thereupon, in presence of the parties,—

(*a*) make, or cause to be made, such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, and record his finding thereon, or

(*b*) (where the applicant seeks to have evidence recorded) record that evidence:

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

(*2*) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

Limitation in suits by tenant to recover possession.

81. The period of limitation for a suit instituted by a tenant other than an absolute occupancy-tenant to recover possession of land from which he has been ejected shall be two years from the date on which he is ejected.

In other respects the limitation of every such suit shall be governed by the Indian Limitation Act, 1877. XV of 1877.

CHAPTER VIII.

POWER TO MAKE RULES.

Rules by Chief Commissioner.

82. The Chief Commissioner may, from time to time, by notification in the official Gazette, make rules consistent with the provisions of this Act—

(*a*) for the guidance of Revenue-officers and Settlement-officers in fixing, altering and commuting rents; and

(*b*) for the guidance of all other persons in matters connected with the enforcement of this Act.

SCHEDULE.

(*See Section 2.*)

ACTS REPEALED.

Number and year of Act.	Title.
Act X of 1859 ...	To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.
Act XIV of 1863 ...	To amend Act X of 1859.
Act XXII of 1872 ...	To explain and amend Act X of 1859.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd June, 1883, and is hereby promulgated for general information:—

ACT No. IX OF 1883.

THE CENTRAL PROVINCES TENANCY ACT, 1883.

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SCHEDULE—ACTS REPEALED.

An Act to consolidate and amend the law relating to Agricultural Tenancies in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Central Provinces Tenancy Act, 1883: and

Short title.

(*2*) It extends to all the territories for the time being administered by the Chief Commissioner of the Central Provinces, except those specified in the Scheduled Districts Act, 1874, Schedule I, Part VI. XIV of 1874.

Local extent.

(*3*) This Act shall come into force on such day as the Chief Commissioner, with the previous sanction of the Governor General in Council, may by notification in the local official Gazette direct.

Commencement.

Central Provinces Tenancy Act, 1883.

Chapter II.—Of Tenants generally.

Nevertheless, any notification, rule, order or appointment to an office may be made under this Act at any time after the passing thereof, but shall not take effect before this Act comes into force.

2. On and from the day on which this Act comes into force, the Acts mentioned in the schedule hereto annexed shall be repealed.

Repeal of Acts.

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

Definitions.

(1) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land:

(2) "tenant" means a person who holds land of another person, and is, or, but for a special contract, would be, liable to pay rent for that land to that other person. But it does not include a farmer, mortgagee or thíkadár of proprietary rights:

Explanation.—An inferior proprietor is not, as such a tenant:

(3) "landlord" means the person of whom a tenant holds land, and to whom the tenant is, or, but for a special contract, would be, liable to pay rent for that land:

(4) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:

(5) "pay," "payable," and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery":

(6) "arrear" means an instalment or part of an instalment of rent which is not paid on or before the date on which it is payable:

(7) "holding" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions:

(8) "improvement" means, with reference to a holding, 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:

Explanation I.—It includes the reclaiming, enclosing or clearing of lands for agricultural purposes; but it does not include such embankments, temporary wells and water-channels as are made by tenants in the ordinary course of agriculture; and no work executed by the tenant of a holding is an improvement if it substantially diminishes the value of any other part of the estate of his landlord:

Explanation II.—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement:

(9) "Revenue-officer" and "Settlement-officer," in any provision of this Act, mean respectively such Revenue-officer or Settlement-officer appointed under the Central Provinces Land-revenue Act, 1881, as the Chief Commissioner may, from time to time, by notification in the official Gazette, direct by name or by virtue of his office to discharge the functions of a Revenue-officer or Settlement-officer (as the case may be) under that provision: XVIII of 1881.

(10) "agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified local area, from time to time, by notification in the official Gazette, appoint:

(11) "sír-land" means—

(*a*) land recorded as "sír" in the papers of the last preceding settlement of the local area in which the land is situate;

(*b*) land not so recorded, but which has been cultivated by the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years;

(*c*) waste land which has been broken up by the proprietor or one of the proprietors thereof, and cultivated by him for a period of not less than six consecutive years; and

(*d*) the "bhogra" lands of Sambalpúr:

Explanation.—Land which has, after the date of the above-mentioned settlement, or the expiration of the above-mentioned period of twelve years or six years (as the case may be), been for a period of six consecutive years unoccupied by the proprietor is not sír-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sír-rights:

(12) "village" includes any tract of land which, at the last settlement of the same, has been recognised as a village, or which the Chief Commissioner declares to be a village for the purposes of the Central Provinces Land-revenue Act, 1881: and XVIII of 1881.

(13) "record-of-rights" includes the supplementary administration paper prepared at or after the time of making a settlement before the Central Provinces Land-revenue Act, 1881, came into force. XVIII 1881.

CHAPTER II.

OF TENANTS GENERALLY.

A.—Classification of Tenants.

4. There shall be four classes of tenants, namely:—

Classes of tenants.

(1) Absolute occupancy-tenants;
(2) Occupancy-tenants;
(3) Sub-tenants;
(4) Ordinary tenants.

B.—Provisions relating to Rent.

5. In all suits and proceedings between landlord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of the holding in the agricultural year immediately preceding that year.

Presumption as to amount of rent payable.

6. An order fixing, altering or commuting the rent of a holding on an application under this Act may, as the officer making the order thinks fit, take effect from the commencement of the agricultural year next following the date of the application, or from any subsequent

Date from which order fixing rent operates.

day, or, if it is made on the ground of increase, diminution or deterioration of the holding, from the date of that increase, diminution or deterioration, or from any subsequent day.

Time for payment of rents.

7. Rents shall be payable in such instalments and on such dates as the Chief Commissioner may, from time to time, by notification in the official Gazette, prescribe, and, in the absence of any such notification applicable to the case, according to the contract between the parties, or, where there is no such contract, according to local usage.

Rents payable to a number of landlords.

8. When two or more persons are landlords of a tenant in respect of the same holding, the tenant, subject to any rule which the Chief Commissioner may, from time to time, by notification in the official Gazette, make in this behalf, and to any contract between the parties, shall not be bound to pay part of the rent of his holding to one of those persons and part to another or others; and, subject as aforesaid, those persons shall, if the tenant so desires, appoint one of their number or some other person to receive the rent.

Power to deposit rent in certain cases with Revenue-officer.

9. (*a*) When a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant,

(*b*) when a tenant, in the case mentioned in section eight, desires the appointment of a person to receive rent payable in money and the appointment is not made within a reasonable time, and

(*c*) when a tenant in any case is doubtful as to the person entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for permission to deposit in his court the amount of rent which he believes to be due; and that officer shall receive the deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application, and that it was made in good faith, and if the applicant pays the fee (if any) chargeable for the issue of the notice next hereinafter referred to.

Effect of depositing rent.

10. (*1*) When a deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(*2*) The officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(*3*) 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 clause 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 by a Revenue-officer.

Penalty for levy of anything in excess of rent by landlord.

11. Every tenant from whom, except under any special enactment for the time being in force, anything is levied by his landlord in excess of the rent legally payable, shall be entitled to recover from the landlord such sum as the Court thinks fit, not exceeding five hundred rupees, or, when double the amount or value of what is so levied exceeds five hundred rupees, not exceeding double that amount or value.

Penalty for refusing receipt, or giving defective receipt.

12. If a landlord refuses a receipt for rent paid by a tenant, or grants a receipt but refuses or neglects to specify therein the holding, and the period or crop, in respect of which the payment is made, or the amount paid, the tenant shall be entitled to recover from him such sum, not exceeding double the amount or value of the rent so paid, as the Court thinks fit.

Enhancement of rent when productive power of holding increased by landlord.

13. Notwithstanding anything in the record-of-rights, but subject to any contract in writing between the parties, the rent payable in money by any tenant may, on the application of his landlord, be enhanced by a Revenue-officer on the ground that an improvement has been made in accordance with this Act by or at the expense of the landlord whereby the productive power of the holding has been increased.

Power to alter rent when holding is increased, diminished or deteriorated.

14. When the area of a holding the rent of which is payable in money is increased or diminished by the encroachment of the tenant or the landlord, or by fluvial action or otherwise, or the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or other like calamity, a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to that increase, diminution or deterioration.

Power to alter rent in case of new assessment.

15. When a landlord grants a lease, or makes any other contract fixing the rent of any holding, and, while the lease or contract is in force,—

(*a*) land-revenue is for the first time made payable in respect of the holding, or

(*b*) land-revenue having been previously payable in respect of it, the revenue payable when the lease or other contract was granted or made is increased or diminished,

a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to the revenue.

Commutation of rent payable in kind.

16. (*1*) In all cases in which an absolute occupancy-tenant or occupancy-tenant pays rent for a holding in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another or others, the landlord or tenant may, notwithstanding anything in the record-of-rights or any contract between the parties, other than a contract whereby waste-land is let for the purpose of reclamation, apply during the progress of a settlement to a Settlement-officer, or at any other time, if the Chief Commissioner thinks fit to appoint a Revenue-officer in this behalf, to that officer, to commute the rent to a fixed money-rent.

(*2*) On the receipt of the application, the officer shall determine the sum to be paid as money-rent, and shall order that the tenant shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(*3*) If the application is opposed, the officer may, for reasons to be recorded by him in writing, refuse to grant the same.

C.—Of the Landlord's Lien on the Produce of a Holding.

Definition of produce of a holding.

17. In sections eighteen to twenty-four (both inclusive) the produce of a holding means—

(*a*) crops and other products of the earth standing or ungathered on the holding;

(*b*) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

Power of landlord, by notice, to prohibit removal of produce.

18. Where an arrear is due in respect of a holding, the landlord may, by notice served as hereinafter provided, prohibit the removal of the produce of the holding.

Provided that—

first, such a prohibition shall not be made on account of an arrear which has been due for a longer period than one year, or in respect of any produce which is under attachment by order of any Court; and

secondly, such a prohibition shall not be made more than once in respect of the same produce on account of the same arrear.

Contents and service of notice; time for which it remains in force.

19. (*1*) Every notice under section eighteen shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is claimed, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the decree, order or agreement, as the case may be, for the payment of that amount.

(*2*) The notice shall be served on the person in charge of the produce, and shall remain in force until the rent specified in the notice is paid, or, if that rent is not previously paid, until the expiration of thirty-five days from the date of service of the notice.

Right to reap, &c., produce not affected.

20. A notice under section eighteen shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Effect of instituting suit for rent while notice is in force.

21. If, while the notice is in force, the landlord institutes a suit for the recovery of the rent, the notice shall continue in force until the Court trying the suit otherwise directs; and, if the landlord obtains a decree in the suit, the amount of that decree shall be the first charge upon the produce.

Procedure when produce is under attachment.

22. (*1*) If the produce of the holding on which the arrear is due is under attachment by order of a Court, the landlord may apply to the Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

(*a*) any rent which has fallen due to him in respect of the holding within the year immediately preceding the application; and

(*b*) the instalment of rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

And the Court, if on inquiry it finds the landlord's claim to the whole or any part of the rent to be proved, shall sell the produce or such portion thereof as it may deem necessary, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(*2*) The finding of a Court on an inquiry under this section shall have the force of a decision in a suit between the parties.

Conflict between rights of superior and inferior landlords.

23. Where land is sublet and any conflict arises under sections eighteen to twenty-two (both inclusive) between the rights of a superior and of an inferior landlord, the right of the superior landlord shall prevail.

Penalty for illegal distraint by landlord, and for illegal removal of produce.

24. (*1*) Any landlord of a holding who distrains or attempts to distrain the produce of the holding, or prevents or attempts to prevent, otherwise than in accordance with this Act, any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, and

where a notice in respect of the produce of a holding has been served under section nineteen and is in force, any person who, knowing or having reason to believe that the notice is in force, removes, attempts to remove or abets the removal of the produce, except for any of the purposes mentioned in section twenty,

shall be punished with fine which may extend to five hundred rupees.

(*2*) Nothing in this section, and, except as provided in section 546 of the Code of Criminal Procedure, no proceeding under this section, shall affect the right of any person to recover compensation in a civil suit. X of 1882.

D.—Commissions for dividing or estimating Crops.

Commission for dividing or estimating crops.

25. 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, a Revenue-officer may, on the application of either party, issue a commission to such person as the officer thinks fit, directing him to divide, estimate or appraise the crop.

Appointment of assessors, &c.

26. (*1*) When a Revenue-officer appoints a Commissioner for any of the purposes mentioned in section twenty-five, the officer

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.

Remedy for error in division.

27. (1) If in any division under the foregoing provisions 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 when crop has been estimated or appraised.

28. (1) When a crop has been estimated or appraised under the foregoing provisions, the estimate or appraisement shall be reduced to writing and signed by the Commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued.

(2) The Revenue-officer shall consider the Commissioner's report, 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.

E.—Of Improvements and Compensation therefor.

Right to make improvements.

29. (1) In respect of the holding of an absolute occupancy-tenant or occupancy-tenant, the tenant, and in respect of the holding of an ordinary tenant, the landlord, shall be entitled to make improvements.

(2) If an ordinary tenant whose holding does not consist entirely of sír land, or the landlord of an absolute occupancy-tenant or of an occupancy-tenant, desires that any improvement be made in respect of the holding, he may deliver, or cause to be delivered, to his landlord or tenant, as the case may be, a request in writing calling upon him to make the improvement within a reasonable time, and, if he is unable or neglects to comply with that request, may, subject to such rules of procedure as the Chief Commissioner from time to time, by notification in the official Gazette, prescribes in this behalf, make the improvement himself.

Liability to pay to tenant on ejectment compensation for improvements.

30. (1) If an absolute occupancy-tenant, occupancy-tenant or ordinary tenant is ejected from his holding, he shall be entitled to compensation for improvements which he or the persons under whom he claims may have made in accordance with this Act or with the landlord's consent otherwise than in accordance with this Act, and for which compensation has not already been made.

(2) Whenever a Court makes a decree or order for the ejectment of a tenant, it shall determine the amount of compensation (if any) due under this section to the tenant for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the tenant.

(3) No compensation shall be claimable under this section for an improvement where the tenant has made the improvement in pursuance of a contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained that advantage.

(4) Improvements made by a tenant before this Act comes into force, in lands other than sír-land, shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Assessment of compensation.

31. (1) The Chief Commissioner 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 thirty for an improvement, such number of assessors as the Chief Commissioner thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

(2) In estimating the compensation to be awarded under section thirty for an improvement, regard shall be had—

(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 other advantage given by the landlord to the tenant in consideration of the improvement.

(3) When the amount of the compensation has been assessed, the landlord and tenant 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.

Avoidance of provisions barring right to make, or be compensated for, improvements.

32. An entry in the record-of-rights of any village or a stipulation in a contract providing—

(a) that a landlord shall be entitled to prevent a tenant 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 tenant ejected from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Act, be entitled to such compensation,

shall be void.

F.—Miscellaneous.

Surrender of holdings.

33. (1) Any tenant not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding.

(2) But notwithstanding the surrender, the tenant shall continue to be liable for the agricultural year next following the date of the surrender for the rent of the holding, unless he gives to his landlord, at least thirty days before he surrenders, notice of his intention to surrender.

(3) In the following cases, the Court shall presume that such notice was so given, that is to say:—

(a) if the tenant takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(b) if the tenant ceases, at least thirty days before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate; and

(c) if the landlord himself, at any time during the agricultural year next following the surrender, cultivates or lets to another tenant the holding or any part thereof.

Where land uncultivated and rent unpaid, tenant's right to be deemed surrendered.

34. Any tenant other than an absolute occupancy-tenant who leaves his holding uncultivated and the rent of it unpaid for a period of two years shall, at the expiration of that period, be deemed to have surrendered the holding:

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.

Tenant taking thíka or farm.

35. When a person, at the time of taking a thíka or farm, is a tenant of any land comprised therein, his interest as tenant shall not be affected by reason only of his taking the thíka or farm.

CHAPTER III.

OF ABSOLUTE OCCUPANCY-TENANTS.

Definition of absolute occupancy-tenant.

36. Every person who, on the day when this Act comes into force, is the tenant of any holding in respect of which he, or a person whose rights he has acquired, has been recorded in any record-of-rights made before that day as an "absolute occupancy-raiyat," or in terms equivalent thereto, shall, unless he has parted with his rights, be deemed to be an absolute occupancy-tenant of that holding.

Rents fixed for period of settlement.

37. (1) The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised, and the rent so fixed shall not be altered during the currency of the settlements, except under the provisions of section thirteen, section fourteen or section sixteen.

(2) The rent payable by any such tenant in respect of his holding when this Act comes into force shall be deemed to have been fixed at the last preceding settlement of the area in which his holding is comprised.

Right heritable and transferable after notice to landlord, who may claim to purchase.

38. (1) The right of an absolute occupancy-tenant in his holding shall on his death devolve as if it were land, and shall be transferable subject to the conditions contained in this section.

(2) If an absolute occupancy-tenant intends to transfer any right in his holding by sale or gift, or by mortgaging the same for a sum which, together with the interest payable thereon during the five years immediately succeeding the mortgage and the previous sums (if any) secured by mortgage of it, would exceed eight times the annual rent of the holding, or by sub-letting the same in consideration of a fine or premium exceeding five times that rent, he shall give to his landlord a written notice of his intention, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is given.

(3) If the intended transfer is by sale or gift, the landlord may within the said period of one month—

(a) claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix; or

(b) permit the sale or gift, in which case he shall be entitled to a sum equal to the rent for one year, and that sum shall be a first charge on the holding.

(4) If the intended transfer is by mortgage or sub-lease, the landlord may, within the said period of one month, claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(5) When the right of an absolute occupancy-tenant in his holding is sold by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall have the same right of pre-emption as is given in the case of a sale by sub-section (3), clause (a).

(6) When an application is made to a Revenue-officer under this section to fix the value of an absolute occupancy-right which is already mortgaged, he shall fix the value of the right as if it were not mortgaged; and if the landlord purchases the right, the mortgage-debt shall be a charge on the purchase-money in exoneration of the land.

(7) Any transfer made in contravention of this section shall be void.

Absolute occupancy-tenant not liable to ejectment.

39. Notwithstanding any contract to the contrary, or any provision of a record-of-rights, an absolute occupancy-tenant shall not be ejected from his holding by his landlord as such for any cause.

Rent first charge on holding.

40. The rent of the holding of an absolute occupancy-tenant shall be a first charge on that holding.

CHAPTER IV.

OF OCCUPANCY-TENANTS.

Definition of occupancy-tenant.

41. Every tenant who, when this Act comes into force, has held the same land continuously for twelve years, otherwise than as an absolute occupancy-tenant or a sub-tenant, and every person who is, when this Act comes into force, or thereafter becomes, a tenant (not being an absolute occupancy-tenant or a sub-tenant) of land in the districts of Chánda, Nimár and Sambalpúr, shall be deemed to be an occupancy-tenant of that land:

Provided that the land is not—

(a) sír-land, or

(b) held in lieu of wages, or

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(*c*) held, in any district other than Sambalpúr, under a written lease in which it is expressly agreed that a right of occupancy in the land shall not be acquired, or that the tenant shall quit the land at the termination of the lease.

Explanation I.—The occupation of any person from whom the tenant inherited his holding is, for the purposes of this section, deemed to be the occupation of the tenant.

Explanation II.—Where, by the custom of any village, the holdings of tenants are, or have been, liable to periodical redistribution, land which a tenant or any person under whom he claims has, in accordance with that custom, from time to time, received in exchange for land previously held by him is, for the purpose of calculating, under this section, the period of twelve years, deemed to be the same land as the land which he held before the exchange.

Cases in which ex-proprietors become occupancy-tenants of their sír-land.

42. Every person whose proprietary rights in land comprising sír-land are, after this Act comes into force, transferred in any of the following cases, namely:—

(*a*) when he sells those rights without expressly agreeing to transfer his right to cultivate the sír-land,

(*b*) when those rights are sold for an arrear of land-revenue,

(*c*) when those rights are sold in execution of any decree which does not expressly direct the sale of his rights in the sír-land,

shall become an occupancy-tenant of that sír-land, and the rent payable by him as such shall be fixed by a Revenue-officer on application made by him or by his landlord.

Devolution and transfer of occupancy-right.

43. (*1*) When an occupancy-tenant dies his right in his holding shall devolve as if it were land: Provided that, except in the districts of Chánda, Nimár and Sambalpúr, a collateral relative of the tenant shall not be entitled to inherit that right, unless at the death of the tenant he was a co-sharer in the holding.

(*2*) A transaction by which an occupancy-tenant attempts to effect a transfer of property in respect of his holding by sale, gift, mortgage, sub-lease or otherwise shall be void, unless—

(*a*) it is entered into with his landlord's consent, or

(*b*) the transfer is one to a person who, if he survived the tenant, would inherit the right of occupancy, or between persons in favour of whom, as co-sharers, the right of occupancy originally arose, or who have become, by succession, co-sharers therein;

(*3*) The right of an occupancy-tenant shall not be sold in execution of a decree.

Rent of occupancy-tenant to be fixed at settlement.

44. The rent of the holding of every occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised.

Fixation of rents during currency of settlement in Chánda, Nimar and Sambalpúr.

45. (*1*) In the districts of Chánda, Nimár and Sambalpúr, the rent fixed under section forty-four shall not be altered during the currency of any settlement except under section thirteen, section fourteen or section sixteen.

(*2*) The rent payable in respect of his holding by a tenant in any of those districts when this Act comes into force shall be deemed to have been fixed at the last preceding settlement of the area in which that holding is comprised.

(*3*) Subject to the provisions of sections thirteen, fourteen and sixteen, the rent payable by any such tenant in respect of a holding acquired by him after this Act comes into force shall, pending the recurrence of the settlement of the area in which that holding is comprised, be the rent fixed by agreement between him and his landlord at the time he acquires that holding, or, in the absence of any such agreement, or on the expiration of the term for which any such agreement has been made, a rent fixed by a Revenue-officer on the application of either party at the following rate, that is to say:—

(*a*) in the districts of Chánda and Nimár, the rate which the Chief Commissioner has prescribed for occupancy-tenants and caused to be entered in the record-of-rights at the last settlement;

(*b*) in the district of Sambalpúr, the average rate at which at the last settlement the rents of other lands in the same village of similar quality and possessing similar advantages were fixed.

Enhancement during currency of settlement in other districts.

46. The rate of rent payable in money by an occupancy-tenant in any other district may, during the currency of a settlement, on the application of the landlord to a Revenue-officer, be enhanced subject to the rules made under section eighty-two and for the time being in force:

Provided that—

(*a*) an application under this section shall not be entertained when the rent of the holding has within the ten years immediately preceding the application been fixed under any provision of this Act except section thirteen or section fourteen, or under any Act hereby repealed; and

(*b*) no order shall be made on any such application which is inconsistent with any contract made after the last preceding settlement and still in force.

Tenant's improvements how treated in fixing rent.

47. When the land in respect of which an application is made under section forty-five or section forty-six has been improved in accordance with this Act by the agency or at the expense of the tenant, the quality and advantages of the land shall, notwithstanding anything contained in any contract or record-of-rights, be deemed, for the purposes of that section, to be the quality and advantages which the land would have had and enjoyed if the improvements had not been made.

Grounds for ejectment.

48. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an occupancy-tenant shall not be ejected from his holding by his landlord as such except,—

(*a*) as hereinafter provided, for arrears of rent; or

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(*b*) in execution of a decree of a Civil Court passed on the ground of his having diverted the land to non-agricultural purposes, or being chargeable with some other act or omission which, by custom not inconsistent with this Act or with any other enactment for the time being in force, renders him liable to be ejected.

Tenant changing land in accordance with village-custom.

49. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical redistribution, and exchanging that land in accordance with the custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

Tenant changing land in other cases.

50. If a tenant having a right of occupancy in any land ceases to hold that land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that the tenant has accepted that other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

CHAPTER V.

OF SUB-TENANTS.

Definition of sub-tenant.

51. A tenant who holds land from another tenant is a sub-tenant of that land.

Tenure according to agreement.

52. A sub-tenant shall, subject to the provisions of sections seven, fourteen and fifteen, hold on such terms as may be agreed upon between him and his landlord.

CHAPTER VI.

OF ORDINARY TENANTS.

Definition of ordinary tenant.

53. Every tenant who is not an absolute occupancy-tenant, or an occupancy-tenant or a sub-tenant, is an ordinary tenant.

Rent of ordinary tenant regulated by agreement.

54. An ordinary tenant shall, subject to the provisions of sections fourteen and fifteen, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

Grounds on which an ordinary tenant may be ejected.

55. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an ordinary tenant shall not be ejected from his holding by his landlord as such except—

(*a*) as provided in the case of an occupancy-tenant in section forty-eight;

(*b*) 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, or that the holding consists entirely of sír-land.

Notice of enhancement to be served through Civil Court.

56. When a landlord wishes to enhance the rent of an ordinary tenant whose holding does not consist entirely of sír-land and whose rent is not fixed by an agreement in writing, and the tenant does not agree to the enhancement, the landlord may cause to be served on the tenant 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.

Liability of tenant to ejectment in default of his agreeing to enhancement.

57. (*1*) If, within the period of one month from the service of a notice under section fifty-six, the tenant 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 tenant 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 tenant.

Procedure in ejectment-suit.

58. (*1*) If in any suit instituted under section fifty-seven 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 tenant as compensation for improvements; and

(*b*) a further sum as compensation for disturbance equal to seven times the yearly increase of rent demanded.

Conditions on which ejectment-decree is to be executed.

59. (*1*) If these sums are so deposited, the decree shall be made absolute, and the sums deposited shall be paid to the tenant.

(*2*) If these sums are not so deposited, the decree shall become void, and the tenant shall remain in occupation of his holding at the rent previously paid by him.

Fresh proceedings not to be taken for seven years.

60. When a tenant has agreed, under section fifty-seven or section fifty-eight, to pay an enhanced rent for his holding, or a decree to eject him from that holding has become void under section fifty-nine, no notice shall be served on him under section fifty-six in respect of that holding during the seven years next following the date on which he has so agreed, or the decree has become void, as the case may be.

Devolution and transfer of ordinary tenancy.

61. (*1*) When an ordinary tenant dies, his right in his holding shall devolve as if it were land:

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Provided that a collateral relative of the tenant shall not be entitled to inherit his right unless at the death of the tenant he was a co-sharer in the holding.

(2) A transaction by which an ordinary tenant attempts to effect a transfer of property in respect of his holding by sale, gift, mortgage, sub-lease or otherwise shall be void, unless it is entered into with his landlord's consent.

(3) The right of an ordinary tenant shall not be sold in execution of a decree.

Obligation of landlord to confer occupancy-rights on ordinary tenant.

62. (1) Notwithstanding any contract to the contrary, the landlord of any holding held by an ordinary tenant shall, at the request of the tenant and on the tender by the tenant to him of a sum equal to twice and one-half the annual rent payable in respect to the holding, together with the cost of preparing any instrument required for this purpose, confer upon the tenant the rights of an occupancy-tenant in respect of the holding; and when those rights have been so conferred, the rent of the tenant shall be deemed to be fixed under this Act, within the meaning of section forty-six, at the rate at which rent was payable by the tenant at the date of the request and tender:

Provided that the landlord may, upon any such request and tender being made to him, apply to a Revenue-officer to fix the rent of the holding for the purposes of this section; and if he proves to the satisfaction of the officer that the rate of rent payable in respect of the holding is less than the rate usually paid by ordinary tenants of holdings situate in the same or adjoining tahsíls for land of similar quality with like advantages, the officer shall fix the rent at the latter rate, and the rent so fixed shall, for the purposes of this section, be deemed to be, and to have been at the date of the request and tender, the rent payable by the tenant.

(2) If a landlord, to whom a request and tender is made by a tenant under sub-section (1), refuses or neglects for a period of one month to confer the rights of an occupancy-tenant on the tenant, the tenant may deposit the sum aforesaid in the court of a Revenue-officer, and apply to that officer to confer upon him the rights of an occupancy-tenant in respect of the holding.

(3) The officer, after giving notice of the application to the landlord and hearing him if he appears, and making such inquiry as he thinks necessary, may execute any instrument required for conferring those rights upon the tenant, and the execution shall have the same effect as an execution by the landlord.

(4) A person upon whom the rights of an occupancy-tenant are conferred under this section shall be deemed to be an occupancy-tenant for the purposes of this Act.

(5) Nothing in this section shall apply to a holding consisting entirely of sír-land.

CHAPTER VII.

JURISDICTION AND PROCEDURE.

Jurisdiction of Civil Courts barred in certain cases.

63. No Court other than the Court of a Revenue-officer or Settlement-officer shall fix any rent or call in question any rent fixed by a Revenue-officer or Settlement-officer, or shall take cognizance of any dispute or matter in which any of the following applications might be made, namely:—

(*a*) applications for permission to deposit rent in Court (section nine);

(*b*) applications to enhance rent on account of improvements made by, or at the expense of, the landlord (section thirteen);

(*c*) applications to alter the rent of a holding on account of increase or diminution or deterioration of the holding, or of a new assessment of revenue (sections fourteen and fifteen);

(*d*) applications for the commutation of rents paid in kind (section sixteen);

(*e*) applications for a commission to divide, estimate or appraise a crop (section twenty-five);

(*f*) applications to fix the price at which a landlord may purchase in case of an intended transfer (section thirty-eight);

(*g*) applications to fix rent or confer occupancy-rights (section sixty-two);

(*h*) applications to measure or ascertain the condition of holdings (section eighty); and

(*i*) applications relating to such other matters as Revenue-officers or Settlement-officers are empowered to deal with under this Act or the rules made under this Act.

Procedure on applications to Revenue and Settlement-officers, and appeals from their orders.

64. (1) In fixing rents and disposing of the matters referred to in section sixty-three, Revenue-officers and Settlement-officers shall, as nearly as may be practicable, subject to the provisions of this Act, exercise the same powers and follow the same procedure as they exercise and follow under the Central Provinces Land-revenue Act, 1881.

XVIII of 1881.

(2) From every decision or order of a Revenue-officer or Settlement-officer fixing rent or disposing of any matter referred to in section sixty-three, an appeal shall lie as if that decision or order had been passed by that officer under the said Land-revenue Act.

Jurisdiction of Civil Courts in suits between landlords and tenants.

65. Except as provided in section sixty-three, the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such:

Provided that—

(*a*) a Judge of a Civil Court of original jurisdiction shall not, unless he is also a Revenue-officer or Settlement-officer, hear any such suit; and

(*b*) the Chief Commissioner may, from time to time, subject to the provisions of this Act, direct that all or any class of such suits shall be heard and determined only in such Courts competent to try the same as he thinks fit, and not otherwise.

Power to direct that suits between landlords and tenants be entered in separate register.

66. The Chief Commissioner may, from time to time, direct that all suits, or any specified class of suits, between landlords and tenants as such, shall not be registered in the registers of civil suits kept under the Code of Civil Procedure, but in such other registers as he may prescribe.

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Plaint in such suits.

67. (1) In suits between landlords and tenants as such, the plaint shall, in addition to the matters mentioned in section 50 of the Code of Civil Procedure, specify the area of the land to which the suit relates, and, where the fields comprised in that land have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which it is payable.

XIV of 1882.

(2) When the land to which the suit relates comprises parts of numbered fields, or has not been divided into numbered fields, an accurate and sufficient description of the land and its boundaries shall be given in the plaint.

Legal practitioners' fees not allowed, unless for special reasons.

68. In suits between landlords and tenants as such, the fees of a legal practitioner shall not be allowed as costs, unless the Court considers, for reasons to be recorded by it in writing, that those fees ought to be allowed.

Set-off when allowed in suits for arrears.

69. No set-off shall be allowed in any suit for arrears unless the amount claimed as a set-off has been determined by a decree or order of a competent Court or of a Revenue-officer or Settlement-officer.

Interest on arrears.

70. In suits for arrears, interest on the arrears may be allowed up to the date of institution, at such rate, not exceeding twelve per cent. per annum, as the Court thinks fit.

No appeal in certain suits for arrears.

71. A decree or order passed in a suit for arrears, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class, as defined in the Central Provinces Courts Act, 1865, shall not be subject to appeal, unless—

XIV of 1865.

(*a*) the amount or value of the subject-matter of the suit exceeds one hundred rupees; or

(*b*) a question relating to a title to land, or some interest in land, has been determined as between parties having conflicting claims thereto.

Ejectment for non-payment of an arrear due under a decree.

72. (1) If a decree for an arrear is passed against a tenant other than an absolute occupancy-tenant and remains unsatisfied, the landlord may, at any time before the execution of the decree is barred by limitation, apply to the Court having authority to execute the decree to cause a notice to be served on the tenant, directing him either to pay the amount due under the decree not later than the expiration of the agricultural year, or to surrender his holding not later than that time.

(2) If that amount is not so paid, and the holding is not so surrendered, the Court may in its discretion, but subject to the provisions of this Act, make an order to eject the tenant from the holding.

Power of Court to deal with cases of drought or other calamity in suits for arrears.

73. (1) Where, in answer to a suit for an arrear, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period in respect of which the arrear is claimed has been diminished or destroyed by drought, hail or other extraordinary calamity beyond his control, the Court in its discretion may, notwithstanding any contract to the contrary, allow in its decree any deduction from the arrear, and direct payment of the amount decreed (if any) in such instalments (if any) as it thinks fit.

(2) In any such case the Court may order that the provisions of section seventy-two shall not apply to the decree.

(3) In making a decree under this section the Court shall have regard to—

(*a*) the value of the produce of the holding for the whole agricultural year in respect of which the arrear accrued; and

(*b*) the proportion which the amount of rent payable for that year by the tenant bears to that value.

(4) If in any such suit it appears that the land-revenue of the village in which the holding is situate has been suspended or remitted on account of drought, hail or other extraordinary calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that the diminution or destruction alleged by the tenant has taken place.

Relief against forfeitures.

74. (1) A suit for the ejectment of a tenant on the ground that he has done or omitted to do something for doing or omitting to do which he is liable to ejectment, 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.

(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 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.

Rights of ejected tenant in respect of crops and land prepared for sowing.

75. The following rules shall be applicable in the case of every tenant ejected from a holding:—

(*a*) When the tenant 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

Central Provinces Tenancy Act, 1883.

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tending and gathering in the crops, or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing the land and sowing, planting and tending the crops, together with reasonable interest thereon.

(*b*) When the tenant 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 estimated value of the labour and capital expended by him in so preparing the land, together with reasonable interest thereon:

Provided that a tenant 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.

Payment by tenant for occupation of land under section 75.

76. When a landlord elects, under section seventy-five, clause (*a*), to allow a tenant to retain possession of any land for the purpose specified in that clause, the tenant 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 may deem reasonable.

All claims between landlord and tenant to be determined in ejectment-proceedings.

77. 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.

Procedure when, on ejectment, money is due by the landlord to the tenant.

78. (*1*) When it appears to a Court making an inquiry under section seventy-seven 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.

(*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.

Ejectment decrees and orders to have effect from beginning of agricultural year.

79. All decrees and orders for ejectment under this Act shall take effect from the beginning of the agricultural year next following the date of the decree or order.

Applications to measure or ascertain condition of holdings.

80. (*1*) If any landlord or tenant of a holding desires that the extent of that holding be ascertained, or that evidence relating to any improvement made in respect thereof, or to the state of the holding at any specified time, be recorded, he may apply to a Revenue-officer; and that officer shall thereupon, in presence of the parties,—

(*a*) make, or cause to be made, such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, and record his finding thereon, or

(*b*) (where the applicant seeks to have evidence recorded) record that evidence:

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

(*2*) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

Limitation in suits by tenant to recover possession.

81. The period of limitation for a suit instituted by a tenant other than an absolute occupancy-tenant to recover possession of land from which he has been ejected shall be two years from the date on which he is ejected.

In other respects the limitation of every such suit shall be governed by the Indian Limitation Act, 1877. XV of 1877.

CHAPTER VIII.

POWER TO MAKE RULES.

Rules by Chief Commissioner.

82. The Chief Commissioner may, from time to time, by notification in the official Gazette, make rules consistent with the provisions of this Act—

(*a*) for the guidance of Revenue-officers and Settlement-officers in fixing, altering and commuting rents; and

(*b*) for the guidance of all other persons in matters connected with the enforcement of this Act.

SCHEDULE.

(*See Section 2.*)

ACTS REPEALED.

Number and year of Act.	Title.
Act X of 1859 ...	To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.
Act XIV of 1863 ...	To amend Act X of 1859.
Act XXII of 1872 ...	To explain and amend Act X of 1859.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd June, 1883, and is hereby promulgated for general information:—

ACT No. IX OF 1883.

THE CENTRAL PROVINCES TENANCY ACT, 1883.

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SCHEDULE—ACTS REPEALED.

An Act to consolidate and amend the law relating to Agricultural Tenancies in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Central Provinces Tenancy Act, 1883: and Short title.

(*2*) It extends to all the territories for the time being administered by the Chief Commissioner of the Central Provinces, except those specified in the Scheduled Districts Act, 1874, Schedule I, Part VI. Local extent. XIV of 1874.

(*3*) This Act shall come into force on such day as the Chief Commissioner, with the previous sanction of the Governor General in Council, may by notification in the local official Gazette direct. Commencement.

Nevertheless, any notification, rule, order or appointment to an office may be made under this Act at any time after the passing thereof, but shall not take effect before this Act comes into force.

2. On and from the day on which this Act comes into force, the Acts mentioned in the schedule hereto annexed shall be repealed. Repeal of Acts.

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

(1) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land:

(2) "tenant" means a person who holds land of another person, and is, or, but for a special contract, would be, liable to pay rent for that land to that other person. But it does not include a farmer, mortgagee or thíkadár of proprietary rights:

Explanation.—An inferior proprietor is not, as such a tenant:

(3) "landlord" means the person of whom a tenant holds land, and to whom the tenant is, or, but for a special contract, would be, liable to pay rent for that land:

(4) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:

(5) "pay," "payable," and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery":

(6) "arrear" means an instalment or part of an instalment of rent which is not paid on or before the date on which it is payable:

(7) "holding" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions:

(8) "improvement" means, with reference to a holding, 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:

Explanation I.—It includes the reclaiming, enclosing or clearing of lands for agricultural purposes; but it does not include such embankments, temporary wells and water-channels as are made by tenants in the ordinary course of agriculture; and no work executed by the tenant of a holding is an improvement if it substantially diminishes the value of any other part of the estate of his landlord:

Explanation II.—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement:

(9) "Revenue-officer" and "Settlement-officer," in any provision of this Act, mean respectively such Revenue-officer or Settlement-officer appointed under the Central Provinces Land-revenue Act, 1881, as the Chief Commissioner may, from time to time, by notification in the official Gazette, direct by name or by virtue of his office to discharge the functions of a Revenue-officer or Settlement-officer (as the case may be) under that provision: XVIII of 1881.

(10) "agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified local area, from time to time, by notification in the official Gazette, appoint:

(11) "sír-land" means—

(*a*) land recorded as "sír" in the papers of the last preceding settlement of the local area in which the land is situate;

(*b*) land not so recorded, but which has been cultivated by the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years;

(*c*) waste land which has been broken up by the proprietor or one of the proprietors thereof, and cultivated by him for a period of not less than six consecutive years; and

(*d*) the "bhogra" lands of Sambalpúr:

Explanation.—Land which has, after the date of the above-mentioned settlement, or the expiration of the above-mentioned period of twelve years or six years (as the case may be), been for a period of six consecutive years unoccupied by the proprietor is not sír-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sír-rights:

(12) "village" includes any tract of land which, at the last settlement of the same, has been recognised as a village, or which the Chief Commissioner declares to be a village for the purposes of the Central Provinces Land-revenue Act, 1881: and XVIII of 1881.

(13) "record-of-rights" includes the supplementary administration paper prepared at or after the time of making a settlement before the Central Provinces Land-revenue Act, 1881, came into force. XVIII 1881.

CHAPTER II.

OF TENANTS GENERALLY.

A.—Classification of Tenants.

4. There shall be four classes of tenants, namely:— Classes of tenants.

(1) Absolute occupancy-tenants;

(2) Occupancy-tenants;

(3) Sub-tenants;

(4) Ordinary tenants.

B.—Provisions relating to Rent.

5. In all suits and proceedings between landlord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of the holding in the agricultural year immediately preceding that year. Presumption as to amount of rent payable.

6. An order fixing, altering or commuting the rent of a holding on an application under this Act may, as the officer making the order thinks fit, take effect from the commencement of the agricultural year next following the date of the application, or from any subsequent Date from which order fixing rent operates.

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day, or, if it is made on the ground of increase, diminution or deterioration of the holding, from the date of that increase, diminution or deterioration, or from any subsequent day.

Time for payment of rents.

7. Rents shall be payable in such instalments and on such dates as the Chief Commissioner may, from time to time, by notification in the official Gazette, prescribe, and, in the absence of any such notification applicable to the case, according to the contract between the parties, or, where there is no such contract, according to local usage.

Rents payable to a number of landlords.

8. When two or more persons are landlords of a tenant in respect of the same holding, the tenant, subject to any rule which the Chief Commissioner may, from time to time, by notification in the official Gazette, make in this behalf, and to any contract between the parties, shall not be bound to pay part of the rent of his holding to one of those persons and part to another or others; and, subject as aforesaid, those persons shall, if the tenant so desires, appoint one of their number or some other person to receive the rent.

Power to deposit rent in certain cases with Revenue-officer.

9. (*a*) When a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant,

(*b*) when a tenant, in the case mentioned in section eight, desires the appointment of a person to receive rent payable in money and the appointment is not made within a reasonable time, and

(*c*) when a tenant in any case is doubtful as to the person entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for permission to deposit in his court the amount of rent which he believes to be due; and that officer shall receive the deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application, and that it was made in good faith, and if the applicant pays the fee (if any) chargeable for the issue of the notice next hereinafter referred to.

Effect of depositing rent.

10. (*1*) When a deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(*2*) The officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(*3*) 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 clause 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 by a Revenue-officer.

Penalty for levy of anything in excess of rent by landlord.

11. Every tenant from whom, except under any special enactment for the time being in force, anything is levied by his landlord in excess of the rent legally payable, shall be entitled to recover from the landlord such sum as the Court thinks fit, not exceeding five hundred rupees, or, when double the amount or value of what is so levied exceeds five hundred rupees, not exceeding double that amount or value.

Penalty for refusing receipt, or giving defective receipt.

12. If a landlord refuses a receipt for rent paid by a tenant, or grants a receipt but refuses or neglects to specify therein the holding, and the period or crop, in respect of which the payment is made, or the amount paid, the tenant shall be entitled to recover from him such sum, not exceeding double the amount or value of the rent so paid, as the Court thinks fit.

Enhancement of rent when productive power of holding increased by landlord.

13. Notwithstanding anything in the record-of-rights, but subject to any contract in writing between the parties, the rent payable in money by any tenant may, on the application of his landlord, be enhanced by a Revenue-officer on the ground that an improvement has been made in accordance with this Act by or at the expense of the landlord whereby the productive power of the holding has been increased.

Power to alter rent when holding is increased, diminished or deteriorated.

14. When the area of a holding the rent of which is payable in money is increased or diminished by the encroachment of the tenant or the landlord, or by fluvial action or otherwise, or the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or other like calamity, a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to that increase, diminution or deterioration.

Power to alter rent in case of new assessment.

15. When a landlord grants a lease, or makes any other contract fixing the rent of any holding, and, while the lease or contract is in force,—

(*a*) land-revenue is for the first time made payable in respect of the holding, or

(*b*) land-revenue having been previously payable in respect of it, the revenue payable when the lease or other contract was granted or made is increased or diminished,

a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to the revenue.

Commutation of rent payable in kind.

16. (*1*) In all cases in which an absolute occupancy-tenant or occupancy-tenant pays rent for a holding in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another or others, the landlord or tenant may, notwithstanding anything in the record-of-rights or any contract between the parties, other than a contract whereby waste-land is let for the purpose of reclamation, apply during the progress of a settlement to a Settlement-officer, or at any other time, if the Chief Commissioner thinks fit, to appoint a Revenue-officer to [illegible]

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officer to commute the rent to a fixed money-rent.

(*2*) On the receipt of the application, the officer shall determine the sum to be paid as money-rent, and shall order that the tenant shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(*3*) If the application is opposed, the officer may, for reasons to be recorded by him in writing, refuse to grant the same.

C.—Of the Landlord's Lien on the Produce of a Holding.

Definition of produce of a holding.

17. In sections eighteen to twenty-four (both inclusive) the produce of a holding means—

(*a*) crops and other products of the earth standing or ungathered on the holding;

(*b*) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

Power of landlord, by notice, to prohibit removal of produce.

18. Where an arrear is due in respect of a holding, the landlord may, by notice served as hereinafter provided, prohibit the removal of the produce of the holding.

Provided that—

first, such a prohibition shall not be made on account of an arrear which has been due for a longer period than one year, or in respect of any produce which is under attachment by order of any Court; and

secondly, such a prohibition shall not be made more than once in respect of the same produce on account of the same arrear.

Contents and service of notice; time for which it remains in force.

19. (*1*) Every notice under section eighteen shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is claimed, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the decree, order or agreement, as the case may be, for the payment of that amount.

(*2*) The notice shall be served on the person in charge of the produce, and shall remain in force until the rent specified in the notice is paid, or, if that rent is not previously paid, until the expiration of thirty-five days from the date of service of the notice.

Right to reap, &c., produce not affected.

20. A notice under section eighteen shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Effect of instituting suit for rent while notice is in force.

21. If, while the notice is in force, the landlord institutes a suit for the recovery of the rent, the notice shall continue in force until the Court trying the suit otherwise directs; and, if the landlord obtains a decree in the suit, the amount of that decree shall be the first charge upon the produce.

Procedure when produce is under attachment.

22. (*1*) If the produce of the holding on which the arrear is due is under attachment by order of a Court, the landlord may apply to the Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

(*a*) any rent which has fallen due to him in respect of the holding within the year immediately preceding the application; and

(*b*) the instalment of rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

And the Court, if on inquiry it finds the landlord's claim to the whole or any part of the rent to be proved, shall sell the produce or such portion thereof as it may deem necessary, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(*2*) The finding of a Court on an inquiry under this section shall have the force of a decision in a suit between the parties.

Conflict between rights of superior and inferior landlords.

23. Where land is sublet and any conflict arises under sections eighteen to twenty-two (both inclusive) between the rights of a superior and of an inferior landlord, the right of the superior landlord shall prevail.

Penalty for illegal distraint by landlord, and for illegal removal of produce.

24. (*1*) Any landlord of a holding who distrains or attempts to distrain the produce of the holding, or prevents or attempts to prevent, otherwise than in accordance with this Act, any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, and

where a notice in respect of the produce of a holding has been served under section nineteen and is in force, any person who, knowing or having reason to believe that the notice is in force, removes, attempts to remove or abets the removal of the produce, except for any of the purposes mentioned in section twenty,

shall be punished with fine which may extend to five hundred rupees.

(*2*) Nothing in this section, and, except as provided in section 516 of the Code of Criminal Procedure, no proceeding under this section, shall affect the right of any person to recover compensation in a civil suit. X of 1882.

D.—Commissions for dividing or estimating Crops.

Commission for dividing or estimating crops.

25. 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, a Revenue-officer may, on the application of either party, issue a commission to such person as the officer thinks fit, directing him to divide, estimate or appraise the crop.

Appointment of assessors, &c.

26. (*1*) When a Revenue-officer appoints a Commissioner for any of the purposes mentioned in section twenty-five, the officer

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.

Remedy for error in division.

27. (1) If in any division under the foregoing provisions 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 when crop has been estimated or appraised.

28. (1) When a crop has been estimated or appraised under the foregoing provisions, the estimate or appraisement shall be reduced to writing and signed by the Commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued.

(2) The Revenue-officer shall consider the Commissioner's report, 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.

E.—Of Improvements and Compensation therefor.

Right to make improvements.

29. (1) In respect of the holding of an absolute occupancy-tenant or occupancy-tenant, the tenant, and in respect of the holding of an ordinary tenant, the landlord, shall be entitled to make improvements.

(2) If an ordinary tenant whose holding does not consist entirely of sír land, or the landlord of an absolute occupancy-tenant or of an occupancy-tenant, desires that any improvement be made in respect of the holding, he may deliver, or cause to be delivered, to his landlord or tenant, as the case may be, a request in writing calling upon him to make the improvement within a reasonable time, and, if he is unable or neglects to comply with that request, may, subject to such rules of procedure as the Chief Commissioner from time to time, by notification in the official Gazette, prescribes in this behalf, make the improvement himself.

Liability to pay to tenant on ejectment compensation for improvements.

30. (1) If an absolute occupancy-tenant, occupancy-tenant or ordinary tenant is ejected from his holding, he shall be entitled to compensation for improvements which he or the persons under whom he claims may have made in accordance with this Act or with the landlord's consent otherwise than in accordance with this Act, and for which compensation has not already been made.

(2) Whenever a Court makes a decree or order for the ejectment of a tenant, it shall determine the amount of compensation (if any) due under this section to the tenant for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the tenant.

(3) No compensation shall be claimable under this section for an improvement where the tenant has made the improvement in pursuance of a contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained that advantage.

(4) Improvements made by a tenant before this Act comes into force, in lands other than sír-land, shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Assessment of compensation.

31. (1) The Chief Commissioner 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 thirty for an improvement, such number of assessors as the Chief Commissioner thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

(2) In estimating the compensation to be awarded under section thirty for an improvement, regard shall be had—

(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 other advantage given by the landlord to the tenant in consideration of the improvement.

(3) When the amount of the compensation has been assessed, the landlord and tenant 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.

Avoidance of provisions barring right to make, or be compensated for, improvements.

32. An entry in the record-of-rights of any village or a stipulation in a contract providing—

(a) that a landlord shall be entitled to prevent a tenant 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 tenant ejected from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Act, be entitled to such compensation,

shall be void.

F.—Miscellaneous.

Surrender of holdings.

33. (1) Any tenant not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding.

(2) But notwithstanding the surrender, the tenant shall continue to be liable for the agricultural year next following the date of the surrender for the rent of the holding, unless he gives to his landlord, at least thirty days before he surrenders, notice of his intention to surrender.

(3) In the following cases, the Court shall presume that such notice was so given, that is to say:—

(a) if the tenant takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(b) if the tenant ceases, at least thirty days before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate; and

(c) if the landlord himself, at any time during the agricultural year next following the surrender, cultivates or lets to another tenant the holding or any part thereof.

Where land uncultivated and rent unpaid, tenant's right to be deemed surrendered.

34. Any tenant other than an absolute occupancy-tenant who leaves his holding uncultivated and the rent of it unpaid for a period of two years shall, at the expiration of that period, be deemed to have surrendered the holding:

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.

Tenant taking thíka or farm.

35. When a person, at the time of taking a thíka or farm, is a tenant of any land comprised therein, his interest as tenant shall not be affected by reason only of his taking the thíka or farm.

CHAPTER III.

OF ABSOLUTE OCCUPANCY-TENANTS.

Definition of absolute occupancy-tenant.

36. Every person who, on the day when this Act comes into force, is the tenant of any holding in respect of which he, or a person whose rights he has acquired, has been recorded in any record-of-rights made before that day as an "absolute occupancy-raiyat," or in terms equivalent thereto, shall, unless he has parted with his rights, be deemed to be an absolute occupancy-tenant of that holding.

Rents fixed for period of settlement.

37. (1) The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised, and the rent so fixed shall not be altered during the currency of the settlements, except under the provisions of section thirteen, section fourteen or section sixteen.

(2) The rent payable by any such tenant in respect of his holding when this Act comes into force shall be deemed to have been fixed at the last preceding settlement of the area in which his holding is comprised.

Right heritable and transferable after notice to landlord, who may claim to purchase.

38. (1) The right of an absolute occupancy-tenant in his holding shall on his death devolve as if it were land, and shall be transferable subject to the conditions contained in this section.

(2) If an absolute occupancy-tenant intends to transfer any right in his holding by sale or gift, or by mortgaging the same for a sum which, together with the interest payable thereon during the five years immediately succeeding the mortgage and the previous sums (if any) secured by mortgage of it, would exceed eight times the annual rent of the holding, or by sub-letting the same in consideration of a fine or premium exceeding five times that rent, he shall give to his landlord a written notice of his intention, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is given.

(3) If the intended transfer is by sale or gift, the landlord may within the said period of one month—

(a) claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix; or

(b) permit the sale or gift, in which case he shall be entitled to a sum equal to the rent for one year, and that sum shall be a first charge on the holding.

(4) If the intended transfer is by mortgage or sub-lease, the landlord may, within the said period of one month, claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(5) When the right of an absolute occupancy-tenant in his holding is sold by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall have the same right of pre-emption as is given in the case of a sale by sub-section (3), clause (a).

(6) When an application is made to a Revenue-officer under this section to fix the value of an absolute occupancy-right which is already mortgaged, he shall fix the value of the right as if it were not mortgaged; and if the landlord purchases the right, the mortgage-debt shall be a charge on the purchase-money in exoneration of the land.

(7) Any transfer made in contravention of this section shall be void.

Absolute occupancy-tenant not liable to ejectment.

39. Notwithstanding any contract to the contrary, or any provision of a record-of-rights, an absolute occupancy-tenant shall not be ejected from his holding by his landlord as such for any cause.

Rent first charge on holding.

40. The rent of the holding of an absolute occupancy-tenant shall be a first charge on that holding.

CHAPTER IV.

OF OCCUPANCY-TENANTS.

Definition of occupancy-tenant.

41. Every tenant who, when this Act comes into force, has held the same land continuously for twelve years, otherwise than as an absolute occupancy-tenant or a sub-tenant, and every person who is, when this Act comes into force, or thereafter becomes, a tenant (not being an absolute occupancy-tenant or a sub-tenant) of land in the districts of Chánda, Nimár and Sambalpúr, shall be deemed to be an occupancy-tenant of that land:

Provided that the land is not—

(a) sír-land, or

(b) held in lieu of wages, or

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(*c*) held, in any district other than Sambalpúr, under a written lease in which it is expressly agreed that a right of occupancy in the land shall not be acquired, or that the tenant shall quit the land at the termination of the lease.

Explanation I.—The occupation of any person from whom the tenant inherited his holding is, for the purposes of this section, deemed to be the occupation of the tenant.

Explanation II.—Where, by the custom of any village, the holdings of tenants are, or have been, liable to periodical redistribution, land which a tenant or any person under whom he claims has, in accordance with that custom, from time to time, received in exchange for land previously held by him is, for the purpose of calculating, under this section, the period of twelve years, deemed to be the same land as the land which he held before the exchange.

Cases in which ex-proprietors become occupancy-tenants of their sír-land.

42. Every person whose proprietary rights in land comprising sír-land are, after this Act comes into force, transferred in any of the following cases, namely:—

(*a*) when he sells those rights without expressly agreeing to transfer his right to cultivate the sír-land,

(*b*) when those rights are sold for an arrear of land-revenue,

(*c*) when those rights are sold in execution of any decree which does not expressly direct the sale of his rights in the sír-land,

shall become an occupancy-tenant of that sír-land, and the rent payable by him as such shall be fixed by a Revenue-officer on application made by him or by his landlord.

Devolution and transfer of occupancy-right.

43. (*1*) When an occupancy-tenant dies his right in his holding shall devolve as if it were land: Provided that, except in the districts of Chánda, Nimár and Sambalpúr, a collateral relative of the tenant shall not be entitled to inherit that right, unless at the death of the tenant he was a co-sharer in the holding.

(*2*) A transaction by which an occupancy-tenant attempts to effect a transfer of property in respect of his holding by sale, gift, mortgage, sub-lease or otherwise shall be void, unless—

(*a*) it is entered into with his landlord's consent, or

(*b*) the transfer is one to a person who, if he survived the tenant, would inherit the right of occupancy, or between persons in favour of whom, as co-sharers, the right of occupancy originally arose, or who have become, by succession, co-sharers therein;

(*3*) The right of an occupancy-tenant shall not be sold in execution of a decree.

Rent of occupancy-tenant to be fixed at settlement.

44. The rent of the holding of every occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised.

Fixation of rents during currency of settlement in Chánda, Nimar and Sambalpúr.

45. (*1*) In the districts of Chánda, Nimár and Sambalpúr, the rent fixed under section forty-four shall not be altered during the currency of any settlement except under section thirteen, section fourteen or section sixteen.

(*2*) The rent payable in respect of his holding by a tenant in any of those districts when this Act comes into force shall be deemed to have been fixed at the last preceding settlement of the area in which that holding is comprised.

(*3*) Subject to the provisions of sections thirteen, fourteen and sixteen, the rent payable by any such tenant in respect of a holding acquired by him after this Act comes into force shall, pending the recurrence of the settlement of the area in which that holding is comprised, be the rent fixed by agreement between him and his landlord at the time he acquires that holding, or, in the absence of any such agreement, or on the expiration of the term for which any such agreement has been made, a rent fixed by a Revenue-officer on the application of either party at the following rate, that is to say:—

(*a*) in the districts of Chánda and Nimár, the rate which the Chief Commissioner has prescribed for occupancy-tenants and caused to be entered in the record-of-rights at the last settlement;

(*b*) in the district of Sambalpúr, the average rate at which at the last settlement the rents of other lands in the same village of similar quality and possessing similar advantages were fixed.

Enhancement during currency of settlement in other districts.

46. The rate of rent payable in money by an occupancy-tenant in any other district may, during the currency of a settlement, on the application of the landlord to a Revenue-officer, be enhanced subject to the rules made under section eighty-two and for the time being in force:

Provided that—

(*a*) an application under this section shall not be entertained when the rent of the holding has within the ten years immediately preceding the application been fixed under any provision of this Act except section thirteen or section fourteen, or under any Act hereby repealed; and

(*b*) no order shall be made on any such application which is inconsistent with any contract made after the last preceding settlement and still in force.

Tenant's improvements how treated in fixing rent.

47. When the land in respect of which an application is made under section forty-five or section forty-six has been improved in accordance with this Act by the agency or at the expense of the tenant, the quality and advantages of the land shall, notwithstanding anything contained in any contract or record-of-rights, be deemed, for the purposes of that section, to be the quality and advantages which the land would have had and enjoyed if the improvements had not been made.

Grounds for ejectment.

48. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an occupancy-tenant shall not be ejected from his holding by his landlord as such except,—

(*a*) as hereinafter provided, for arrears of rent; or

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(*b*) in execution of a decree of a Civil Court passed on the ground of his having diverted the land to non-agricultural purposes, or being chargeable with some other act or omission which, by custom not inconsistent with this Act or with any other enactment for the time being in force, renders him liable to be ejected.

Tenant changing land in accordance with village-custom.

49. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical redistribution, and exchanging that land in accordance with the custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

Tenant changing land in other cases.

50. If a tenant having a right of occupancy in any land ceases to hold that land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that the tenant has accepted that other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

CHAPTER V.

OF SUB-TENANTS.

Definition of sub-tenant.

51. A tenant who holds land from another tenant is a sub-tenant of that land.

Tenure according to agreement.

52. A sub-tenant shall, subject to the provisions of sections seven, fourteen and fifteen, hold on such terms as may be agreed upon between him and his landlord.

CHAPTER VI.

OF ORDINARY TENANTS.

Definition of ordinary tenant.

53. Every tenant who is not an absolute occupancy-tenant; or an occupancy-tenant or a sub-tenant, is an ordinary tenant.

Rent of ordinary tenant regulated by agreement.

54. An ordinary tenant shall, subject to the provisions of sections fourteen and fifteen, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

Grounds on which an ordinary tenant may be ejected.

55. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an ordinary tenant shall not be ejected from his holding by his landlord as such except—

(*a*) as provided in the case of an occupancy-tenant in section forty-eight;

(*b*) 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, or that the holding consists entirely of sír-land.

Notice of enhancement to be served through Civil Court.

56. When a landlord wishes to enhance the rent of an ordinary tenant whose holding does not consist entirely of sír-land and whose rent is not fixed by an agreement in writing, and the tenant does not agree to the enhancement, the landlord may cause to be served on the tenant 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.

Liability of tenant to ejectment in default of his agreeing to enhancement.

57. (*1*) If, within the period of one month from the service of a notice under section fifty-six, the tenant 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 tenant 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 tenant.

Procedure in ejectment-suit.

58. (*1*) If in any suit instituted under section fifty-seven 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 tenant as compensation for improvements; and

(*b*) a further sum as compensation for disturbance equal to seven times the yearly increase of rent demanded.

Conditions on which ejectment-decree is to be executed.

59. (*1*) If these sums are so deposited, the decree shall be made absolute, and the sums deposited shall be paid to the tenant.

(*2*) If these sums are not so deposited, the decree shall become void, and the tenant shall remain in occupation of his holding at the rent previously paid by him.

Fresh proceedings not to be taken for seven years.

60. When a tenant has agreed, under section fifty-seven or section fifty-eight, to pay an enhanced rent for his holding, or a decree to eject him from that holding has become void under section fifty-nine, no notice shall be served on him under section fifty-six in respect of that holding during the seven years next following the date on which he has so agreed, or the decree has become void, as the case may be.

Devolution and transfer of ordinary tenancy.

61. (*1*) When an ordinary tenant dies, his right in his holding shall devolve as if it were land:

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Provided that a collateral relative of the tenant shall not be entitled to inherit his right unless at the death of the tenant he was a co-sharer in the holding.

(2) A transaction by which an ordinary tenant attempts to effect a transfer of property in respect of his holding by sale, gift, mortgage, sub-lease or otherwise shall be void, unless it is entered into with his landlord's consent.

(3) The right of an ordinary tenant shall not be sold in execution of a decree.

Obligation of landlord to confer occupancy-rights on ordinary tenant.

62. (1) Notwithstanding any contract to the contrary, the landlord of any holding held by an ordinary tenant shall, at the request of the tenant and on the tender by the tenant to him of a sum equal to twice and one-half the annual rent payable in respect to the holding, together with the cost of preparing any instrument required for this purpose, confer upon the tenant the rights of an occupancy-tenant in respect of the holding; and when those rights have been so conferred, the rent of the tenant shall be deemed to be fixed under this Act, within the meaning of section forty-six, at the rate at which rent was payable by the tenant at the date of the request and tender:

Provided that the landlord may, upon any such request and tender being made to him, apply to a Revenue-officer to fix the rent of the holding for the purposes of this section; and if he proves to the satisfaction of the officer that the rate of rent payable in respect of the holding is less than the rate usually paid by ordinary tenants of holdings situate in the same or adjoining tahsíls for land of similar quality with like advantages, the officer shall fix the rent at the latter rate, and the rent so fixed shall, for the purposes of this section, be deemed to be, and to have been at the date of the request and tender, the rent payable by the tenant.

(2) If a landlord, to whom a request and tender is made by a tenant under sub-section (1), refuses or neglects for a period of one month to confer the rights of an occupancy-tenant on the tenant, the tenant may deposit the sum aforesaid in the court of a Revenue-officer, and apply to that officer to confer upon him the rights of an occupancy-tenant in respect of the holding.

(3) The officer, after giving notice of the application to the landlord and hearing him if he appears, and making such inquiry as he thinks necessary, may execute any instrument required for conferring those rights upon the tenant, and the execution shall have the same effect as an execution by the landlord.

(4) A person upon whom the rights of an occupancy-tenant are conferred under this section shall be deemed to be an occupancy-tenant for the purposes of this Act.

(5) Nothing in this section shall apply to a holding consisting entirely of sír-land.

CHAPTER VII.

JURISDICTION AND PROCEDURE.

Jurisdiction of Civil Courts barred in certain cases.

63. No Court other than the Court of a Revenue-officer or Settlement-officer shall fix any rent or call in question any rent fixed by a Revenue-officer or Settlement-officer, or shall take cognizance of any dispute or matter in which any of the following applications might be made, namely:—

(a) applications for permission to deposit rent in Court (section nine);

(b) applications to enhance rent on account of improvements made by, or at the expense of, the landlord (section thirteen);

(c) applications to alter the rent of a holding on account of increase or diminution or deterioration of the holding, or of a new assessment of revenue (sections fourteen and fifteen);

(d) applications for the commutation of rents paid in kind (section sixteen);

(e) applications for a commission to divide, estimate or appraise a crop (section twenty-five);

(f) applications to fix the price at which a landlord may purchase in case of an intended transfer (section thirty-eight);

(g) applications to fix rent or confer occupancy-rights (section sixty-two);

(h) applications to measure or ascertain the condition of holdings (section eighty); and

(i) applications relating to such other matters as Revenue-officers or Settlement-officers are empowered to deal with under this Act or the rules made under this Act.

Procedure on applications to Revenue and Settlement-officers, and appeals from their orders.

64. (1) In fixing rents and disposing of the matters referred to in section sixty-three, Revenue-officers and Settlement-officers shall, as nearly as may be practicable, subject to the provisions of this Act, exercise the same powers and follow the same procedure as they exercise and follow under the Central Provinces Land-revenue Act, 1881. XVIII of 1881.

(2) From every decision or order of a Revenue-officer or Settlement-officer fixing rent or disposing of any matter referred to in section sixty-three, an appeal shall lie as if that decision or order had been passed by that officer under the said Land-revenue Act.

Jurisdiction of Civil Courts in suits between landlords and tenants.

65. Except as provided in section sixty-three, the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such:

Provided that—

(a) a Judge of a Civil Court of original jurisdiction shall not, unless he is also a Revenue-officer or Settlement-officer, hear any such suit; and

(b) the Chief Commissioner may, from time to time, subject to the provisions of this Act, direct that all or any class of such suits shall be heard and determined only in such Courts competent to try the same as he thinks fit, and not otherwise.

Power to direct that suits between landlords and tenants be entered in separate register.

66. The Chief Commissioner may, from time to time, direct that all suits, or any specified class of suits, between landlords and tenants as such, shall not be registered in the registers of civil suits kept under the Code of Civil Procedure, but in such other registers as he may prescribe. XIV of 1882.

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Chapter VII.—Jurisdiction and Procedure.

Plaint in such suits.

67. (1) In suits between landlords and tenants as such, the plaint shall, in addition to the matters mentioned in section 50 of the Code of Civil Procedure, specify the area of the land to which the suit relates, and, where the fields comprised in that land have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which it is payable. XIV of 1882.

(2) When the land to which the suit relates comprises parts of numbered fields, or has not been divided into numbered fields, an accurate and sufficient description of the land and its boundaries shall be given in the plaint.

Legal practitioners' fees not allowed, unless for special reasons.

68. In suits between landlords and tenants as such, the fees of a legal practitioner shall not be allowed as costs, unless the Court considers, for reasons to be recorded by it in writing, that those fees ought to be allowed.

Set-off when allowed in suits for arrears.

69. No set-off shall be allowed in any suit for arrears unless the amount claimed as a set-off has been determined by a decree or order of a competent Court or of a Revenue-officer or Settlement-officer.

Interest on arrears.

70. In suits for arrears, interest on the arrears may be allowed up to the date of institution, at such rate, not exceeding twelve per cent. per annum, as the Court thinks fit.

No appeal in certain suits for arrears.

71. A decree or order passed in a suit for arrears, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class, as defined in the Central Provinces Courts Act, 1865, shall not be subject to appeal, unless— XIV of 1865.

(a) the amount or value of the subject-matter of the suit exceeds one hundred rupees; or

(b) a question relating to a title to land, or some interest in land, has been determined as between parties having conflicting claims thereto.

Ejectment for non-payment of an arrear due under a decree.

72. (1) If a decree for an arrear is passed against a tenant other than an absolute occupancy-tenant and remains unsatisfied, the landlord may, at any time before the execution of the decree is barred by limitation, apply to the Court having authority to execute the decree to cause a notice to be served on the tenant, directing him either to pay the amount due under the decree not later than the expiration of the agricultural year, or to surrender his holding not later than that time.

(2) If that amount is not so paid, and the holding is not so surrendered, the Court may in its discretion, but subject to the provisions of this Act, make an order to eject the tenant from the holding.

Power of Court to deal with cases of drought or other calamity in suits for arrears.

73. (1) Where, in answer to a suit for an arrear, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period in respect of which the arrear is claimed has been diminished or destroyed by drought, hail or other extraordinary calamity beyond his control, the Court in its discretion may, notwithstanding any contract to the contrary, allow in its decree any deduction from the arrear, and direct payment of the amount decreed (if any) in such instalments (if any) as it thinks fit.

(2) In any such case the Court may order that the provisions of section seventy-two shall not apply to the decree.

(3) In making a decree under this section the Court shall have regard to—

(a) the value of the produce of the holding for the whole agricultural year in respect of which the arrear accrued; and

(b) the proportion which the amount of rent payable for that year by the tenant bears to that value.

(4) If in any such suit it appears that the land-revenue of the village in which the holding is situate has been suspended or remitted on account of drought, hail or other extraordinary calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that the diminution or destruction alleged by the tenant has taken place.

Relief against forfeitures.

74. (1) A suit for the ejectment of a tenant on the ground that he has done or omitted to do something for doing or omitting to do which he is liable to ejectment, 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.

(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 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.

Rights of ejected tenant in respect of crops and land prepared for sowing.

75. The following rules shall be applicable in the case of every tenant ejected from a holding:—

(a) When the tenant 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 estimated value of the labour and capital expended by the tenant in preparing the land and sowing, planting and tending the crops, together with reasonable interest thereon.

(*b*) When the tenant 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 estimated value of the labour and capital expended by him in so preparing the land, together with reasonable interest thereon:

Provided that a tenant 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.

Payment by tenant for occupation of land under section 75.

76. When a landlord elects, under section seventy-five, clause (*a*), to allow a tenant to retain possession of any land for the purpose specified in that clause, the tenant 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 may deem reasonable.

All claims between landlord and tenant to be determined in ejectment-proceedings.

77. 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.

Procedure when, on ejectment, money is due by the landlord to the tenant.

78. (*1*) When it appears to a Court making an inquiry under section seventy-seven 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.

(*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.

Ejectment decrees and orders to have effect from beginning of agricultural year.

79. All decrees and orders for ejectment under this Act shall take effect from the beginning of the agricultural year next following the date of the decree or order.

Application for measure or ascertainment of condition of holdings.

80. (*1*) If any landlord or tenant of a holding desires that the extent of that holding be ascertained, or that evidence relating to any improvement made in respect thereof, or to the state of the holding at any specified time, be recorded, he may apply to a Revenue-officer; and that officer shall thereupon, in presence of the parties,—

(*a*) make, or cause to be made, such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, and record his finding thereon, or

(*b*) (where the applicant seeks to have evidence recorded) record that evidence:

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

(*2*) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

Limitation in suits by tenant to recover possession.

81. The period of limitation for a suit instituted by a tenant other than an absolute occupancy-tenant to recover possession of land from which he has been ejected shall be two years from the date on which he is ejected.

In other respects the limitation of every such suit shall be governed by the Indian Limitation Act, 1877.

CHAPTER VIII.

POWER TO MAKE RULES.

Rules by Chief Commissioner.

82. The Chief Commissioner may, from time to time, by notification in the official Gazette, make rules consistent with the provisions of this Act—

(*a*) for the guidance of Revenue-officers and Settlement-officers in fixing, altering and commuting rents; and

(*b*) for the guidance of all other persons in matters connected with the enforcement of this Act.

SCHEDULE.

(*See Section 2.*)

ACTS REPEALED.

Number and year of Act.	Title.
Act X of 1859 ...	To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.
Act XIV of 1863 ...	To amend Act X of 1859.
Act XXII of 1872 ...	To explain and amend Act X of 1859.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 18th July, 1883, and is hereby promulgated for general information:—

ACT NO. X OF 1883.

An Act to confirm and give effect to an award made by His Excellency the Viceroy and Governor General regarding certain matters in dispute between Sardár Bikráma Singh and the Kapúrthhala State.

Preamble.

WHEREAS Sardár Bikráma Singh, in recognition of his services, received from the British Government a grant of land in Oudh forming part of the Akúna Estate; and that land was, with his consent, settled in the name of the Rájá of Kapúrthhala;

and whereas the Rájá of Kapúrthhala took possession of that land, and Sardár Bikráma Singh was unable to recover possession thereof by process of law;

and whereas His Highness Rájá Kurruck Singh of Kapúrthhala and Sardár Bikráma Singh agreed that all claims preferred by Sardár Bikráma Singh to and on account of the said land should be referred to Sir Henry Davies, the then Chief Commissioner of Oudh, for decision as arbitrator, and those claims were referred to Sir Henry Davies accordingly;

and whereas Sir Henry Davies, on the sixth day of January, 1871, delivered the following award, hereinafter called the first award (namely):—

"My award is that Rájá Kurruck Singh of Kapúrthhala, his heirs, executors or assigns, shall pay, within six months of the present date, in trust to the Chief Commissioner and to the Financial Commissioner of Oudh for the time being, and to the Commissioner of the Faizábád Division for the time being, jointly, on behalf of Sardár Bikráma Singh and the heirs male of his body (if any), the sum of five lákhs of rupees, to be invested, as early as practicable, by the aforementioned trustees in the purchase of land within the Province of Oudh. Such land, when purchased, shall be immediately delivered into the possession of Sardár Bikráma Singh, and shall be held by him and by the heirs male of his body, if any, in proprietary right. But in the event of Sardár Bikráma Singh dying without heirs male of his body, the proprietary right in all such land shall revert unconditionally to the Rájá for the time being of Kapúrthhala.

"If the Rájá of Kapurthhala, his heirs, executors or assigns, fail to pay to the trustees the sum of five lákhs of rupees within six months from the present date, possession of the fifty-five hadbast circles detailed in the list hereto appended shall be given to Sardár Bikráma Singh; and all these hadbast circles shall be held by him as mortgagee until the whole sum of five lákhs of rupees shall have been paid to the trustees.

"Furthermore, the Rájá of Kapúrthhala, his heirs, executors or assigns, shall pay to Sardár Bikráma Singh, within one month from the present date, the sum of fifty thousand rupees in full liquidation of all claims to the mesne profits of past years. On the expiry of one month, such sum, if still unpaid, will bear interest at the rate of 12 per cent. per annum.

Addendum to award.

"To obviate doubts, I declare that, firstly, the words 'heirs male' mean only the sons of a woman belonging to the ahl-i-birádirí of Sardár Bikráma Singh; secondly, Sardár Bikráma Singh shall, prior to the birth of an heir male of his body, have no power to mortgage or sell his interest in the estate purchased for him by the trustees without offering it in the first instance to the Rájá of Kapúrthhala for the time being.

"This addendum shall be read as part of my award;"

and whereas doubts arose as to the meaning of that award, and, with the consent of the parties concerned, the matters in dispute were submitted to His Excellency the Viceroy and Governor General of India for decision;

and whereas, in accordance with this submission, His Excellency the Viceroy and Governor General considered those matters, and on the third day of March, 1881, made the following award, hereinafter called the second award (namely):—

"My award is that the estates already purchased and to be purchased shall (the aid of the legislature being invoked if necessary) be so settled that they shall be the property of Bikráma Singh, subject to the following conditions and restrictions:—

"*First.*—No alienations of, or right (other than a right of tenancy subject to rent, or a right incidental to such a

tenancy) created over the estates or any part thereof by Bikráma Singh shall be valid for any period beyond his life.

"*Secondly.*—If Bikráma Singh at his death leaves a male heir of his body surviving him, the succession to the estates shall take place according to the proper law of inheritance; but the estates shall not be chargeable with, or liable to be applied in satisfaction of, any debts incurred by Bikráma Singh, nor shall any person succeeding under this clause be liable, by reason of such succession, for any such debt.

"*Thirdly.*—If Bikráma Singh at his death leaves no male heir of his body surviving him, the estates shall pass to the then Rájá of Kapúrthhala.

"*Fourthly.*—If any lease or other contract fixing rent is granted to, or made with, a tenant by Bikráma Singh for a term, and Bikráma Singh dies before the expiration of such term, or if any such lease or contract is so granted or made in perpetuity, the rent of such tenant shall, notwithstanding anything contained in such lease or contract, be subject on the death of Bikráma Singh to enhancement from time to time on the same grounds, subject to the same conditions, and according to the same procedure as if such tenant were a tenant with a right of occupancy; but if the rent is enhanced under this clause, the tenant may at any time thereafter rescind such contract;"

and whereas it is expedient to confirm the second award and give effect to the same;

and whereas, in obedience to the first award, the sum of five lákhs of rupees was paid by the said Rájá Kurruck Singh to the then Chief Commissioner and Financial Commissioner of Oudh and the then Commissioner of the Faizábád Division, and has been by them or by their successors in office invested in the lands specified in the schedule hereto annexed;

and whereas it is expedient to settle the said lands in accordance with the terms of the second award;

and whereas the first award, in so far as it has not already been executed, will be superseded by the second award and this Act, and it is therefore expedient to rescind the first award; It is hereby enacted as follows:—

Short title. Commencement.

1. This Act may be called Bikráma Singh's Estates Act, 1883, and shall come into force at once.

Rescission of first award, and determination of trust created thereby.

2. The first award is hereby rescinded; the trusts created thereunder shall be deemed to have been fully executed and determined; and the trustees thereunder shall be deemed to have been discharged.

Confirmation of second award.

The second award is hereby confirmed.

Lands in schedule to be deemed settled in accordance with second award.

3. The lands specified in the schedule hereto annexed shall vest in Sardár Bikráma Singh, and shall be deemed to be settled as required by the second award.

SCHEDULE.

LANDS VESTED IN SARDÁR BIKRÁMA SINGH.

(*See section 3.*)

District.	Tahsíl.	Pargana.	Hadbast number.	Name of village.
Sitapur	Sitapur	Sitapur	34	Aithalia.
			23	Arhbanian.
			37	Amypur.
			627	Victoria.
			463	Clarkmagar.
			25	Alsia.
		Khairabad	75	Baraddari.
			442	Aishbagh.
			558	Mirnagar.
	Misrikh	Maholi	190	Pitampur.
			136	Beadonpur.
			187	Pragpur.
			410	Isanagar.
			208	Tulshipur.
[illegible] Bareli	Dalmau	Misrikh	341	Rahmatpur.
		Dalmau	29	Bichia Abadi.
		Saraini	56	Baruábár.
			59	Bandaie.
			57	Bahadurpur.
			208	Dariapur.
			171	Rampur Kalan.
			257	Reward Pasia Khera.
			314	Saidapur.
			334	Firozpur.
			[illegible]	Kanjia.
			[illegible]	Kalyanpur with Chak.
			[illegible]	Lalkhanpur with Chak.
			[illegible]	Hasanpur Khurd.
			477	Hilauli.
		Khiron	476	Hathnaee.
			8	Aiendhi.
	Rae Bareli	Rae Bareli	452	Malpur.
			24	Dalelpur.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 18th July, 1883, and is hereby promulgated for general information:—

ACT No. X OF 1883.

An Act to confirm and give effect to an award made by His Excellency the Viceroy and Governor General regarding certain matters in dispute between Sardár Bikráma Singh and the Kapúrthhala State.

Preamble.

WHEREAS Sardár Bikráma Singh, in recognition of his services, received from the British Government a grant of land in Oudh forming part of the Akúna Estate; and that land was, with his consent, settled in the name of the Rájá of Kapúrthhala;

and whereas the Rájá of Kapúrthhala took possession of that land, and Sardár Bikráma Singh was unable to recover possession thereof by process of law;

and whereas His Highness Rájá Kurruck Singh of Kapúrthhala and Sardár Bikráma Singh agreed that all claims preferred by Sardár Bikráma Singh to and on account of the said land should be referred to Sir Henry Davies, the then Chief Commissioner of Oudh, for decision as arbitrator, and those claims were referred to Sir Henry Davies accordingly;

and whereas Sir Henry Davies, on the sixth day of [illegible], 1871, delivered the following award, hereinafter called the first award (namely):—

"[illegible] that Rájá Kurruck Singh of Kapúrthhala, his [illegible] or assigns, shall pay, without [illegible] subject to the Chief Commissioner [illegible] to the Financial Commissioner of Oudh for the time being, and to the Commissioner of the Faizábád Division for the time being, [illegible] being, jointly, on behalf of Sardár Bikráma Singh and the heirs male of his body (if any), the sum of five lákhs of rupees, to be invested, as early as practicable, by the aforementioned trustees in the purchase of land within the Province of Oudh. Such land, when purchased, shall be immediately delivered into the possession of Sardár Bikráma Singh, and shall be held by him and by the heirs male of his body, if any, in proprietary right. But in the event of Sardár Bikráma Singh dying without heirs male of his body, the proprietary right in all such land shall revert unconditionally to the Rájá for the time being of Kapúrthhala.

"If the Rájá of Kapurthhala, his heirs, executors or assigns, fail to pay to the trustees the sum of five lákhs of rupees within six months from the present date, possession of the fifty-five hadbast circles detailed in the list hereto appended shall be given to Sardár Bikráma Singh; and all these hadbast circles shall be held by him as mortgagee until the whole sum of five lákhs of rupees shall have been paid to the trustees.

"Furthermore, the Rájá of Kapúrthhala, his heirs, executors or assigns, shall pay to Sardár Bikráma Singh, within one month from the present date, the sum of fifty thousand rupees in full liquidation of all claims to the mesne profits of past years. On the expiry of one month, such sum, if still unpaid, will bear interest at the rate of 12 per cent. per annum.

Addendum to award.

"To obviate doubts, I declare that, firstly, the words 'heirs male' mean only the sons of a woman belonging to the ahl-i-birádirí of Sardár Bikráma Singh; secondly, Sardár Bikráma Singh shall, prior to the birth of an heir male of his body, have no power to mortgage or sell his interest in the estate purchased for him by the trustees without offering it in the first instance to the Rájá of Kapúrthhala for the time being.

"This addendum shall be read as part of my award;"

and whereas doubts arose as to the meaning of that award, and, with the consent of the parties concerned, the matters in dispute were submitted to His Excellency the Viceroy and Governor General of India for decision;

and whereas, in accordance with this submission, His Excellency the Viceroy and Governor General considered these matters, and on the third day of March, 1881, made the following award, hereinafter called the second award (namely):—

"My award is that the estates already purchased and to be purchased shall (the aid of the legislature being invoked if necessary) be so settled that they shall be the property of Bikráma Singh, subject to the following conditions and restrictions,—

"*First.*—No alienations of, or right (other than a right [illegible] subject to rent, or a right incidental to such a

tenancy) created over, the estates or any part thereof by Bikráma Singh shall be valid for any period beyond his life.

"*Secondly.*—If Bikráma Singh at his death leaves a male heir of his body surviving him, the succession to the estates shall take place according to the proper law of inheritance; but the estates shall not be chargeable with, or liable to be applied in satisfaction of, any debts incurred by Bikráma Singh, nor shall any person succeeding under this clause be liable, by reason of such succession, for any such debt.

"*Thirdly.*—If Bikráma Singh at his death leaves no male heir of his body surviving him, the estates shall pass to the then Rájá of Kapúrthhala.

"*Fourthly.*—If any lease or other contract fixing rent is granted to, or made with, a tenant by Bikráma Singh for a term, and Bikráma Singh dies before the expiration of such term, or if any such lease or contract is so granted or made in perpetuity, the rent of such tenant shall, notwithstanding anything contained in such lease or contract, be subject on the death of Bikráma Singh to enhancement from time to time on the same grounds, subject to the same conditions and according to the same procedure as if such tenant were a tenant with a right of occupancy; but if the rent is enhanced under this clause, the tenant may at any time thereafter rescind such contract;"

and whereas it is expedient to confirm the second award and give effect to the same;

and whereas, in obedience to the first award, the sum of five lákhs of rupees was paid by the said Rájá Kurrack Singh to the then Chief Commissioner and Financial Commissioner of Oudh and the then Commissioner of the Faizábád Division, and has been by them or by their successors in office invested in the lands specified in the schedule hereto annexed;

and whereas it is expedient to settle the said lands in accordance with the terms of the second award;

and whereas the first award, in so far as it has not already been executed, will be superseded by the second award and this Act, and it is therefore expedient to rescind the first award; It is hereby enacted as follows:—

Short title. Commencement.

1. This Act may be called Bikráma Singh's Estates Act, 1883, and shall come into force at once.

Rescission of first award, and determination of trust created thereby.

2. The first award is hereby rescinded; the trusts created thereunder shall be deemed to have been fully executed and determined; and the trustees thereunder shall be deemed to have been discharged.

Confirmation of second award.

The second award is hereby confirmed.

Lands in schedule to be deemed settled in accordance with second award.

3. The lands specified in the schedule hereto annexed shall vest in Sardár Bikráma Singh, and shall be deemed to be settled as required by the second award.

SCHEDULE.

LANDS VESTED IN SARDÁR BIKRÁMA SINGH.

(See section 3.)

District.	Tahsíl.	Pargana.	Hadbast number.	Name of village.
Sitapur	Sitapur	Sitapur	34	Aithalia.
			23	Arhbanian.
			37	Amypur.
			627	Victoria.
			463	Clarknagar.
			25	Alsia.
		Khairabad	75	Barabhari.
			442	Aishbagh.
			558	Mirnagar.
	Misrikh	Maholi	190	Pitampur.
			136	Beadonpur.
			187	Pragpur.
			410	Isanagar.
			208	Tulshipur.
		Misrikh	341	Rahmatpur.
Rae Bareli	Dalmau	Dalmau	29	Bichia Abadi.
		Saraini	56	Baruáhár.
			59	Bandaie.
			57	Bahadurpur.
			208	Dariapur.
			171	Rampur Kalan.
			257	Rewari Pasia Khera.
			314	Saidapur.
			334	Firozpur.
			366	Kanjus.
			355	Kalehgaon with Chak.
			413	Lakhangaon with Chak.
			480	Halhalpur Khurd.
			477	Hilauli.
			476	Hathnasa.
		Khiron	8	Aiendhi.
	Rae Bareli	Rae Bareli	452	Malpur.
			28	Balehpur.

D. FITZPATRICK,
Secretary to the Gover[illegible]

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 25th July, 1883, and is hereby promulgated for general information:—

ACT No. XI OF 1883.

An Act 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, for the first entry in the third column in respect of the port of Bombay, the following shall be substituted:— XII of 1875.

"Not exceeding four annas per ton for each class of vessels as the Trustees incorporated under the Bombay Port Trust Act, 1879, may, from time to time, direct."

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 18th July, 1883, and is hereby promulgated for general information:—

ACT No. X OF 1883.

An Act to confirm and give effect to an award made by His Excellency the Viceroy and Governor General regarding certain matters in dispute between Sardár Bikráma Singh and the Kapúrthhala State.

Preamble.

WHEREAS Sardár Bikráma Singh, in recognition of his services, received from the British Government a grant of land in Oudh forming part of the Akúna Estate; and that land was, with his consent, settled in the name of the Rájá of Kapúrthhala;

and whereas the Rájá of Kapúrthhala took possession of that land, and Sardár Bikráma Singh was unable to recover possession thereof by process of law;

and whereas His Highness Rájá Kurruck Singh of Kapúrthhala and Sardár Bikráma Singh agreed that all claims preferred by Sardár Bikráma Singh to and on account of the said land should be referred to Sir Henry Davies, the then Chief Commissioner of Oudh, for decision as arbitrator, and those claims were referred to Sir Henry Davies accordingly;

and whereas Sir Henry Davies, on the sixth day of January, 1871, delivered the following award, hereinafter called the first award (namely):—

"My award is that Rájá Kurruck Singh of Kapúrthhala, his heirs, executors or assigns, shall pay, within six months of the present date, in trust to the Chief Commissioner and to the Financial Commissioner of Oudh for the time being, and to the Commissioner of the Faizábád Division for the time being, jointly, on behalf of Sardár Bikráma Singh and the heirs male of his body (if any), the sum of five lákhs of rupees, to be invested, as early as practicable, by the aforementioned trustees in the purchase of land within the Province of Oudh. Such land, when purchased, shall be immediately delivered into the possession of Sardár Bikráma Singh, and shall be held by him and by the heirs male of his body, if any, in proprietary right. But in the event of Sardár Bikráma Singh dying without heirs male of his body, the proprietary right in all such land shall revert unconditionally to the Rájá for the time being of Kapúrthhala.

"If the Rájá of Kapurthhala, his heirs, executors or assigns, fail to pay to the trustees the sum of five lákhs of rupees within six months from the present date, possession of the fifty-five hadbast circles detailed in the list hereto appended shall be given to Sardár Bikráma Singh; and all these hadbast circles shall be held by him as mortgagee until the whole sum of five lákhs of rupees shall have been paid to the trustees.

"Furthermore, the Rájá of Kapúrthhala, his heirs, executors or assigns, shall pay to Sardár Bikráma Singh, within one month from the present date, the sum of fifty thousand rupees in full liquidation of all claims to the mesne profits of past years. On the expiry of one month, such sum, if still unpaid, will bear interest at the rate of 12 per cent. per annum.

Addendum to award.

"To obviate doubts, I declare that, firstly, the words 'heirs male' mean only the sons of a woman belonging to the ahl-i-birádirí of Sardár Bikráma Singh; secondly, Sardár Bikráma Singh shall, prior to the birth of an heir male of his body, have no power to mortgage or sell his interest in the estate purchased for him by the trustees without offering it in the first instance to the Rájá of Kapúrthhala for the time being.

"This addendum shall be read as part of my award;"

and whereas doubts arose as to the meaning of that award, and, with the consent of the parties concerned, the matters in dispute were submitted to His Excellency the Viceroy and Governor General of India for decision;

and whereas, in accordance with this submission, His Excellency the Viceroy and Governor General considered those matters, and on the third day of March, 1881, made the following award, hereinafter called the second award (namely):—

"My award is that the estates already purchased and to be purchased shall (the aid of the legislature being invoked if necessary) be so settled that they shall be the property of Bikráma Singh, subject to the following conditions and restrictions:—

"*First.*—No alienations of, or right (other than a right of tenancy subject to rent, or a right incidental to such a

tenancy) created over, the estates or any part thereof, by Bikráma Singh shall be valid for any period beyond his life.

"*Secondly*.—If Bikráma Singh at his death leaves a male heir of his body surviving him, the succession to the estates shall take place according to the proper law of inheritance; but the estates shall not be chargeable with, or liable to be applied in satisfaction of, any debts incurred by Bikráma Singh, nor shall any person succeeding under this clause be liable, by reason of such succession, for any such debt.

"*Thirdly*.—If Bikráma Singh at his death leaves no male heir of his body surviving him, the estates shall pass to the then Rájá of Kapúrthhala.

"*Fourthly*.—If any lease or other contract fixing rent is granted to, or made with, a tenant by Bikráma Singh for a term, and Bikráma Singh dies before the expiration of such term, or if any such lease or contract is so granted or made in perpetuity, the rent of such tenant shall, notwithstanding anything contained in such lease or contract, be subject on the death of Bikráma Singh to enhancement from time to time on the same grounds, subject to the same conditions and according to the same procedure as if such tenant were a tenant with a right of occupancy; but if the rent is enhanced under this clause, the tenant may at any time thereafter rescind such contract;"

and whereas it is expedient to confirm the second award and give effect to the same;

and whereas, in obedience to the first award, the sum of five lákhs of rupees was paid by the said Rájá Kurruck Singh to the then Chief Commissioner and Financial Commissioner of Oudh and the then Commissioner of the Faizábád Division, and has been by them or by their successors in office invested in the lands specified in the schedule hereto annexed;

and whereas it is expedient to settle the said lands in accordance with the terms of the second award;

and whereas the first award, in so far as it has not already been executed, will be superseded by the second award and this Act, and it is therefore expedient to rescind the first award; It is hereby enacted as follows:—

Short title. Commencement.

1. This Act may be called Bikráma Singh's Estates Act, 1883, and shall come into force at once.

Rescission of first award, and determination of trust created thereby.

2. The first award is hereby rescinded; the trusts created thereunder shall be deemed to have been fully executed and determined; and the trustees thereunder shall be deemed to have been discharged.

Confirmation of second award.

The second award is hereby confirmed.

Lands in schedule to be deemed settled in accordance with second award.

3. The lands specified in the schedule hereto annexed shall vest in Sardár Bikráma Singh, and shall be deemed to be settled as required by the second award.

SCHEDULE.

LANDS VESTED IN SARDÁR BIKRÁMA SINGH.

(*See section 3.*)

District.	Tahsil.	Pargana.	Hadbast number.	Name of village.
Sitapur . .	Sitapur . .	Sitapur . .	34	Aithalia.
			23	Arhbanian.
			37	Amypur.
			627	Victoria.
			463	Clarknagar.
			25	Alsia.
		Khairabad . .	75	Barabhari.
			442	Aishbagh.
			558	Mirnagar.
	Misrikh . .	Mahóli . .	190	Pitampur.
			136	Beadonpur.
			187	Pragpur.
			410	Isanagar.
			208	Tulshipur.
		Misrikh . .	341	Rahmatpur.
Rae Bareli . .	Dalmau . .	Dalmau . .	29	Bichia Abadi.
		Saraini . .	56	Baruábár.
			59	Bandaie.
			57	Bahadurpur.
			208	Dariapur.
			171	Rampur Kalan.
			257	Rewari Pasia Khera.
			314	Saidapur.
			334	Firozpur.
			366	Kanjus.
			365	Kalehgaon with Chak.
			413	Lakhangaon with Chak.
			480	Haibatpur Khurd.
			477	Hilauli.
			476	Hathnasa.
		Khiron . .	8	Aierdhi.
			452	Malpur.
	Rae Bareli . .	Rae Bareli . .	28	Balehpur.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 25th July, 1883, and is hereby promulgated for general information:—

ACT No. XI OF 1883.

An Act 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 XII of 1875. 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, for the first entry in the third column in respect of the port of Bombay, the following shall be substituted:— XII of 1875.

"Not exceeding four annas per ton for each class of vessels as the Trustees incorporated under the Bombay Port Trust Act, 1879, may, from time to time, direct."

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 11, 1883.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 25th July, 1883, and is hereby promulgated for general information :—

ACT No. XI OF 1883.

An Act 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, for the first entry in the third column in respect of the port of Bombay, the following shall be substituted :— XII of 1875.

"Not exceeding four annas per ton for each class of vessels as the Trustees incorporated under the Bombay Port Trust Act, 1879, may, from time to time, direct."

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 1, 1883.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th August 1883, and is hereby promulgated for general information:—

ACT NO. XII OF 1883.

THE BRITISH BURMA PILOTS ACT, 1883.

CONTENTS.

PREAMBLE.

SECTIONS.

Preliminary.

1. Short title.
   Local extent.
   Commencement.
2. Definition of "port."

Licensing of Pilots.

3. Licensing of pilots.
4. No person to act as pilot except under license.

Regulation of Pilots.

5. Power to make rules to regulate conduct of pilots.

Special Court.

6. Power to direct investigation by special Court into charges against pilots.
7. Constitution of Court.
8. Appointment of president.
9. Assessors.
10. Appointment of assessors.
11. Fees to be paid to assessors.

SECTIONS.

12. Copy of grounds of charge to be supplied to pilot.
13. Person charged to be heard.
14. Powers of the Court as to evidence and regulating proceedings.
15. Court to report to Chief Commissioner.
16. Power of Chief Commissioner to make rules.

Power to cancel, suspend or reduce Licenses.

17. Power to cancel, suspend or reduce license for misconduct, &c.
18. Power to suspend license pending trial or investigation.

Delegation of Functions of Chief Commissioner.

19. Power to delegate functions of Chief Commissioner.

An Act to provide for the licensing and control of Pilots in British Burma and for investigating certain charges against them.

WHEREAS it is expedient to provide for the licensing and control of pilots in British Burma, and for investigating certain charges against them; It is hereby enacted as follows:—

Preamble.

Preliminary.

1. (1) This Act may be called the British Burma Pilots Act, 1883.

Short title.

(2) It extends to the territories for the time being administered by the Chief Commissioner of British Burma; and

Local extent.

(3) It shall come into force on such date as the Chief Commissioner may fix in this behalf.

Commencement.

2. In this Act—

"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.

Definition of "port."

Licensing of Pilots.

3. The Chief Commissioner may, from time to time, appoint, or cause to be appointed, competent persons for the purpose of examining the qualifications of persons desirous of acting as pilots at any port, and make rules—

Licensing of pilots.

(*a*) for the conduct of the examinations and for the qualifications to be required;

(*b*) establishing grades of pilots, and determining the duties which may be undertaken by pilots of each grade;

(*c*) for the grant to qualified persons of licenses to act as pilots of any grade at any port; and

(*d*) for the fees to be paid for the examinations and licenses.

4. *(1)* A person shall not act as a pilot at any port, after such date as the Chief Commissioner may fix in this behalf for that port, except as permitted by a license granted under section 3.

No person to act as pilot except under license.

(2) Any person acting as a pilot in contravention of this section shall be punished, for every time he so acts, with fine which may extend to two hundred rupees.

Regulation of Pilots.

5. *(1)* The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, make rules to regulate the conduct of pilots licensed under this Act in all matters connected with the performance of their duties as such pilots.

Power to make rules to regulate conduct of pilots.

(2) Any such rule may contain a provision that a pilot committing a breach of the rule shall be punished with imprisonment which may extend to one month, or with fine which may extend to two hundred rupees, or with both:

Provided that a prosecution shall not be instituted in respect of any such breach except by order of such officer as the Chief Commissioner may, from time to time, appoint in this behalf.

Special Court.

6. *(1)* If the Chief Commissioner has reason to believe that there are grounds for charging any pilot licensed under this Act with incompetency or misconduct in the discharge of his duties as such pilot, or with any act or omission in breach of a rule made under section 5, and that the charge cannot be satisfactorily investigated by an ordinary Court, he may direct that a special Court be constituted, under this Act, at the port at which it will, in his opinion, be most convenient for the parties and witnesses to attend, and shall then send to the Court a statement of the grounds of the charge, and direct the Court to make an investigation into the charge.

Power to direct investigation by special Court into charges against pilots.

(2) When the Chief Commissioner directs an investigation under this section, he may, if he thinks fit, appoint a person to act as prosecutor in the investigation.

7. Every Court constituted under section 6 shall consist of a president sitting with three assessors.

Constitution of Court.

8. *(1)* The president shall be such person as the Chief Commissioner appoints in this behalf, either generally or for any specified case.

Appointment of president.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

9. One of the assessors shall be a master of a seagoing vessel lying in the port at which the investigation is to be made, another shall be a merchant residing at that port, and the third shall be a person who has personally exercised the calling of a pilot for not less than five years.

Assessors.

10. *(1)* The assessor who is the master of a seagoing vessel shall be appointed in each case by the Chief Commissioner, and shall be summoned by the president.

Appointment of assessors.

(2) The other assessors shall be summoned by the president in such manner as may be prescribed by rule, out of two lists, one of merchants, the other of pilots, to be, from time to time, prepared for the purpose and published by the Chief Commissioner in the *British Burma Gazette*. If there are no such lists, or if it is impracticable to procure the attendance of two persons one of whom is named in the list of merchants and the other in list of pilots, the other assessors or assessor, as the case may be, shall be appointed and summoned by the president.

11. The assessors shall receive such fees as the Chief Commissioner may, from time to time, by rule, prescribe.

Fees to be paid to assessors.

12. Before any investigation under this Act is commenced, the special Court shall supply the pilot with a copy of the statement sent, under section 6, to the Court.

Copy of grounds of charge to be supplied to pilot.

13. For the purpose of an investigation under this Act, the special Court may summon the pilot to appear before it, and shall give him full opportunity of making a defence, either in person or otherwise.

Person charged to be heard.

14. For the purpose of an investigation under this Act, the special Court shall, so far as relates to compelling the attendance, and to the examination, of witnesses, the production of documents and the regulation of the proceedings, have the same powers as are exercisable by the principal Court of original criminal jurisdiction for the place at which the investigation is made.

Powers of the Court as to evidence and regulating proceedings.

15. On the completion of the investigation, the special Court shall send to the Chief Commissioner a full report of the conclusions at which it has arrived. The report shall be in accordance with the opinion of the majority of the members of the Court, or, if the Court is equally divided, in accordance with the opinion of the president and with the member with whom he concurs. In the latter case, any member who does not concur in the report may separately record his opinion.

Court to report to Chief Commissioner.

16. *(1)* The Chief Commissioner may, from time to time, make rules to carry into effect the provisions of this Act with respect to the special Court, and in particular with respect to—

Power of Chief Commissioner to make rules.

(*a*) the mode in which the president shall, under section 10, summon the assessors;

(*b*) the amount of the fees to be paid to the assessors; and

(*c*) the procedure of the Court.

(2) All such rules shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

Power to cancel, suspend or reduce Licenses.

17. The Chief Commissioner may cancel or suspend, or reduce the grade of, any license granted to a pilot under this Act in the following cases, that is to say:—

Power to cancel, suspend or reduce license for misconduct, &c.

(*a*) if the pilot is found guilty by a Criminal Court of any offence punishable under section 5, or of any other offence the commission of which, in the opinion of the Chief Commissioner, shows him to be unfit to discharge the duties of a pilot; or

(*b*) if, on considering a report submitted under section 15 of this Act, or transmitted under section 17 of the Indian Merchant Shipping Act, 1883, the Chief Commissioner is of opinion that the pilot is incompetent, or has been guilty of any misconduct in the discharge of his duty as pilot, or of any breach of a rule made under section 5 of this Act. V of 1883.

18. When a prosecution has been instituted against a pilot under section 5, or an investigation has been ordered in respect of him under section 6, or an investigation affecting his conduct has been ordered under Chapter II of the Indian Merchant Shipping Act, 1883, the Chief Commissioner may suspend his license until the trial is concluded or the report of the investigation is submitted or transmitted to the Chief Commissioner, as the case may be. V of 1883.

Power to suspend license pending trial or investigation.

Delegation of Functions of Chief Commissioner.

19. The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, delegate his functions under section 6, section 8, section 10, sub-section (1), or section 18 to such person as he thinks fit.

Power to delegate functions of Chief Commissioner.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th August, 1883, and is hereby promulgated for general information:—

ACT No. XII OF 1883.

THE BRITISH BURMA PILOTS ACT, 1883.

CONTENTS.

PREAMBLE.

SECTIONS.

Preliminary.

1. Short title. Local extent. Commencement.
2. Definition of "port."

Licensing of Pilots.

3. Licensing of pilots.
4. No person to act as pilot except under license.

Regulation of Pilots.

5. Power to make rules to regulate conduct of pilots.

Special Court.

6. Power to direct investigation by special Court into charges against pilots.
7. Constitution of Court.
8. Appointment of president.
9. Assessors.
10. Appointment of assessors.
11. Fees to be paid to assessors.

SECTIONS.

12. Copy of grounds of charge to be supplied to pilot.
13. Person charged to be heard.
14. Powers of the Court as to evidence and regulating proceedings.
15. Court to report to Chief Commissioner.
16. Power of Chief Commissioner to make rules.

Power to cancel, suspend or reduce Licenses.

17. Power to cancel, suspend or reduce license for misconduct, &c.
18. Power to suspend license pending trial or investigation.

Delegation of Functions of Chief Commissioner.

19. Power to delegate functions of Chief Commissioner.

An Act to provide for the licensing and control of Pilots in British Burma and for investigating certain charges against them.

WHEREAS it is expedient to provide for the licensing and control of pilots in British Burma, and for investigating certain charges against them; It is hereby enacted as follows:— Preamble.

Preliminary.

1. *(1)* This Act may be called the British Burma Pilots Act, 1883. Short title.

(2) It extends to the territories for the time being administered by the Chief Commissioner of British Burma; and Local extent.

(3) It shall come into force on such date as the Chief Commissioner may fix in this behalf. Commencement.

2. In this Act—

"Port" means any port, or any part of a navigable river or channel, in which the Indian Ports Act, XII of 1875, is for the time being in force. Definition of "port."

Licensing of Pilots.

3. The Chief Commissioner may, from time to time, appoint, or cause to be appointed, competent persons for the purpose of examining the qualifications of persons desirous of acting as pilots at any port, and make rules—

Licensing of pilots.

(*a*) for the conduct of the examinations and for the qualifications to be required;

(*b*) establishing grades of pilots, and determining the duties which may be undertaken by pilots of each grade;

(*c*) for the grant to qualified persons of licenses to act as pilots of any grade at any port; and

(*d*) for the fees to be paid for the examinations and licenses.

4. *(1)* A person shall not act as a pilot at any port, after such date as the Chief Commissioner may fix in this behalf for that port, except as permitted by a license granted under section 3.

No person to act as pilot except under license.

(2) Any person acting as a pilot in contravention of this section shall be punished, for every time he so acts, with fine which may extend to two hundred rupees.

Regulation of Pilots.

5. *(1)* The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, make rules to regulate the conduct of pilots licensed under this Act in all matters connected with the performance of their duties as such pilots.

Power to make rules to regulate conduct of pilots.

(2) Any such rule may contain a provision that a pilot committing a breach of the rule shall be punished with imprisonment which may extend to one month, or with fine which may extend to two hundred rupees, or with both:

Provided that a prosecution shall not be instituted in respect of any such breach except by order of such officer as the Chief Commissioner may, from time to time, appoint in this behalf.

Special Court.

6. *(1)* If the Chief Commissioner has reason to believe that there are grounds for charging any pilot licensed under this Act with incompetency or misconduct in the discharge of his duties as such pilot, or with any act or omission in breach of a rule made under section 5, and that the charge cannot be satisfactorily investigated by an ordinary Court, he may direct that a special Court be constituted, under this Act, at the port at which it will, in his opinion, be most convenient for the parties and witnesses to attend, and shall then send to the Court a statement of the grounds of the charge, and direct the Court to make an investigation into the charge.

Power to direct investigation by special Court into charges against pilots.

(2) When the Chief Commissioner directs an investigation under this section, he may, if he thinks fit, appoint a person to act as prosecutor in the investigation.

7. Every Court constituted under section 6 shall consist of a president sitting with three assessors.

Constitution of Court.

8. *(1)* The president shall be such person as the Chief Commissioner appoints in this behalf, either generally or for any specified case.

Appointment of president.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

9. One of the assessors shall be a master of a seagoing vessel lying in the port at which the investigation is to be made, another shall be a merchant residing at that port, and the third shall be a person who has personally exercised the calling of a pilot for not less than five years.

Assessors.

10. *(1)* The assessor who is the master of a seagoing vessel shall be appointed in each case by the Chief Commissioner, and shall be summoned by the president.

Appointment of assessors.

(2) The other assessors shall be summoned by the president in such manner as may be prescribed by rule, out of two lists, one of merchants, the other of pilots, to be, from time to time, prepared for the purpose and published by the Chief Commissioner in the *British Burma Gazette*. If there are no such lists, or if it is impracticable to procure the attendance of two persons one of whom is named in the list of merchants and the other in list of pilots, the other assessors or assessor, as the case may be, shall be appointed and summoned by the president.

11. The assessors shall receive such fees as the Chief Commissioner may, from time to time, by rule, prescribe.

Fees to be paid to assessors.

12. Before any investigation under this Act is commenced, the special Court shall supply the pilot with a copy of the statement sent, under section 6, to the Court.

Copy of grounds of charge to be supplied to pilot.

13. For the purpose of an investigation under this Act, the special Court may summon the pilot to appear before it, and shall give him full opportunity of making a defence, either in person or otherwise.

Person charged to be heard.

14. For the purpose of an investigation under this Act, the special Court shall, so far as relates to compelling the attendance, and to the examination, of witnesses, the production of documents and the regulation of the proceedings, have the same powers as are exercisable by the principal Court of original criminal jurisdiction for the place at which the investigation is made.

Powers of the Court as to evidence and regulating proceedings.

15. On the completion of the investigation, the special Court shall send to the Chief Commissioner a full report of the conclusions at which it has arrived. The report shall be in accordance with the opinion of the majority of the members of the Court, or, if the Court is equally divided, in accordance with the opinion of the president and with the member with whom he concurs. In the latter case, any member who does not concur in the report may separately record his opinion.

Court to report to Chief Commissioner.

16. *(1)* The Chief Commissioner may, from time to time, make rules to carry into effect the provisions of this Act with respect to the special Court, and in particular with respect to—

Power of Chief Commissioner to make rules.

(*a*) the mode in which the president shall, under section 10, summon the assessors;

(*b*) the amount of the fees to be paid to the assessors; and

(*c*) the procedure of the Court.

(2) All such rules shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

Power to cancel, suspend or reduce Licenses.

17. The Chief Commissioner may cancel or suspend, or reduce the grade of, any license granted to a pilot under this Act in the following cases, that is to say:—

Power to cancel, suspend or reduce license for misconduct, &c.

(*a*) if the pilot is found guilty by a Criminal Court of any offence punishable under section 5, or of any other offence the commission of which, in the opinion of the Chief Commissioner, shows him to be unfit to discharge the duties of a pilot; or

(*b*) if, on considering a report submitted under section 15 of this Act, or transmitted under section 17 of the Indian Merchant Shipping Act, 1883, the Chief Commissioner is of opinion that the pilot is incompetent, or has been guilty of any misconduct in the discharge of his duty as pilot, or of any breach of a rule made under section 5 of this Act. V of 1883.

18. When a prosecution has been instituted against a pilot under section 5, or an investigation has been ordered in respect of him under section 6, or an investigation affecting his conduct has been ordered under Chapter II of the Indian Merchant Shipping Act, 1883, the Chief Commissioner may suspend his license until the trial is concluded or the report of the investigation is submitted or transmitted to the Chief Commissioner, as the case may be. V of 1883.

Power to suspend license pending trial or investigation.

Delegation of Functions of Chief Commissioner.

19. The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, delegate his functions under section 6, section 8, section 10, sub-section (1), or section 18 to such person as he thinks fit.

Power to delegate functions of Chief Commissioner.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 29th August, 1883, and is hereby promulgated for general information:—

ACT NO. XII OF 1883.

THE BRITISH BURMA PILOTS ACT, 1883.

CONTENTS.

PREAMBLE.

SECTIONS.

Preliminary.

1. Short title.
   Local extent.
   Commencement.
2. Definition of "port."

Licensing of Pilots.

3. Licensing of pilots.
4. No person to act as pilot except under license.

Regulation of Pilots.

5. Power to make rules to regulate conduct of pilots.

Special Court.

6. Power to direct investigation by special Court into charges against pilots.
7. Constitution of Court.
8. Appointment of president.
9. Assessors.
10. Appointment of assessors.
11. Fees to be paid to assessors.

SECTIONS.

12. Copy of grounds of charge to be supplied to pilot.
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16. Power of Chief Commissioner to make rules.

Power to cancel, suspend or reduce Licenses.

17. Power to cancel, suspend or reduce license for misconduct, &c.
18. Power to suspend license pending trial or investigation.

Delegation of Functions of Chief Commissioner.

19. Power to delegate functions of Chief Commissioner.

An Act to provide for the licensing and control of Pilots in British Burma and for investigating certain charges against them.

WHEREAS it is expedient to provide for the licensing and control of pilots in British Burma, and for investigating certain charges against them; It is hereby enacted as follows:— Preamble.

Preliminary.

1. *(1)* This Act may be called the British Burma Pilots Act, 1883. Short title.

(2) It extends to the territories for the time being administered by the Chief Commissioner of British Burma; and Local extent.

(3) It shall come into force on such date as the Chief Commissioner may fix in this behalf. Commencement.

2. In this Act—

"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. Definition of "port." XII of 1875.

Licensing of Pilots.

3. The Chief Commissioner may, from time to time, appoint, or cause to be appointed, competent persons for the purpose of examining the qualifications of persons desirous of acting as pilots at any port, and make rules—

Licensing of pilots.

(*a*) for the conduct of the examinations and for the qualifications to be required;

(*b*) establishing grades of pilots, and determining the duties which may be undertaken by pilots of each grade;

(*c*) for the grant to qualified persons of licenses to act as pilots of any grade at any port; and

(*d*) for the fees to be paid for the examinations and licenses.

4. *(1)* A person shall not act as a pilot at any port, after such date as the Chief Commissioner may fix in this behalf for that port, except as permitted by a license granted under section 3.

No person to act as pilot except under license.

(2) Any person acting as a pilot in contravention of this section shall be punished, for every time he so acts, with fine which may extend to two hundred rupees.

Regulation of Pilots.

5. *(1)* The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, make rules to regulate the conduct of pilots licensed under this Act in all matters connected with the performance of their duties as such pilots.

Power to make rules to regulate conduct of pilots.

(2) Any such rule may contain a provision that a pilot committing a breach of the rule shall be punished with imprisonment which may extend to one month, or with fine which may extend to two hundred rupees, or with both:

Provided that a prosecution shall not be instituted in respect of any such breach except by order of such officer as the Chief Commissioner may, from time to time, appoint in this behalf.

Special Court.

6. *(1)* If the Chief Commissioner has reason to believe that there are grounds for charging any pilot licensed under this Act with incompetency or misconduct in the discharge of his duties as such pilot, or with any act or omission in breach of a rule made under section 5, and that the charge cannot be satisfactorily investigated by an ordinary Court, he may direct that a special Court be constituted, under this Act, at the port at which it will, in his opinion, be most convenient for the parties and witnesses to attend, and shall then send to the Court a statement of the grounds of the charge, and direct the Court to make an investigation into the charge.

Power to direct investigation by special Court into charges against pilots.

(2) When the Chief Commissioner directs an investigation under this section, he may, if he thinks fit, appoint a person to act as prosecutor in the investigation.

7. Every Court constituted under section 6 shall consist of a president sitting with three assessors.

Constitution of Court.

8. *(1)* The president shall be such person as the Chief Commissioner appoints in this behalf, either generally or for any specified case.

Appointment of president.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

9. One of the assessors shall be a master of a seagoing vessel lying in the port at which the investigation is to be made, another shall be a merchant residing at that port, and the third shall be a person who has personally exercised the calling of a pilot for not less than five years.

Assessors.

10. *(1)* The assessor who is the master of a seagoing vessel shall be appointed in each case by the Chief Commissioner, and shall be summoned by the president.

Appointment of assessors.

(2) The other assessors shall be summoned by the president in such manner as may be prescribed by rule, out of two lists, one of merchants, the other of pilots, to be, from time to time, prepared for the purpose and published by the Chief Commissioner in the *British Burma Gazette*. If there are no such lists, or if it is impracticable to procure the attendance of two persons one of whom is named in the list of merchants and the other in list of pilots, the other assessors or assessor, as the case may be, shall be appointed and summoned by the president.

11. The assessors shall receive such fees as the Chief Commissioner may, from time to time, by rule, prescribe.

Fees to be paid to assessors.

12. Before any investigation under this Act is commenced, the special Court shall supply the pilot with a copy of the statement sent, under section 6, to the Court.

Copy of grounds of charge to be supplied t pilot.

13. For the purpose of an investigation under this Act, the special Court may summon the pilot to appear before it, and shall give him full opportunity of making a defence, either in person or otherwise.

Person charged to be heard.

14. For the purpose of an investigation under this Act, the special Court shall, so far as relates to compelling the attendance, and to the examination, of witnesses, the production of documents and the regulation of the proceedings, have the same powers as are exercisable by the principal Court of original criminal jurisdiction for the place at which the investigation is made.

Powers of the Court as to evidence and regulating proceedings.

15. On the completion of the investigation, the special Court shall send to the Chief Commissioner a full report of the conclusions at which it has arrived. The report shall be in accordance with the opinion of the majority of the members of the Court, or, if the Court is equally divided, in accordance with the opinion of the president and with the member with whom he concurs. In the latter case, any member who does not concur in the report may separately record his opinion.

Court to report to Chief Commissioner.

16. *(1)* The Chief Commissioner may, from time to time, make rules to carry into effect the provisions of this Act with respect to the special Court, and in particular with respect to—

Power of Chief Commissioner to make rules.

(*a*) the mode in which the president shall, under section 10, summon the assessors;

(*b*) the amount of the fees to be paid to the assessors; and

(*c*) the procedure of the Court.

(2) All such rules shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

Power to cancel, suspend or reduce Licenses.

17. The Chief Commissioner may cancel or suspend, or reduce the grade of, any license granted to a pilot under this Act in the following cases, that is to say:—

Power to cancel, suspend or reduce license for misconduct, &c.

(*a*) if the pilot is found guilty by a Criminal Court of any offence punishable under section 5, or of any other offence the commission of which, in the opinion of the Chief Commissioner, shows him to be unfit to discharge the duties of a pilot; or

(*b*) if, on considering a report submitted under section 15 of this Act, or transmitted under section 17 of the Indian Merchant Shipping Act, 1883, the Chief Commissioner is of opinion that the pilot is incompetent, or has been guilty of any misconduct in the discharge of his duty as pilot, or of any breach of a rule made under section 5 of this Act. V of 1883.

18. When a prosecution has been instituted against a pilot under section 5, or an investigation has been ordered in respect of him under section 6, or an investigation affecting his conduct has been ordered under Chapter II of the Indian Merchant Shipping Act, 1883, the Chief Commissioner may suspend his license until the trial is concluded or the report of the investigation is submitted or transmitted to the Chief Commissioner, as the case may be. V of 1883.

Power to suspend license pending trial or investigation.

Delegation of Functions of Chief Commissioner.

19. The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, delegate his functions under section 6, section 8, section 10, sub-section (1), or section 18 to such person as he thinks fit.

Power to delegate functions of Chief Commissioner.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th September, 1883, and is hereby promulgated for general information :—

ACT NO. XIII OF 1883.

An Act to declare the law in force in certain lands which have been or hereafter may be ceded by the Bahâwalpur 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 Bahâwalpur 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.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th September, 1883, and is hereby promulgated for general information:—

ACT NO. XIV OF 1883.

THE NORTH-WESTERN PROVINCES AND OUDH LOCAL BOARDS ACT, 1883.

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An Act 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:—

Preliminary.

1. *(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 November, 1883.

Commencement.

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

Definition of "prescribed."

"Prescribed" means prescribed by rules made under section 47.

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, and, unless the Local Government otherwise directs, the portions of the district (if any) in which Act XX of 1856 (*an Act to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs, and Bázárs in the Presidency of Fort William in Bengal*) is in force.

(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 excluded from the sub-districts under section 3, sub-section (2).

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 so many elected members and so many nominated members as the Local Government may, from time to time, fix in this behalf:

Constitution of local boards.

Provided that the nominated members shall not exceed in number one-fourth of the board.

(2) The elective members of a local board shall be elected in manner prescribed.

(3) 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:

Provided that the persons entitled to vote at the election of a member shall not be less than twenty-five in number.

(4) A person to be qualified for election must, at the time of his election, be an elector, and reside or own landed property, or carry on trade or business, in the sub-district.

(5) The nominated members shall be such persons as the Local Government may, subject to the rules made under section 47, from time to time, nominate in this behalf.

6. *(1)* The district board for a district shall, except as next hereinafter provided, 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.

(2) The Local Government may, if it thinks fit, by notification in the official Gazette, direct that the district board for a district shall consist of so many of the elected members of each local board as it thinks fit, elected in this behalf by the local board in manner prescribed, and such of the nominated members of each local board as the Local Government may appoint in this behalf:

Provided that the nominated members of local boards so appointed by the Local Government shall not exceed in number one-fourth of the district board.

(3) The Local Government may, by notification in the official Gazette, rescind any direction issued under sub-section (2) 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 of this Act, 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 or appointed under section 6, sub-section (2), shall be fixed, from time to time, by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, 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, nomination or appointment.

8. A member of a local board and a member of a district board elected or appointed 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 or appointed as aforesaid who refuses to act, or becomes incapable of acting, or is declared 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 three consecutive months to be present at the meetings of the local board, or, when he is a member of the district board, without sufficient excuse neglects for more than six consecutive months to be present at the meetings of that 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 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 nominated members of a local board fixed by section 5, and to the limitation of the proportion of appointed members of a district board fixed by section 6, direct in any such case that the vacancy shall be left unfilled.

(2) When the place of a nominated member of a local board or an appointed member of a district board becomes vacant as aforesaid, the Local Government may, if it thinks fit, but subject to the rules made under section 47, nominate or appoint, as the case may be, a new member to fill the place.

(3) A person elected, nominated 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, nomination 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 other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Incorporation of district board.

12. The several local boards and district boards constituted 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.

Chairman of local board.

(2) The term of office of a chairman so elected shall be the residue of his term of office as a member of the board.

(3) If the chairman so elected dies, resigns or is removed from his office as 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, resigning, removed or becoming incapable would have been entitled to continue in office, and no longer.

(4) 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,—

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, by name or by virtue of his office, 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. *(1)* The term of office of an elected chairman of a district board shall be the residue of his term of office as member of the board.

Term of office of chairman and vice-chairman of district board.

(2) The term of office of an appointed chairman of a district board shall be such term, not exceeding three years, as the Local Government may, from time to time, by rule prescribe.

(3) The term of office of a vice-chairman of a district board shall be one year, or when at the time of his election the residue of his term of office as member is less than one year, the residue of that term.

17. *(1)* A chairman of a district 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.

Resignation of chairman and vice-chairman of district board.

(2) A vice-chairman of a district board may resign by notifying in writing his intention to do so to the board; and, on such resignation being accepted by the board, he shall be deemed to have vacated his office.

18. The Local Government may remove any chairman or vice-chairman of a district board from his office as such chairman or vice-chairman if he 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 chairman or vice-chairman, or if he without sufficient excuse neglects for more than six consecutive months to be present at the meetings of the board.

Removal of chairman and vice-chairman of district board.

19. *(1)* If an elected chairman of a district board dies, resigns, is removed 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 section 14.

Casual vacancies in office of chairman or vice-chairman of district board.

(2) If an appointed chairman of a district board dies, resigns, is removed or becomes incapable of acting, the Local Government shall appoint another chairman.

(3) If a vice-chairman of a district board dies, resigns, is removed or becomes incapable of acting, the board shall, at a special meeting held for this purpose, select 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:

Provided that a person so elected shall go out of office on ceasing to be a member of the board.

20. Notwithstanding anything in the foregoing sections, a chairman appointed by the Local Government under section 14, sub-section (2), or section 19, 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.

21. A chairman of a local board, and a chairman or vice-chairman of a district board, if otherwise qualified, shall on going out of office be again eligible for election or appointment.

Chairman of local board and chairman or vice-chairman of district board re-eligible.

22. *(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.

Notification of Elections, &c.

23. All elections, nominations and appointments of members of local boards and district boards, and of chairmen of district boards, and all vacancies in those offices, shall be notified in the local official Gazette.

Notification of elections, &c.

Duties of District Boards.

24. Every district board shall, so far as the funds at its disposal will permit, but subject to such exceptions and conditions as the Local Government may, from time to time, make and impose, provide for the control and administration of the following matters 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;

(*b*) the planting and preservation of trees on the sides of roads and on other public ground;

(*c*) the establishment, 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;

(*d*) the construction and repair of public wells, tanks and water-works, and the supply of water from them and from other sources;

(*e*) the establishment and maintenance of such relief-works in time of famine or scarcity as may be entrusted to the charge of the board by the Local Government;

(*f*) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in force, such functions of the Local Government and the Magistrate of the district under that Act as may be transferred to the district board by the Local Government; I of 1871.

(*g*) 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.

(*h*) the regulation of encamping-grounds and, where the Saráís Act, 1867, is in force, of saráís and paráos, including such functions of the Magistrate of the district under that Act as the Local Government may, from time to time, direct; XXII of 1867.

(*i*) the institution, holding and management of agricultural shows and industrial exhibitions;

(*j*) 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

(*k*) any other local works or measures likely to promote the health, comfort, convenience or interest of the public.

Duties of Local Boards and their Relations to District Boards.

25. 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 24 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.

26. 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.

27. *(1)* A district board may, from time to time, concur with any other district board, or with the board of any municipality, or with a cantonment authority, or with more than one such board or 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 committee, and in delegating to any such committee any power which might be exercised by either or any of the boards or authorities, 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 committees.

(2) If any difference of opinion arises between boards or authorities acting under this section, the decision thereon of the Commissioner of the division if the areas under the boards and authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

28. *(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.

29. *(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:

Provided that, if at any ordinary or special 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.

30. *(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.

31. 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 and public instruction.

Certain officers entitled to attend and speak.

32. *(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 or of the next ensuing 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.

33. 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;

(*e*) the conduct of proceedings at meetings;

(*d*) the division of duties among the members of the board; and

(*e*) 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.

34. *(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 this section 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 as it thinks fit.

Employment of other officers and servants.

35. 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, 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 as it thinks fit and as may be approved by the Commissioner of the division.

Pensions and allowances of Government officials serving boards.

36. In the case of a Government official, any district board may—

(1) if his services are wholly lent to it, contribute to his pension, gratuities and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension, gratuities and leave-allowances in such proportion as may be determined by the Government.

Pensions and allowances of servants of boards.

37. In the case of a servant not being a Government official referred to in section 36, any district board *may*—

(1) grant him leave-allowances and, if his monthly pay is less then ten rupees, gratuities; and

(2) if empowered in this behalf by the Local Government—

(*a*) subscribe in his behalf for pension, gratuities and leave-allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, the servant would be entitled if the service had been service under the Government.

District Fund.

Constitution of district fund.

38. 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 of 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 exceptions and conditions as the Local Government may, from time to time, make and impose, the following, namely:—

(*c*) the surplus accruing in the district under section 18 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*) receipts from encamping-grounds under the regulation of the district board;

(*f*) the sale-proceeds of grass and of the produce of trees 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;

(*g*) receipts from property vested in the district board;

(*h*) rents and profits accruing from nazúl and other property placed by the Local Government under the management of the district board;

(*i*) other sums assigned to the district fund by the Local Government;

(*j*) sums contributed to the district fund by local bodies or private persons; and

(*k*) all other sums received by or on behalf of the district board in the carrying out of this Act.

Vesting, custody and investment of district fund.

39. *(1)* 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 or in the bank to which the Government treasury business has been made over.

(2) Subject to such rules as the Governor General in Council may, from time to time, make in this behalf, the district board may, from time to time, with the previous sanction of the Local Government, invest any portion of the district fund in securities of the Government of India or such other securities as the Governor General in Council may, from time to time, approve in this behalf, and vary such investments for others of the same nature. The income resulting from the securities and the proceeds of the sale of the same shall be credited to the district fund.

Application of the district fund.

40. *(1)* The district fund shall be charged with the payment of the expenses incurred in auditing the accounts of the district and local boards, and 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 the district board in return for services rendered to the board by those Departments.

(2) Subject to the charges specified in sub-section (1), 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 24, 34, 35, 36 and 37 within the area subject to the authority of the district board, and, with the sanction of the Local Government, outside that area when such application of the fund is for the benefit of the inhabitants of that area.

Control.

Control of Commissioner and Magistrate over boards and joint committees.

41. *(1)* The Commissioner of the division, or the Magistrate of the district when he is not a member of the district board, 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.

Power of Commissioner to suspend action under this Act.

42. *(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.

43. *(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 having the custody of the balance of the district fund 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 district board.

44. *(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 think proper 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 having the custody of the balance of the district 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 to supersede district board in case of incompetency, persistent default or abuse of powers.

45. *(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, declare 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 boards and district board shall be re-established, and the persons who vacated their offices under clause (a) shall not be deemed disqualified for nomination, appointment or election.

Liability of Members of Boards.

Liability of members for loss, waste or misapplication.

46. A person 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 while a member of a local board or of the district board; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the district board with the sanction of the Commissioner, or by the Secretary of State for India in Council.

Forms and Rules.

Power of Local Government to frame forms and make rules.

47. 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, where no notification under section 6, sub-section (2), is in force, of elective members of district boards;

(b) as to the nomination of members of local boards under section 5;

(c) as to the mode of convening ordinary and special meetings respectively, the notice to be given of such meetings, the business that may be transacted at ordinary 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 division of duties among the members of the board;

(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 and representations to the Local Government under this Act shall pass;

(i) as to the accounts to be kept, and as to the manner in which those 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;

(l) as to the language of the board;

(m) as to the qualifications requisite in the case of persons appointed to offices requiring professional skill; and

(n) generally, for the guidance of local boards, district boards and officers of Government in all matters connected with the carrying out of this Act and for settling their relations to one another.

Procedure for making rules.

48. The Local Government shall, before making any rules under section 47, 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.

Publication of rules.

49. Every rule made under section 47 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 48.

Supplemental Provisions.

Acquisition of land.

50. 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, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the district board. X of 1870.

Penalty on member, officer or servant being interested in contracts made with board or committee.

51. (1) 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 168 of the Indian Penal Code: XLV of 1860.

(2) A person shall not 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 the company and a board or committee, but he shall not take part in any proceedings of the board or committee relating to any such contract.

Saving of Act XI of 1879.

52. Nothing in this Act shall affect the Local Authorities Loans Act, 1879. XI of 1879.

Exceptional Provisions.

Power of Local Government to except local area from operation of Act.

53. 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.

Case of sub-district excepted from provisions regarding election.

54. When a sub-district is excepted, under section 53, 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.

Administrative committee to be appointed for district wholly excepted from Act.

55. When a district is excepted, under section 53, 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 24, or of such of them as the Local Government may, from time to time, specify; and the Local Government shall, from time to time, determine 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 (h) of section 38, and such of the sources of income mentioned in the other clauses of that section as the Local Government thinks fit:

Provided that not less than one-half of the members of the committee shall be persons who own landed property, or reside or carry on trade or business, in the district, and are not in the service of Government.

Amendment of the North-Western Provinces Local Rates Act, 1878.

Section 11, clause (c), Act III of 1878, amended.

56. For section 11, clause (c), of the North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely:— III of 1878.

"(c) Subject to the appropriation directed by clause (a), the Lieutenant-Governor may, from time to time, reserve from such fund such amounts as he thinks fit to be applied in or for the benefit of each district for expenditure on all or any of the following matters:—

(1) the maintenance of the village and road police and the district-post;

(2) the construction, repair and maintenance of lunatic asylums;

(3) the registration of traffic; and

(4) any other matter tending to promote the welfare of the district which it is in his opinion necessary to place under provincial and not under local administration.

"(d) Subject as aforesaid, the Lieutenant-Governor may allot from such fund such amounts as he thinks fit to the district fund constituted under the North-Western Provinces and Oudh Local Boards Act, 1883:

"Provided that the amounts so reserved and allotted in any year for the benefit of any district shall not be less than nine-tenths of the proceeds of the rates assessed under the first clause of section four and the first clause of section five in such district in such year."

Sections 12, 13 and 15 of same repealed.

57. Sections 12, 13 and 15 of the said North-Western Provinces Local Rates Act, 1878, are repealed. III of 1878.

New section substituted for section 14 of same.

58. For section 14 of the said North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely:— 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 official Gazette."

Amendment of the Oudh Local Rates Act, 1878.

Section 11, clause (c), Act IV of 1878, amended.

59. For section 11, clause (c), of the Oudh Local Rates Act, 1878, the following shall be substituted, namely:— IV of 1878.

"(c) Subject to such appropriation, the Chief Commissioner may, from time to time, reserve from such fund such amounts as he thinks fit to be applied in, or for the benefit of, each district for expenditure on all or any of the following matters:—

(1) the construction, repair and maintenance of lunatic asylums;

(2) the registration of traffic; and

(3) any other matters tending to promote the welfare of the district which it is in his opinion necessary to place under provincial and not under local administration.

"(d) Subject as aforesaid, the Chief Commissioner may allot from such fund such amounts as he thinks fit to the district fund constituted under the North-Western Provinces and Oudh Local Boards Act, 1883:

"Provided that the amounts so reserved and allotted in any year for the benefit of any district shall not be less than one-half of the proceeds of the rates assessed in such district in such year."

IV of 1878. Sections 12 and 14 of same repealed.

60. Sections 12 and 14 of the said Oudh Local Rates Act, 1878, are repealed.

IV of 1878. New section substituted for section 13 of same.

61. For section 13 of the said Oudh Local Rates Act, 1878, the following shall be substituted, namely :—

Accounts to be kept.

"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.

"An abstract of such accounts shall also be published annually in the local official Gazette."

Contracts made by, and Government officers employed by, Committees under the North-Western Provinces and Oudh Local Rates Acts.

Contracts of local rates committees.

62. 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 district 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.

Government officers serving under committees to continue under board.

63. A Government officer employed under the committee appointed in a district as aforesaid at the time when a district board comes into existence for the district under section 12 of this Act 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.

Amendment of the Northern India Ferries Act, 1878.

New section to follow section 7 of Act XVII of 1878.

64. After section seven of the Northern India Ferries Act, 1878, the following shall be inserted, namely :— XVII of 1878.

In North-Western Provinces and Oudh management may be vested in district board;

"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;

and proceeds paid into district fund.

"and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

Amendments of sections 6 and 17 of same Act.

65. 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" where they first occur, the following shall be inserted, namely :—"and section 7A."

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th September, 1883, and is hereby promulgated for general information :—

ACT No. XV OF 1883.

THE NORTH-WESTERN PROVINCES AND OUDH MUNICIPALITIES ACT, 1883.

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An Act to make better provision for the Organization and Administration of Municipalities in the North-Western Provinces and Oudh.

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.

1. *(1)* This Act may be called the North-Western Provinces and Oudh Municipalities 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 1st day of November, 1883.

Commencement.

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

Definitions.

(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.

3. *(1)* The Local Government may, from time to time, by notification published in the official Gazette, and in such other manner as the Local Government may from time to time determine, declare its intention to apply this Act to any town or to any group of towns in the immediate neighbourhood of one another.

Notification of intention to apply Act.

(2) Every notification under this section 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 part of a 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 the application of the Act, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

Application of Act.

(2) When six weeks from the publication of the notification in the Gazette 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 a notification in the official Gazette, apply this Act to the local area.

5. The Local Government may, by notification in the official Gazette, apply this Act to any local area which is a municipality established under the North-

Special rule as to application of Act to towns to which Act XV of 1873 applies.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter II.—Organization of Municipal Boards—Sections 6-13.

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 official Gazette, that the provisions of this Act are unsuited to that local area.

CHAPTER II.

ORGANIZATION OF MUNICIPAL BOARDS.

Constitution of Boards.

6. 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 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 section 64, from time to time, appoint in this behalf.

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 meet at a time and place specified in the notices, for the purpose of preparing and submitting, within such further time not exceeding three months from the date of the meeting as the Local Government may fix in this behalf, proposals for determining the system of representation and election to be established in the municipality.

Magistrate to convene meeting to determine system of election.

(2) The Local Government may, for special reasons, grant an extension, not exceeding one month, of the time fixed under this section for submitting proposals.

8. Notices under section 7 shall be issued to the following persons, namely:—

Persons to be invited to meeting.

(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 who in the opinion of the Magistrate of the district should be allowed to take part in the discussion.

9. The persons who meet in compliance with the notices issued under section 7 shall consider, and shall, within the time limited under that section, submit through the Magistrate of the district to the Local Government proposals regarding the following matters, namely:—

Matters to be considered at the meeting.

(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.

10. *(1)* The Local Government shall, after taking into consideration the proposals (if any) submitted under section 9, make rules regulating the matters referred to in that section, and may in making such rules direct that the breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

Power to Local Government to make rules regarding election.

(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.

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, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

Term of office of member of board.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

12. A member of a municipal board may resign by notifying in writing his intention to do so to the Local Government, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Resignation of member.

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 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 three consecutive months to be present at the meetings of the board.

Removal of member.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter II.—Organization of Municipal Boards—Sections 14-20.

14. *(1)* When the place of an elected member of a municipal board becomes vacant by his resignation, removal or death, a new member shall be elected in manner prescribed to fill the place:

Filling of casual vacancies.

Provided that the Local Government may, subject to the limitation of the proportion of appointed members of the board fixed by section 6, clause *(b)*, direct in any such case that the vacancy shall be left unfilled.

(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 64, 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 64, 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. *(1)* 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 or Act XX of 1856 is in force.

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 right and liability belonging to or incurred 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 when 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; and

(f) the board shall be substituted for the committee in all legal proceedings by or against the committee pending at the time when the board comes into existence.

(2) 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 in which Act XX of 1856 (*an Act to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal*) is in force, that Act shall cease to have effect in the local area, and every panchayát constituted under that Act for the local area shall cease to exist.

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 qualified for election as a member, 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—

(a) if the office of chairman remains vacant for three months from the date of the first meeting of the board, or in the case of a vacancy afterwards occurring, from the occurrence of that vacancy, and no person is within that period elected under this section to fill it, the Local Government may in its discretion appoint such person as it thinks fit by name or by virtue of his office to be chairman; and

(b) 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 Local Government may, from time to time, appoint such person as it thinks fit by name or by virtue of his office to be chairman.

19. 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.

Election of vice-chairman.

20. *(1)* The term of office of a member of the board elected to be chairman shall be the residue of his term of office as member.

Term of office of chairman and vice-chairman.

(2) The term of office of any other person elected to be chairman, or of a chairman appointed by the Local Government, shall be such term not exceeding three years as the Local Government may, from time to time, by rule prescribe.

(3) The term of office of a vice-chairman shall be one year: Provided that when at the time of his election as vice-chairman the residue of his term of office as member of the board is less than one year, his term of office as vice-chairman shall be the residue of his term as member.

(4) An outgoing chairman or vice-chairman shall, if otherwise qualified, be again eligible for election or appointment.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter II.—Organization of Municipal Boards—Sections 21-31.

21. *(1)* A chairman of a municipal board may resign by notifying in writing his intention to do so to the Local Government, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Resignation of chairman or vice-chairman.

(2) A vice-chairman of a municipal board may resign by notifying in writing his intention to do so to the board, and, on his resignation being accepted by the board, he shall be deemed to have vacated his office.

22. The Local Government may remove any chairman or vice-chairman of a municipal board from his office as such chairman or vice-chairman if he 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 chairman or vice-chairman, or if he, without sufficient excuse, neglects for more than three consecutive months to be present at the meetings of the board.

Removal of chairman or vice-chairman.

23. *(1)* If an elected chairman or vice-chairman dies or resigns his office, or is removed, a new chairman or vice-chairman shall be elected or appointed in manner provided by section 18 or section 19, as the case may be.

Casual vacancies in office of chairman or vice-chairman.

(2) If a chairman appointed by the Local Government dies, resigns his office or is removed, 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. Provided that if a person so elected is a member of the board at the time of his election, he shall go out of office on ceasing to be a member.

(4) A person going out of office under subsection (3) shall, if otherwise qualified, be again eligible for election or appointment.

24. 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 his 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.

Notification of Elections, Appointments and Vacancies.

25. Every election and appointment of a member or chairman of a municipal board and every vacancy in the office of member or chairman shall be notified in the official Gazette.

Notification of elections, appointments and vacancies.

Joint Committees.

26. *(1)* A municipal board may, from time to time, concur with any other municipal board, or with a district board, or with a cantonment authority, or with more than one such board or 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 the committee, and in delegating to any such committee any power which might be exercised by either or any of the boards or authorities, 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 committees.

(2) If any difference of opinion arises between boards or authorities acting under this section, the decision thereon of the Commissioner of the division, if the areas under the boards and authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

27. *(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 34.

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 either an ordinary or a special meeting at any other time.

28. *(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.

29. *(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.

(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 section 34:

Provided that, if at any ordinary or special 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.

30. *(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.

31. *(1)* Except as otherwise provided by this Act, or by any rule made by the Local Government

Vote of majority decisive.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter II.—Organization of Municipal Boards—Sections 32-40.

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.

32. 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.

33. *(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 or 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.

(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.

34. *(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 of convening ordinary and special meetings respectively and of giving notice thereof;

(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 division of duties among the 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) 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.

35. *(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 a person who is 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) When a member of the board is appointed to be secretary, he shall receive no remuneration in respect of his services. In other cases, the board may, with the previous sanction of the Commissioner, assign to a secretary any such pay as it thinks fit.

Employment of other officers and servants.

36. 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 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 as it thinks fit.

Pensions of Government officials serving boards.

37. In the case of a Government official employed by a municipal board, the board may—

(1) if his services are wholly lent to it, contribute to his pension, gratuities and leave allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension, gratuities and leave allowances in such proportion as may be determined by the Government.

Pensions of servants of boards.

38. In the case of a servant not being a Government official referred to in section 37, a board may—

(1) grant him leave allowances and, if his monthly pay is less than ten rupees, gratuities; and

(2) if empowered in this behalf by the Local Government—

(*a*) subscribe in his behalf for pension, gratuities and leave allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave allowance or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, he would be entitled if the service had been service under the Government.

Contracts.

Authority to contract.

39. *(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.

Mode of executing contracts.

40. *(1)* Every contract made by or on behalf of a municipal board whereof the value or amount exceeds twenty rupees shall be in writing.

(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

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter III.—Taxation and Municipal Fund—Sections 41-47.

contracts which he or they are empowered to enter into under section 39, sub-section (1).

(3) If a contract to which this section applies is executed otherwise than in conformity therewith, it shall not be binding on the board.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

Taxes which may be imposed.

41. 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 42, any of the following taxes, namely:—

(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 centum 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 vehicles and on animals used for riding or driving or as beasts of burthen, when such vehicles or animals are kept within the municipality;

(d) a tax on vehicles and on animals as aforesaid entering the municipality, and on boats moored therein;

(e) an octroi on goods or animals 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.

Procedure in imposing taxes.

42. *(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 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, with the objections (if any) which have been submitted as aforesaid.

(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 any proposals which, under section 41, 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 them, 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.

Tax not invalid for defect of form.

43. A tax imposed under this Act shall not be invalid for defect of form, and when any property is described for the purpose of assessing any such tax, it shall be sufficient to describe it so that it shall be generally known, and it shall not be necessary to name the owner or occupier.

Power to abolish or reduce tax.

44. 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.

Taxes leviable under Act XV of 1873 to be deemed to be taxes under this Act.

45. All taxes leviable in any local area under the North-Western Provinces and Oudh Municipalities Act, 1873, 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. XV of 1873.

Recovery of taxes.

46. 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.

Municipal Fund.

Constitution and application of municipal fund.

47. *(1)* There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

(a) all sums received by or on behalf of the board;

(b) all fines realized in cases in which prosecutions are instituted under this Act or section 34 of Act V of 1861 for offences committed within the municipality;

(c) 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 when the municipal board came into existence; and XV of 1873.

(d) when there has been included within the municipality any local area in which the said Act XX of 1856 was in force at the time when the municipal board came into existence, the amount (if any) then available under section 36 of that Act for the

N.-W. P. and Oudh Municipalities Bill, 1883.
Chapter IV.—Powers and Duties of Municipal Boards generally—Sections 48—55.

purposes of cleansing, lighting and improvement in that local area.

(2) 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.

Custody and investment of municipal fund.

48. *(1)* In places where there is a Government treasury or sub-treasury, or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in the treasury, sub-treasury or bank.

(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 and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

(3) A municipal board may, from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund in securities of the Government of India or such other securities as the Governor General in Council may, from time to time, approve in this behalf, and vary such investments for others of the like nature. The income resulting from the securities and the proceeds of the sale of the same shall be credited to the municipal fund.

CHAPTER IV.

POWERS AND DUTIES OF MUNICIPAL BOARDS GENERALLY.

Municipal Police.

Police-establishment.

49. 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.

III of 1880.

Constitution of establishment.

50. Subject to the provisions of section 9 of the Cantonments Act, 1880, the establishment maintained under section 49 shall, as the board with the approval of the Local Government may from time to time direct, be either a body of watchmen or a part of the general police force under the Local Government within the meaning of section 2 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, and subject to the final decision of the Local Government, direct.

Appointment, punishment and duties of municipal watchmen.

51. If the establishment maintained under section 49 is a body of watchmen, the watchmen shall be appointed and promoted, 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. XVI of 1873. XVIII of 1876.

Duties of municipal police enrolled under Act V of 1861.

52. 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.

Powers under section 34 of Act V of 1861.

53. In any municipality in which section 34 of Act V of 1861 is in force, every watchman under this Act shall have the powers of a police-officer under that section.

Conservancy and General Improvement.

Duties of municipal board generally.

54. Every municipal board, so far as the municipal fund at its disposal will permit, but subject to any agreement between the board and the Local Government as to the application of that fund, shall, after providing for the maintenance of the police-establishment referred to in the foregoing sections,—

(1) provide for the construction, maintenance, repair and cleansing of the public streets, roads, drains, tanks and watercourses;

(2) cause those streets and roads to be watered and lighted;

(3) provide for the establishment, maintenance and management of schools and dispensaries and of other public 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 order of the Local Government, have been excepted from the operation of this section;

(4) provide for the establishment, 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.

Power to make and enforce Rules.

Power to make rules.

55. *(1)* A municipal board may, from time to time, at a special meeting, make rules—

(a) for prohibiting, preventing and punishing such acts or omissions within the municipality as may, in the opinion of the board, 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 have occasion to use any public right, or may, in its opinion, be prejudicial to the public health, safety or convenience, or offences against public decency;

(b) for protecting from injury or interference anything within the municipality being the property of Her Majesty or of the board;

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Chapter V.—Control—Sections 56-60.

(c) for prohibiting or controlling the establishment or maintenance of markets, sáráis and halting places, and controlling the management of the same and of any places of public entertainment and resort;

(d) for controlling and regulating the use and management of burial and burning grounds;

(e) 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 within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;

(f) for securing a proper registration of births, marriages and deaths;

(g) for defining the cases, manner and times in and at which officers of the board may enter on private property for the enforcement of rules made under this section;

(h) in hilly tracts, for regulating or prohibiting the cutting of trees or shrubs, or the excavation or removal of soil, where such regulation or prohibition appears necessary for the preservation of the soil, the prevention of landslips or of the formation of ravines or torrents, the protection of land against erosion, or the deposit thereon of sand, stones or gravel; and

(i) 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 breach, with a further fine which may extend to 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 of any vehicles to which that Act applies. XIV of 1879.

Power to prohibit commission of public nuisances.

56. 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.

Powers as to conditional orders in respect of certain acts and omissions.

57. *(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 133 of the Code of Criminal Procedure, and with power to make conditional orders of the nature referred to in that section in respect of all or any acts or omissions punishable under rules made in exercise of the power conferred by section 55, clauses *(a)*, *(b)*, *(c)*, *(d)* and *(h)*. X of 1882.

(2) Sections 133 to 142 (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:

Provided that, for the purposes of such proceedings, section 133 of the Code shall be read as if for the words "before himself or some other Magistrate of the first or second class" the words "before the District Magistrate or some magistrate of the first or second class appointed by him in this behalf" were substituted.

(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 under sections 56 and 57.

58. 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 56, or with which the board may have been invested under section 57.

CHAPTER V.

CONTROL.

Control by Commissioner or Magistrate.

59. The Commissioner of the division or the Magistrate of the district, when he is not a member of the municipal board, 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.

Power to suspend action under Act.

60. *(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 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.

61. *(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 on him by this section.

Powers of Local Government in case of default of board.

62. *(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 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 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.

63. *(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 Her Majesty.

(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 for being members.

Power of Local Government to frame forms and make rules.

64. *(1)* 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) as to the appointment of members of a municipal board ;

(b) as to the language of the board ;

(c) for the assessment and collection of taxes imposed under this Act, and for preventing evasion of the same ;

(d) as to the authority on which money may be paid from the municipal fund ;

(e) as to the conditions on which property vested in the board may be transferred by sale, mortgage, lease, exchange or otherwise ;

(f) as to the qualifications requisite in the case of persons appointed by the board to offices requiring professional skill ;

(g) as to the intermediate office or offices, if any, through which correspondence between boards and the Local Government or officers of that Government and representations addressed to the Local Government under this Act shall pass ;

(h) 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 ;

(i) 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 ;

(j) 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 ;

(k) as to the returns, statements and reports to be submitted by boards ; and

(l) generally, for the guidance of boards and public officers in all matters connected with the carrying out of this Act.

(2) In making rules under clause *(c)*, the Local Government may direct that a breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

CHAPTER VI.

SUPPLEMENTAL.

Penalty on member, officer or servant of board being interested in contract made with board.

65. *(1)* 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 168 of the Indian Penal Code. XLV of 1860.

(2) A person shall not 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 the company and the board, but he shall not take part in any proceedings of the board relating to any such contract.

Liability of members for loss, waste or misapplication.

66. Every person 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 while a member of the board, and a suit for compensation may be instituted against him by the board with the previous sanction of the Commissioner, or by the Secretary of State for India in Council.

Acquisition of land under Act X of 1870.

67. 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, 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, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the board. X of 1870.

Procedure for making rules.

68. *(1)* The authority empowered to make rules under section 10, section 55, or section 64 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, 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.

(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.

Prosecutions.

69. A Court shall not take cognizance of an offence punishable under this Act, or the rules made under this Act, except on the complaint of the municipal board or of some person authorized by the board in this behalf.

Saving of prosecutions under other laws.

70. 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 made under it, or from being liable under that other law to any higher punishment or penalty than that provided by this Act or the rules made under it : Provided that a person shall not be punished twice for the same offence.

Continuance of existing rules.

71. All rules made under the North-Western Provinces and Oudh Municipalities Act, 1873, or any Act thereby repealed, and in force in any local area comprised in a municipality constituted under this Act at the time the municipal board for that municipality comes into existence under section 16, shall, as far as may be, be deemed to have been made under this Act, and shall continue in force until repealed by new rules so made. XV of 1873.

(2) The authority empowered to make such new rules shall, as soon as may be, make them and take such action as may be requisite for bringing them into force.

Notification of intention to alter limits of municipality.

72. The Local Government may, from time to time, by notification published in the official Gazette, and in such other manner as the Local Government may from time to time determine, declare its intention—

(a) to exclude from a municipality any local area comprised therein and defined in the notification, or

(b) to include, within a municipality any local area in the vicinity of the same and defined in the notification :

Provided that where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous consent of the Governor General in Council.

Alteration of limits of municipality.

73. *(1)* Any inhabitant of a municipality or local area in respect of which a notification has been published in the Gazette under section 72 may, if he objects to the alteration proposed, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification in the Gazette 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 a notification in the official Gazette exclude the local area from the municipality or include it therein, as the case may be.

Effect of exclusion of local area from municipality.

74. *(1)* When a local area is excluded from a municipality under section 73—

(a) this Act and all rules, orders, directions and powers made, issued or conferred under this Act shall cease to apply thereto ; and

(b) the Local Government shall, after consulting the municipal board, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the municipal board shall vest in Her Majesty for the benefit of the local area, and in

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter VII.—Exceptional Provisions—Sections 75-79.

what manner the liabilities of the board shall be apportioned between the board and the Secretary of State for India in Council, and on the publication of the scheme in the local official Gazette, the property and liabilities shall vest and be apportioned accordingly.

(2) All property vested in Her Majesty under sub-section *(1)* shall be applied under the orders of the local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area.

Effect of including local area in municipality.

75. When a local area is included in a municipality under section 73, this Act and all rules, orders, directions and powers made, issued or conferred under this Act and in force throughout the whole municipality at the time the local area is so included shall apply to the local area.

XI of 1879.

Saving of Act XI of 1879.

76. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

Member of municipal board to be municipal commissioner.

77. Every member of a municipal board constituted under this Act shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force.

CHAPTER VII.

EXCEPTIONAL PROVISIONS.

Power to except municipalities from operation of provisions of Act regarding election.

78. *(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, exempt 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.

(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.

Power to withdraw municipal area altogether from operation of this Act or Act XV of 1873.

79. *(1)* The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, withdraw from the operation of this Act or the North-Western Provinces and Oudh Municipalities Act, 1873, the area of any municipality constituted under that Act. XV of 1873.

(2) When a notification is issued under this section in respect of any municipality, the Act, and all rules, bye-laws, orders, directions and powers made, issued or conferred under the Act, shall cease to apply to the local area comprised in the municipality, the balance of the municipal fund and all other property which at the time of the issue of the notification is vested in the municipal board or municipal committee shall vest in Her Majesty, and the liabilities of the board or committee shall be transferred to the Secretary of State for India in Council.

(3) All property vested in Her Majesty under sub-section (2) shall be applied under the orders of the Local Government to discharge the liabilities imposed on the Secretary of State for India in Council by that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area comprised in the municipality.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th September, 1883, and is hereby promulgated for general information:—

ACT NO. XIII OF 1883.

An Act to declare the law in force in certain lands which have been or hereafter may be ceded by the Bahâwalpur 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 Bahâwalpur 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.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th September, 1883, and is hereby promulgated for general information:—

ACT NO. XIV OF 1883.

THE NORTH-WESTERN PROVINCES AND OUDH LOCAL BOARDS ACT, 1883.

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56. Section 11, clause (c), Act III of 1878, amended.
57. Sections 12, 13 and 15 of same repealed.
58. New section substituted for section 14 of same.

Amendment of the Oudh Local Rates Act, 1878.

59. Section 11, clause (c), Act IV of 1878, amended.
60. Sections 12 and 14 of same repealed.
61. New section substituted for section 13 of same.

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An Act 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:—

Preliminary.

1. *(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 November, 1883. (Commencement.)

2. In this Act, unless there is something repugnant in the subject or context,— (Definition of "prescribed.")

"Prescribed" means prescribed by rules made under section 47.

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, and, unless the Local Government otherwise directs, the portions of the district (if any) in which Act XX of 1856 (*an Act to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal*) is in force.

(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 excluded from the sub-districts under section 3, sub-section (2). (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 so many elected members and so many nominated members as the Local Government may, from time to time, fix in this behalf: (Constitution of local boards.)

Provided that the nominated members shall not exceed in number one-fourth of the board.

(2) The elective members of a local board shall be elected in manner prescribed.

(3) 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:

Provided that the persons entitled to vote at the election of a member shall not be less than twenty-five in number.

(4) A person to be qualified for election must, at the time of his election, be an elector, and reside, or own landed property, or carry on trade or business, in the sub-district.

(5) The nominated members shall be such persons as the Local Government may, subject to the rules made under section 47, from time to time, nominate in this behalf.

6. *(1)* The district board for a district shall, except as next hereinafter provided, 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.)

(2) The Local Government may, if it thinks fit, by notification in the official Gazette, direct that the district board for a district shall consist of so many of the elected members of each local board as it thinks fit, elected in this behalf by the local board in manner prescribed, and such of the nominated members of each local board as the Local Government may appoint in this behalf:

Provided that the nominated members of local boards so appointed by the Local Government shall not exceed in number one-fourth of the district board.

(3) The Local Government may, by notification in the official Gazette, rescind any direction issued under sub-section (2) 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 of this Act, 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 or appointed under section 6, sub-section (2), shall be fixed, from time to time, by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, 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, nomination or appointment.

8. A member of a local board and a member of a district board elected or appointed 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 or appointed as aforesaid who refuses to act, or becomes incapable of acting, or is declared 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 three consecutive months to be present at the meetings of the local board, or, when he is a member of the district board, without sufficient excuse neglects for more than six consecutive months to be present at the meetings of that 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 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 nominated members of a local board fixed by section 5, and to the limitation of the proportion of appointed members of a district board fixed by section 6, direct in any such case that the vacancy shall be left unfilled.

(2) When the place of a nominated member of a local board or an appointed member of a district board becomes vacant as aforesaid, the Local Government may, if it thinks fit, but subject to the rules made under section 47, nominate or appoint, as the case may be, a new member to fill the place.

(3) A person elected, nominated 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, nomination 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 other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name. (Incorporation of district board.)

12. The several local boards and district boards constituted 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. (Chairman of local board.)

(2) The term of office of a chairman so elected shall be the residue of his term of office as a member of the board.

(3) If the chairman so elected dies, resigns or is removed from his office as 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, resigning, removed or becoming incapable would have been entitled to continue in office, and no longer.

(4) 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,— (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, by name or by virtue of his office, 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. *(1)* The term of office of an elected chairman of a district board shall be the residue of his term of office as member of the board.

Term of office of chairman and vice-chairman of district board.

(2) The term of office of an appointed chairman of a district board shall be such term, not exceeding three years, as the Local Government may, from time to time, by rule prescribe.

(3) The term of office of a vice-chairman of a district board shall be one year, or when at the time of his election the residue of his term of office as member is less than one year, the residue of that term.

17. *(1)* A chairman of a district 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.

Resignation of chairman and vice-chairman of district board.

(2) A vice-chairman of a district board may resign by notifying in writing his intention to do so to the board; and, on such resignation being accepted by the board, he shall be deemed to have vacated his office.

18. The Local Government may remove any chairman or vice-chairman of a district board from his office as such chairman or vice-chairman if he 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 chairman or vice-chairman, or if he without sufficient excuse neglects for more than six consecutive months to be present at the meetings of the board.

Removal of chairman and vice-chairman of district board.

19. *(1)* If an elected chairman of a district board dies, resigns, is removed 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 section 14.

Casual vacancies in office of chairman or vice-chairman of district board.

(2) If an appointed chairman of a district board dies, resigns, is removed or becomes incapable of acting, the Local Government shall appoint another chairman.

(3) If a vice-chairman of a district board dies, resigns, is removed or becomes incapable of acting, the board shall, at a special meeting held for this purpose, select 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:

Provided that a person so elected shall go out of office on ceasing to be a member of the board.

20. Notwithstanding anything in the foregoing sections, a chairman appointed by the Local Government under section 14, sub-section (2), or section 19, 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.

21. A chairman of a local board, and a chairman or vice-chairman of a district board, if otherwise qualified, shall on going out of office be again eligible for election or appointment.

Chairman of local board and chairman or vice-chairman of district board re-eligible.

22. *(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.

Notification of Elections, &c.

23. All elections, nominations and appointments of members of local boards and district boards, and of chairmen of district boards, and all vacancies in those offices, shall be notified in the local official Gazette.

Notification of elections, &c.

Duties of District Boards.

24. Every district board shall, so far as the funds at its disposal will permit, but subject to such exceptions and conditions as the Local Government may, from time to time, make and impose, provide for the control and administration of the following matters 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;

(*b*) the planting and preservation of trees on the sides of roads and on other public ground;

(*c*) the establishment, 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;

(*d*) the construction and repair of public wells, tanks and water-works, and the supply of water from them and from other sources;

(*e*) the establishment and maintenance of such relief-works in time of famine or scarcity as may be entrusted to the charge of the board by the Local Government;

(*f*) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in force, such functions of the Local Government and the Magistrate of the district under that Act as may be transferred to the district board by the Local Government; I of 1871.

(*g*) 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.

(*h*) the regulation of encamping-grounds and, where the Saráís Act, 1867, is in force, of saráís and paráos, including such functions of the Magistrate of the district under that Act as the Local Government may, from time to time, direct; XXII of 1867.

(*i*) the institution, holding and management of agricultural shows and industrial exhibitions;

(*j*) 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

(*k*) any other local works or measures likely to promote the health, comfort, convenience or interest of the public.

Duties of Local Boards and their Relations to District Boards.

25. 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 24 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.

26. 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.

27. *(1)* A district board may, from time to time, concur with any other district board, or with the board of any municipality, or with a cantonment authority, or with more than one such board or 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 committee, and in delegating to any such committee any power which might be exercised by either or any of the boards or authorities, 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 committees.

(2) If any difference of opinion arises between boards or authorities acting under this section, the decision thereon of the Commissioner of the division if the areas under the boards and authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

28. *(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.

29. *(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:

Provided that, if at any ordinary or special 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.

30. *(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 person presiding at the meeting shall have a second or casting vote.

31. 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 and public instruction.

Certain officers entitled to attend and speak.

32. *(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 or of the next ensuing 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.

33. 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 division of duties among the members of the board; and

(*e*) 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.

34. *(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 this section 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 as it thinks fit.

Employment of other officers and servants.

35. 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, 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 as it thinks fit and as may be approved by the Commissioner of the division.

Pensions and allowances of Government officials serving boards.

36. In the case of a Government official, any district board may—

(1) if his services are wholly lent to it, contribute to his pension, gratuities and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension, gratuities and leave-allowances in such proportion as may be determined by the Government.

Pensions and allowances of servants of boards.

37. In the case of a servant not being a Government official referred to in section 36, any district board may—

(1) grant him leave-allowances and, if his monthly pay is less then ten rupees, gratuities; and

(2) if empowered in this behalf by the Local Government—

(*a*) subscribe in his behalf for pension, gratuities and leave-allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, the servant would be entitled if the service had been service under the Government.

District Fund.

Constitution of district fund.

38. 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 of 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 exceptions and conditions as the Local Government may, from time to time, make and impose, the following, namely:—

(*c*) the surplus accruing in the district under section 18 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*) receipts from encamping-grounds under the regulation of the district board;

(*f*) the sale-proceeds of grass and of the produce of trees 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;

(*g*) receipts from property vested in the district board;

(*h*) rents and profits accruing from nazúl and other property placed by the Local Government under the management of the district board;

(*i*) other sums assigned to the district fund by the Local Government;

(*j*) sums contributed to the district fund by local bodies or private persons; and

(*k*) all other sums received by or on behalf of the district board in the carrying out of this Act.

Vesting, custody and investment of district fund.

39. *(1)* 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 or in the bank to which the Government treasury business has been made over.

(2) Subject to such rules as the Governor General in Council may, from time to time, make in this behalf, the district board may, from time to time, with the previous sanction of the Local Government, invest any portion of the district fund in securities of the Government of India or such other securities as the Governor General in Council may, from time to time, approve in this behalf, and vary such investments for others of the same nature. The income resulting from the securities and the proceeds of the sale of the same shall be credited to the district fund.

Application of the district fund.

40. *(1)* The district fund shall be charged with the payment of the expenses incurred in auditing the accounts of the district and local boards, and 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 the district board in return for services rendered to the board by those Departments.

(2) Subject to the charges specified in sub-section (1), 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 24, 34, 35, 36 and 37 within the area subject to the authority of the district board, and, with the sanction of the Local Government, outside that area when such application of the fund is for the benefit of the inhabitants of that area.

Control.

Control of Commissioner and Magistrate over boards and joint committees.

41. *(1)* The Commissioner of the division, or the Magistrate of the district when he is not a member of the district board, 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.

Power of Commissioner to suspend action under this Act.

42. *(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.

43. *(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 having the custody of the balance of the district fund 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 district board.

44. *(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 think proper 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 having the custody of the balance of the district 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 to supersede district board in case of incompetency, persistent default or abuse of powers.

45. *(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, declare 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 boards and district board shall be re-established, and the persons who vacated their offices under clause (a) shall not be deemed disqualified for nomination, appointment or election.

Liability of Members of Boards.

Liability of members for loss, waste or misapplication.

46. A person 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 while a member of a local board or of the district board; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the district board with the sanction of the Commissioner, or by the Secretary of State for India in Council.

Forms and Rules.

Power of Local Government to frame forms and make rules.

47. 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, where a notification under section 6, sub-section (2), is in force, of elective members of district boards;

(b) as to the nomination of members of local boards under section 5;

(c) as to the mode of convening ordinary and special meetings respectively, the notice to be given of such meetings, the business that may be transacted at ordinary 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 division of duties among the members of the board;

(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 and representations to the Local Government under this Act shall pass;

(i) as to the accounts to be kept, and as to the manner in which those 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;

(l) as to the language of the board;

(m) as to the qualifications requisite in the case of persons appointed to offices requiring professional skill; and

(n) generally, for the guidance of local boards, district boards and officers of Government in all matters connected with the carrying out of this Act and for settling their relations to one another.

Procedure for making rules.

48. The Local Government shall, before making any rules under section 47, 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.

Publication of rules.

49. Every rule made under section 47 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 48.

Supplemental Provisions.

Acquisition of land.

50. 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, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the district board. X of 1870.

Penalty on member, officer or servant being interested in contracts made with board or committee.

51. (1) 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 168 of the Indian Penal Code: XLV of 1860.

(2) A person shall not 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 the company and a board or committee, but he shall not take part in any proceedings of the board or committee relating to any such contract.

Saving of Act XI of 1879.

52. Nothing in this Act shall affect the Local Authorities Loans Act, 1879. XI of 1879.

Exceptional Provisions.

Power of Local Government to except local area from operation of Act.

53. 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.

Case of sub-district excepted from provisions regarding election.

54. When a sub-district is excepted, under section 53, 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.

Administrative committee to be appointed for district wholly excepted from Act.

55. When a district is excepted, under section 53, 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 24, or of such of them as the Local Government may, from time to time, specify; and the Local Government shall, from time to time, determine 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 38, and such of the sources of income mentioned in the other clauses of that section as the Local Government thinks fit:

Provided that not less than one-half of the members of the committee shall be persons who own landed property, or reside or carry on trade or business, in the district, and are not in the service of Government.

Amendment of the North-Western Provinces Local Rates Act, 1878.

Section 11, clause (c), Act III of 1878, amended.

56. For section 11, clause (c), of the North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely:— III of 1878.

"(c) Subject to the appropriation directed by clause (a), the Lieutenant-Governor may, from time to time, reserve from such fund such amounts as he thinks fit to be applied in or for the benefit of each district for expenditure on all or any of the following matters:—

(1) the maintenance of the village and road police and the district-post;

(2) the construction, repair and maintenance of lunatic asylums;

(3) the registration of traffic; and

(4) any other matter tending to promote the welfare of the district which it is in his opinion necessary to place under provincial and not under local administration.

"(d) Subject as aforesaid, the Lieutenant-Governor may allot from such fund such amounts as he thinks fit to the district fund constituted under the North-Western Provinces and Oudh Local Boards Act, 1883:

"Provided that the amounts so reserved and allotted in any year for the benefit of any district shall not be less than nine-tenths of the proceeds of the rates assessed under the first clause of section four and the first clause of section five in such district in such year."

Sections 12, 13 and 15 of same repealed.

57. Sections 12, 13 and 15 of the said North-Western Provinces Local Rates Act, 1878, are repealed. III of 1878.

New section substituted for section 14 of same.

58. For section 14 of the said North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely:— 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.

"An abstract of such accounts shall also be published annually in the local official Gazette."

Accounts to be kept.

Amendment of the Oudh Local Rates Act, 1878.

Section 11, clause (c), Act IV of 1878, amended.

59. For section 11, clause (c), of the Oudh Local Rates Act, 1878, the following shall be substituted, namely:— IV of 1878.

"(c) Subject to such appropriation, the Chief Commissioner may, from time to time, reserve from such fund such amounts as he thinks fit to be applied in, or for the benefit of, each district for expenditure on all or any of the following matters:—

(1) the construction, repair and maintenance of lunatic asylums;

(2) the registration of traffic; and

(3) any other matters tending to promote the welfare of the district which it is in his opinion necessary to place under provincial and not under local administration.

"(d) Subject as aforesaid, the Chief Commissioner may allot from such fund such amounts as he thinks fit to the district fund constituted under the North-Western Provinces and Oudh Local Boards Act, 1883:

"Provided that the amounts so reserved and allotted in any year for the benefit of any district shall not be less than one-half of the proceeds of the rates assessed in such district in such year."

N.-W. P. and Oudh Local Boards Act, 1883—Sections 60-65.

IV of 1878.

Sections 12 and 14 of same repealed.

60. Sections 12 and 14 of the said Oudh Local Rates Act, 1878, are repealed.

IV of 1878.

New section substituted for section 13 of same.

61. For section 13 of the said Oudh Local Rates Act, 1878, the following shall be substituted, namely :—

"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 official Gazette."

Contracts made by, and Government officers employed by, Committees under the North-Western Provinces and Oudh Local Rates Acts.

III of 1878.
IV of 1878.

Contracts of local rates committees.

62. 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 district 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.

Government officers serving under committees to continue under board.

63. A Government officer employed under the committee appointed in a district as aforesaid at the time when a district board comes into existence for the district under section 12 of this Act 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.

Amendment of the Northern India Ferries Act, 1878.

XVII of 1878.

New section to follow section 7 of Act XVII of 1878.

64. After section seven of the Northern India Ferries Act, 1878, the following shall be inserted, namely :—

"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."

Amendments of sections 6 and 17 of same Act.

65. 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" where they first occur, the following shall be inserted, namely :—"and section 7A."

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th September, 1883, and is hereby promulgated for general information :—

ACT No. XV OF 1883.

THE NORTH-WESTERN PROVINCES AND OUDH MUNICIPALITIES ACT, 1883.

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An Act to make better provision for the Organization and Administration of Municipalities in the North-Western Provinces and Oudh.

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.

1. *(1)* This Act may be called the North-Western Provinces and Oudh Municipalities 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.

Commencement.

(3) It shall come into force on the 1st day of November, 1883.

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

Definitions.

(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.

3. *(1)* The Local Government may, from time to time, by notification published in the official Gazette, and in such other manner as the Local Government may from time to time determine, declare its intention to apply this Act to any town or to any group of towns in the immediate neighbourhood of one another.

Notification of intention to apply Act.

(2) Every notification under this section 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 part of a 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 the application of the Act, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

Application of Act.

(2) When six weeks from the publication of the notification in the Gazette 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 a notification in the official Gazette, apply this Act to the local area.

5. The Local Government may, by notification in the official Gazette, apply this Act to any local area which is 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—

Special rule as to application of Act to towns to which Act XV of 1873 applies.

(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 official Gazette, that the provisions of this Act are unsuited to that local area.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter II.—Organization of Municipal Boards—Sections 6-13.

CHAPTER II.

ORGANIZATION OF MUNICIPAL BOARDS.

Constitution of Boards.

6. 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 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 section 64, from time to time, appoint in this behalf.

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 meet at a time and place specified in the notices, for the purpose of preparing and submitting, within such further time not exceeding three months from the date of the meeting as the Local Government may fix in this behalf, proposals for determining the system of representation and election to be established in the municipality.

Magistrate to convene meeting to determine system of election.

(2) The Local Government may, for special reasons, grant an extension, not exceeding one month, of the time fixed under this section for submitting proposals.

8. Notices under section 7 shall be issued to the following persons, namely:—

Persons to be invited to meeting.

(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 who in the opinion of the Magistrate of the district should be allowed to take part in the discussion.

9. The persons who meet in compliance with the notices issued under section 7 shall consider, and shall, within the time limited under that section, submit through the Magistrate of the district to the Local Government proposals regarding the following matters, namely:—

Matters to be considered at the meeting.

(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) nay other matters regarding the system of representation and of election which it may seem to the meeting expedient to consider.

10. *(1)* The Local Government shall, after taking into consideration the proposals (if any) submitted under section 9, make rules regulating the matters referred to in that section, and may in making such rules direct that the breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

Power to Local Government to make rules regarding election.

(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.

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, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

Term of office of member of board.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

12. A member of a municipal board may resign by notifying in writing his intention to do so to the Local Government, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Resignation of member.

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 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 three consecutive months to be present at the meetings of the board.

Removal of member.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter II.—Organization of Municipal Boards—Sections 14-20.

14. *(1)* When the place of an elected member of a municipal board becomes vacant by his resignation, removal or death, a new member shall be elected in manner prescribed to fill the place:

Filling of casual vacancies.

Provided that the Local Government may, subject to the limitation of the proportion of appointed members of the board fixed by section 6, clause *(b)*, direct in any such case that the vacancy shall be left unfilled.

(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 64, 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 64, 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. *(1)* 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 in which Act XX of 1856 (*an Act to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal*) is in force, that Act shall cease to have effect in the local area, and every panchayát constituted under that Act for the local area shall cease to exist.

Consequences of establishment of municipal board where municipal committee exists or Act XX of 1856 is in force.

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 right and liability belonging to or incurred 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 when 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; and

(f) the board shall be substituted for the committee in all legal proceedings by or against the committee pending at the time when the board comes into existence.

(2) 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 in which Act XX of 1856 (*an Act to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal*) is in force, that Act shall cease to have effect in the local area, and every panchayát constituted under that Act for the local area shall cease to exist.

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 qualified for election as a member, 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—

(a) If the office of chairman remains vacant for three months from the date of the first meeting of the board, or in the case of a vacancy afterwards occurring, from the occurrence of that vacancy, and no person is within that period elected under this section to fill it, the Local Government may in its discretion appoint such person as it thinks fit by name or by virtue of his office to be chairman; and

(b) 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 Local Government may, from time to time, appoint such person as it thinks fit by name or by virtue of his office to be chairman.

19. 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.

Election of vice-chairman.

20. *(1)* The term of office of a member of the board elected to be chairman shall be the residue of his term of office as member.

Term of office of chairman and vice-chairman.

(2) The term of office of any other person elected to be chairman, or of a chairman appointed by the Local Government, shall be such term not exceeding three years as the Local Government may, from time to time, by rule prescribe.

(3) The term of office of a vice-chairman shall be one year: Provided that when at the time of his election as vice-chairman the residue of his term of office as member of the board is less than one year, his term of office as vice-chairman shall be the residue of his term as member.

(4) An outgoing chairman or vice-chairman shall, if otherwise qualified, be again eligible for election or appointment.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter II.—Organization of Municipal Boards—Sections 21-31.

21. *(1)* A chairman of a municipal board may resign by notifying in writing his intention to do so to the Local Government, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Resignation of chairman or vice-chairman.

(2) A vice-chairman of a municipal board may resign by notifying in writing his intention to do so to the board, and, on his resignation being accepted by the board, he shall be deemed to have vacated his office.

22. The Local Government may remove any chairman or vice-chairman of a municipal board from his office as such chairman or vice-chairman if he 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 chairman or vice-chairman, or if he, without sufficient excuse, neglects for more than three consecutive months to be present at the meetings of the board.

Removal of chairman or vice-chairman.

23. *(1)* If an elected chairman or vice-chairman dies or resigns his office, or is removed, a new chairman or vice-chairman shall be elected or appointed in manner provided by section 18 or section 19, as the case may be.

Casual vacancies in office of chairman or vice-chairman.

(2) If a chairman appointed by the Local Government dies, resigns his office or is removed, 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. Provided that if a person so elected is a member of the board at the time of his election, he shall go out of office on ceasing to be a member.

(4) A person going out of office under subsection (3) shall, if otherwise qualified, be again eligible for election or appointment.

24. 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 his 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.

Notification of Elections, Appointments and Vacancies.

25. Every election and appointment of a member or chairman of a municipal board and every vacancy in the office of member or chairman shall be notified in the official Gazette.

Notification of elections, appointments and vacancies.

Joint Committees.

26. *(1)* A municipal board may, from time to time, concur with any other municipal board, or with a district board, or with a cantonment authority, or with more than one such board or 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 the committee, and in delegating to any such committee any power which might be exercised by either or any of the boards or authorities, 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 committees.

(2) If any difference of opinion arises between boards or authorities acting under this section, the decision thereon of the Commissioner of the division, if the areas under the boards and authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

27. *(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 34.

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 either an ordinary or a special meeting at any other time.

28. *(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.

29. *(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.

(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 section 34:

Provided that, if at any ordinary or special 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.

30. *(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.

31. *(1)* Except as otherwise provided by this Act, or by any rule made by the Local Government

Vote of majority decisive.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter II.—Organization of Municipal Boards—Sections 32-40.

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.

32. 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.

33. *(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 or 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.

(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.

34. *(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 of convening ordinary and special meetings respectively and of giving notice thereof;

(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 division of duties among the 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) 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.

35. *(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 a person who is 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) When a member of the board is appointed to be secretary, he shall receive no remuneration in respect of his services. In other cases, the board may, with the previous sanction of the Commissioner, assign to a secretary any such pay as it thinks fit.

Employment of other officers and servants.

36. 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 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 as it thinks fit.

Pensions of Government officials serving boards.

37. In the case of a Government official employed by a municipal board, the board may—

(1) if his services are wholly lent to it, contribute to his pension, gratuities and leave allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension, gratuities and leave allowances in such proportion as may be determined by the Government.

Pensions of servants of boards.

38. In the case of a servant not being a Government official referred to in section 37, a board may—

(1) grant him leave allowances and, if his monthly pay is less than ten rupees, gratuities; and

(2) if empowered in this behalf by the Local Government—

(*a*) subscribe in his behalf for pension, gratuities and leave allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave allowance or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, he would be entitled if the service had been service under the Government.

Contracts.

Authority to contract.

39. *(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.

Mode of executing contracts.

40. *(1)* Every contract made by or on behalf of a municipal board whereof the value or amount exceeds twenty rupees shall be in writing.

(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

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter III.—Taxation and Municipal Fund—Sections 41-47.

contracts which he or they are empowered to enter into under section 39, sub-section (1).

(3) If a contract to which this section applies is executed otherwise than in conformity therewith, it shall not be binding on the board.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

Taxes which may be imposed.

41. 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 42, any of the following taxes, namely:—

(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 centum 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 vehicles and on animals used for riding or driving or as beasts of burthen, when such vehicles or animals are kept within the municipality;

(d) a tax on vehicles and on animals as aforesaid entering the municipality, and on boats moored therein;

(e) an octroi on goods or animals 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.

Procedure in imposing taxes.

42. *(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 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, with the objections (if any) which have been submitted as aforesaid.

(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 any proposals which, under section 41, 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 them, 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.

Tax not invalid for defect of form.

43. A tax imposed under this Act shall not be invalid for defect of form, and when any property is described for the purpose of assessing any such tax, it shall be sufficient to describe it so that it shall be generally known, and it shall not be necessary to name the owner or occupier.

Power to abolish or reduce tax.

44. 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.

Taxes leviable under Act XV of 1873 to be deemed to be taxes under this Act.

45. All taxes leviable in any local area under the North-Western Provinces and Oudh Municipalities Act, 1873, at the time when a municipal board having authority over that local area comes into existence under this Act, shall be deemed to be imposed and assessed under this Act. XV of 1873.

Recovery of taxes.

46. 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.

Municipal Fund.

Constitution and application of municipal fund.

47. *(1)* There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

(a) all sums received by or on behalf of the board;

(b) all fines realized in cases in which prosecutions are instituted under this Act or section 34 of Act V of 1861 for offences committed within the municipality;

(c) 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 when the municipal board came into existence; and XV of 1873.

(d) when there has been included within the municipality any local area in which the said Act XX of 1856 was in force at the time when the municipal board came into existence, the amount (if any) then available under section 36 of that Act for the

purposes of cleansing, lighting and improvement in that local area.

(2) 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.

48. *(1)* In places where there is a Government treasury or sub-treasury, or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in the treasury, sub-treasury or bank.

Custody and investment 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 and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

(3) A municipal board may, from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund in securities of the Government of India or such other securities as the Governor General in Council may, from time to time, approve in this behalf, and vary such investments for others of the like nature. The income resulting from the securities and the proceeds of the sale of the same shall be credited to the municipal fund.

CHAPTER IV.

POWERS AND DUTIES OF MUNICIPAL BOARDS GENERALLY.

Municipal Police.

49. 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.

III of 1880.

50. Subject to the provisions of section 9 of the Cantonments Act, 1880, the establishment maintained under section 49 shall, as the board with the approval of the Local Government may from time to time direct, be either a body of watchmen or a part of the general police force under the Local Government within the meaning of section 2 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, and subject to the final decision of the Local Government, direct.

Constitution of establishment.

51. If the establishment maintained under section 49 is a body of watchmen, the watchmen shall be appointed and promoted, 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.

52. 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.

53. In any municipality in which section 34 of Act V of 1861 is in force, every watchman under this Act shall have the powers of a police-officer under that section.

Powers under section 34 of Act V of 1861.

Conservancy and General Improvement.

54. Every municipal board, so far as the municipal fund at its disposal will permit, but subject to any agreement between the board and the Local Government as to the application of that fund, shall, after providing for the maintenance of the police-establishment referred to in the foregoing sections,—

Duties of municipal board generally.

(1) provide for the construction, maintenance, repair and cleansing of the public streets, roads, drains, tanks and watercourses;

(2) cause those streets and roads to be watered and lighted;

(3) provide for the establishment, maintenance and management of schools and dispensaries and of other public 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 order of the Local Government, have been excepted from the operation of this section;

(4) provide for the establishment, 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.

Power to make and enforce Rules.

55. *(1)* A municipal board may, from time to time, at a special meeting, make rules—

Power to make rules.

(a) for prohibiting, preventing and punishing such acts or omissions within the municipality as may, in the opinion of the board, 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 have occasion to use any public right, or may, in its opinion, be prejudicial to the public health, safety or convenience, or offences against public decency;

(b) for protecting from injury or interference anything within the municipality being the property of Her Majesty or of the board;

(c) for prohibiting or controlling the establishment or maintenance of markets, sáráis and halting places, and controlling the management of the same and of any places of public entertainment and resort;

(d) for controlling and regulating the use and management of burial and burning grounds;

(e) 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 within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;

(f) for securing a proper registration of births, marriages and deaths;

(g) for defining the cases, manner and times in and at which officers of the board may enter on private property for the enforcement of rules made under this section;

(h) in hilly tracts, for regulating or prohibiting the cutting of trees or shrubs, or the excavation or removal of soil, where such regulation or prohibition appears necessary for the preservation of the soil, the prevention of landslips or of the formation of ravines or torrents, the protection of land against erosion, or the deposit thereon of sand, stones or gravel; and

(i) 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 breach, with a further fine which may extend to 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 of any vehicles to which that Act applies.

XIV of 1879.

56. 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.

57. *(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 133 of the Code of Criminal Procedure, and with power to make conditional orders of the nature referred to in that section, in respect of all or any acts or omissions punishable under rules made in exercise of the power conferred by section 55, clauses *(a)*, *(b)*, *(c)*, *(d)* and *(h)*.

Powers as to conditional orders in respect of certain acts and omissions.

X of 1882.

(2) Sections 133 to 112 (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.

Provided that, for the purposes of such proceedings, section 133 of the Code shall be read as if for the words "before himself or some other Magistrate of the first or second class" the words "before the District Magistrate or some magistrate of the first or second class appointed by him in this behalf" were substituted.

(3) The Local Government may, whenever it thinks fit, withdraw the powers with which it has invested a board under this section.

58. 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 56, or with which the board may have been invested under section 57.

Delegation of powers under sections 56 and 57.

CHAPTER V.

CONTROL.

59. The Commissioner of the division or the Magistrate of the district, when he is not a member of the municipal board, may—

Control by Commissioner or 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.

60. *(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.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter V.—Control—Sections 61-64.

(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.

61. *(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 on him by this section.

Powers of Local Government in case of default of board.

62. *(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 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 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.

63. *(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 Her Majesty.

(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 for being members.

Power of Local Government to frame forms and make rules.

64. *(1)* 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) as to the appointment of members of a municipal board ;

(b) as to the language of the board ;

(c) for the assessment and collection of taxes imposed under this Act, and for preventing evasion of the same ;

(d) as to the authority on which money may be paid from the municipal fund ;

(e) as to the conditions on which property vested in the board may be transferred by sale, mortgage, lease, excharge or otherwise ;

(f) as to the qualifications requisite in the case of persons appointed by the board to offices requiring professional skill ;

(g) as to the intermediate office or offices, if any, through which correspondence between boards and the Local Government or officers of that Government and representations addressed to the Local Government under this Act shall pass ;

(h) 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 ;

(i) 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 ;

(j) 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 ;

(k) as to the returns, statements and reports to be submitted by boards ; and

(l) generally, for the guidance of boards and public officers in all matters connected with the carrying out of this Act.

(2) In making rules under clause *(c)*, the Local Government may direct that a breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter VI.—Supplemental—Sections 65-74.

CHAPTER VI.

SUPPLEMENTAL.

Penalty on member, officer or servant of board being interested in contract made with board.

65. *(1)* 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 168 of the Indian Penal Code. XLV of 1860.

(2) A person shall not 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 the company and the board, but he shall not take part in any proceedings of the board relating to any such contract.

Liability of members for loss, waste or misapplication.

66. Every person 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 while a member of the board, and a suit for compensation may be instituted against him by the board with the previous sanction of the Commissioner, or by the Secretary of State for India in Council.

Acquisition of land under Act X of 1870.

67. 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, 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, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the board. X of 1870.

Procedure for making rules.

68. *(1)* The authority empowered to make rules under section 10, section 55, or section 61 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, 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.

(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.

Prosecutions.

69. A Court shall not take cognizance of an offence punishable under this Act, or the rules made under this Act, except on the complaint of the municipal board or of some person authorized by the board in this behalf.

Saving of prosecutions under other laws.

70. 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 made under it, or from being liable under that other law to any higher punishment or penalty than that provided by this Act or the rules made under it : Provided that a person shall not be punished twice for the same offence.

Continuance of existing rules.

71. All rules made under the North-Western Provinces and Oudh Municipalities Act, 1873, or any Act thereby repealed, and in force in any local area comprised in a municipality constituted under this Act at the time the municipal board for that municipality comes into existence under section 16, shall, as far as may be, be deemed to have been made under this Act, and shall continue in force until repealed by new rules so made. XV of 1873.

(2) The authority empowered to make such new rules shall, as soon as may be, make them and take such action as may be requisite for bringing them into force.

Notification of intention to alter limits of municipality.

72. The Local Government may, from time to time, by notification published in the official Gazette, and in such other manner as the Local Government may from time to time determine, declare its intention—

(a) to exclude from a municipality any local area comprised therein and defined in the notification, or

(b) to include within a municipality any local area in the vicinity of the same and defined in the notification :

Provided that where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous consent of the Governor General in Council.

Alteration of limits of municipality.

73. *(1)* Any inhabitant of a municipality or local area in respect of which a notification has been published in the Gazette under section 72 may, if he objects to the alteration proposed, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification in the Gazette 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 a notification in the official Gazette exclude the local area from the municipality or include it therein, as the case may be.

Effect of exclusion of local area from municipality.

74. *(1)* When a local area is excluded from a municipality under section 73—

(a) this Act and all rules, orders, directions and powers made, issued or conferred under this Act shall cease to apply thereto ; and

(b) the Local Government shall, after consulting the municipal board, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the municipal board shall vest in Her Majesty for the benefit of the local area, and in

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter VII.—Exceptional Provisions—Sections 75-79.

what manner the liabilities of the board shall be apportioned between the board and the Secretary of State for India in Council, and on the publication of the scheme in the local official Gazette, the property and liabilities shall vest and be apportioned accordingly.

(2) All property vested in Her Majesty under sub-section *(1)* shall be applied under the orders of the local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area.

Effect of including local area in municipality.

75. When a local area is included in a municipality under section 73, this Act and all rules, orders, directions and powers made, issued or conferred under this Act and in force throughout the whole municipality at the time the local area is so included shall apply to the local area.

Saving of Act XI of 1879.

XI of 1879.

76. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

Member of municipal board to be municipal commissioner.

77. Every member of a municipal board constituted under this Act shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force.

CHAPTER VII.

EXCEPTIONAL PROVISIONS.

Power to except municipalities from operation of provisions of Act regarding election.

78. *(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, exempt 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.

(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.

Power to withdraw municipal area altogether from operation of this Act or Act XV of 1873.

79. *(1)* The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, withdraw from the operation of this Act or the North-Western Provinces and Oudh Municipalities Act, 1873, the area of any municipality constituted under that Act.

XV of 1873.

(2) When a notification is issued under this section in respect of any municipality, the Act, and all rules, bye-laws, orders, directions and powers made, issued or conferred under the Act, shall cease to apply to the local area comprised in the municipality, the balance of the municipal fund and all other property which at the time of the issue of the notification is vested in the municipal board or municipal committee shall vest in Her Majesty, and the liabilities of the board or committee shall be transferred to the Secretary of State for India in Council.

(3) All property vested in Her Majesty under sub-section (2) shall be applied under the orders of the Local Government to discharge the liabilities imposed on the Secretary of State for India in Council by that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area comprised in the municipality.

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

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SIMLA, SATURDAY, SEPTEMBER 29, 1883.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th September, 1883, and is hereby promulgated for general information:—

ACT No. XIII OF 1883.

An Act to declare the law in force in certain lands which have been or hereafter may be ceded by the Bahâwalpur 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 Bahâwalpur 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.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th September, 1883, and is hereby promulgated for general information :—

ACT No. XIV OF 1883.

THE NORTH-WESTERN PROVINCES AND OUDH LOCAL BOARDS ACT, 1883.

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59. Section 11, clause (*c*), Act IV of 1878, amended.
60. Sections 12 and 14 of same repealed.
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65. Amendments of sections 6 and 17 of same Act.

An Act 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:—

Preliminary.

1. *(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.

Commencement.

(3) It shall come into force on the first day of November, 1883.

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

Definition of "prescribed."

"Prescribed" means prescribed by rules made under section 47.

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, and, unless the Local Government otherwise directs, the portions of the district (if any) in which Act XX of 1856 (*an Act to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal*) is in force.

(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 excluded from the sub-districts under section 3, sub-section (2).

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 so many elected members and so many nominated members as the Local Government may, from time to time, fix in this behalf:

Constitution of local boards.

Provided that the nominated members shall not exceed in number one-fourth of the board.

(2) The elective members of a local board shall be elected in manner prescribed.

(3) 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:

Provided that the persons entitled to vote at the election of a member shall not be less than twenty-five in number.

(4) A person to be qualified for election must, at the time of his election, be an elector, and reside, or own landed property, or carry on trade or business, in the sub-district.

(5) The nominated members shall be such persons as the Local Government may, subject to the rules made under section 47, from time to time, nominate in this behalf.

6. *(1)* The district board for a district shall, except as next hereinafter provided, 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.

(2) The Local Government may, if it thinks fit, by notification in the official Gazette, direct that the district board for a district shall consist of so many of the elected members of each local board as it thinks fit, elected in this behalf by the local board in manner prescribed, and such of the nominated members of each local board as the Local Government may appoint in this behalf:

Provided that the nominated members of local boards so appointed by the Local Government shall not exceed in number one-fourth of the district board.

(3) The Local Government may, by notification in the official Gazette, rescind any direction issued under sub-section (2) 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 of this Act, 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 or appointed under section 6, sub-section (2), shall be fixed, from time to time, by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, 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, nomination or appointment.

8. A member of a local board and a member of a district board elected or appointed 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 or appointed as aforesaid who refuses to act, or becomes incapable of acting, or is declared 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 three consecutive months to be present at the meetings of the local board, or, when he is a member of the district board, without sufficient excuse neglects for more than six consecutive months to be present at the meetings of that 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 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 nominated members of a local board fixed by section 5, and to the limitation of the proportion of appointed members of a district board fixed by section 6, direct in any such case that the vacancy shall be left unfilled.

(2) When the place of a nominated member of a local board or an appointed member of a district board becomes vacant as aforesaid, the Local Government may, if it thinks fit, but subject to the rules made under section 47, nominate or appoint, as the case may be, a new member to fill the place.

(3) A person elected, nominated 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, nomination 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 other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Incorporation of district board.

12. The several local boards and district boards constituted 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.

Chairman of local board.

(2) The term of office of a chairman so elected shall be the residue of his term of office as a member of the board.

(3) If the chairman so elected dies, resigns or is removed from his office as 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, resigning, removed or becoming incapable would have been entitled to continue in office, and no longer.

(4) 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,—

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, by name or by virtue of his office, 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. *(1)* The term of office of an elected chairman of a district board shall be the residue of his term of office as member of the board.

Term of office of chairman and vice-chairman of district board.

(2) The term of office of an appointed chairman of a district board shall be such term, not exceeding three years, as the Local Government may, from time to time, by rule prescribe.

(3) The term of office of a vice-chairman of a district board shall be one year, or when at the time of his election the residue of his term of office as member is less than one year, the residue of that term.

17. *(1)* A chairman of a district 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.

Resignation of chairman and vice-chairman of district board.

(2) A vice-chairman of a district board may resign by notifying in writing his intention to do so to the board; and, on such resignation being accepted by the board, he shall be deemed to have vacated his office.

18. The Local Government may remove any chairman or vice-chairman of a district board from his office as such chairman or vice-chairman if he 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 chairman or vice-chairman, or if he without sufficient excuse neglects for more than six consecutive months to be present at the meetings of the board.

Removal of chairman and vice-chairman of district board.

19. *(1)* If an elected chairman of a district board dies, resigns, is removed 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 section 14.

Casual vacancies in office of chairman or vice-chairman of district board.

(2) If an appointed chairman of a district board dies, resigns, is removed or becomes incapable of acting, the Local Government shall appoint another chairman.

(3) If a vice-chairman of a district board dies, resigns, is removed or becomes incapable of acting, the board shall, at a special meeting held for this purpose, select 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:

Provided that a person so elected shall go out of office on ceasing to be a member of the board.

20. Notwithstanding anything in the foregoing sections, a chairman appointed by the Local Government under section 14, sub-section (2), or section 19, 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.

21. A chairman of a local board, and a chairman or vice-chairman of a district board, if otherwise qualified, shall on going out of office be again eligible for election or appointment.

Chairman of local board and chairman or vice-chairman of district board re eligible.

22. *(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.

Notification of Elections, &c.

23. All elections, nominations and appointments of members of local boards and district boards, and of chairmen of district boards, and all vacancies in those offices, shall be notified in the local official Gazette.

Notification of elections, &c.

Duties of District Boards.

24. Every district board shall, so far as the funds at its disposal will permit, but subject to such exceptions and conditions as the Local Government may, from time to time, make and impose, provide for the control and administration of the following matters 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;

(*b*) the planting and preservation of trees on the sides of roads and on other public ground;

(*c*) the establishment, 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;

(*d*) the construction and repair of public wells, tanks and water-works, and the supply of water from them and from other sources;

(*e*) the establishment and maintenance of such relief-works in time of famine or scarcity as may be entrusted to the charge of the board by the Local Government;

(*f*) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in force, such functions of the Local Government and the Magistrate of the district under that Act as may be transferred to the district board by the Local Government; I of 1871.

(*g*) 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.

(*h*) the regulation of encamping-grounds and, where the Saráis Act, 1867, is in force, of saráis and paráos, including such functions of the Magistrate of the district under that Act as the Local Government may, from time to time, direct; XXII of 1867.

(*i*) the institution, holding and management of agricultural shows and industrial exhibitions;

(*j*) 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

(*k*) any other local works or measures likely to promote the health, comfort, convenience or interest of the public.

Duties of Local Boards and their Relations to District Boards.

25. 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 24 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.

26. 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.

27. *(1)* A district board may, from time to time, concur with any other district board, or with the board of any municipality, or with a cantonment authority, or with more than one such board or 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 committee, and in delegating to any such committee any power which might be exercised by either or any of the boards or authorities, 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 committees.

(2) If any difference of opinion arises between boards or authorities acting under this section, the decision thereon of the Commissioner of the division if the areas under the boards and authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

28. *(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.

29. *(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:

Provided that, if at any ordinary or special 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.

30. *(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.

31. 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 and public instruction.

Certain officers entitled to attend and speak.

32. *(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 or of the next ensuing 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.

33. 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 division of duties among the members of the board; and

(*e*) 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.

34. *(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 this section 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 as it thinks fit.

Employment of other officers and servants.

35. 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, 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 as it thinks fit and as may be approved by the Commissioner of the division.

Pensions and allowances of Government officials serving boards.

36. In the case of a Government official, any district board may—

(1) if his services are wholly lent to it, contribute to his pension, gratuities and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension, gratuities and leave-allowances in such proportion as may be determined by the Government.

Pensions and allowances of servants of boards.

37. In the case of a servant not being a Government official referred to in section 36, any district board may—

(1) grant him leave-allowances and, if his monthly pay is less then ten rupees, gratuities; and

(2) if empowered in this behalf by the Local Government—

(*a*) subscribe in his behalf for pension, gratuities and leave-allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, the servant would be entitled if the service had been service under the Government.

District Fund.

Constitution of district fund.

38. 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 of 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 exceptions and conditions as the Local Government may, from time to time, make and impose, the following, namely:—

(*c*) the surplus accruing in the district under section 18 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*) receipts from encamping-grounds under the regulation of the district board;

(*f*) the sale-proceeds of grass and of the produce of trees 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;

(*g*) receipts from property vested in the district board;

(*h*) rents and profits accruing from nazúl and other property placed by the Local Government under the management of the district board;

(*i*) other sums assigned to the district fund by the Local Government;

(*j*) sums contributed to the district fund by local bodies or private persons; and

(*k*) all other sums received by or on behalf of the district board in the carrying out of this Act.

Vesting, custody and investment of district fund.

39. *(1)* 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 or in the bank to which the Government treasury business has been made over.

(2) Subject to such rules as the Governor General in Council may, from time to time, make in this behalf, the district board may, from time to time, with the previous sanction of the Local Government, invest any portion of the district fund in securities of the Government of India or such other securities as the Governor General in Council may, from time to time, approve in this behalf, and vary such investments for others of the same nature. The income resulting from the securities and the proceeds of the sale of the same shall be credited to the district fund.

Application of the district fund.

40. *(1)* The district fund shall be charged with the payment of the expenses incurred in auditing the accounts of the district and local boards, and 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 the district board in return for services rendered to the board by those Departments.

(2) Subject to the charges specified in sub-section (1), 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 24, 34, 35, 36 and 37 within the area subject to the authority of the district board, and, with the sanction of the Local Government, outside that area when such application of the fund is for the benefit of the inhabitants of that area.

Control.

Control of Commissioner and Magistrate over boards and joint committees.

41. *(1)* The Commissioner of the division, or the Magistrate of the district when he is not a member of the district board, 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.

Power of Commissioner to suspend action under this Act.

42. *(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.

43. *(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 having the custody of the balance of the district fund 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 district board.

44. *(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 think proper 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 having the custody of the balance of the district 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 to supersede district board in case of incompetency, persistent default or abuse of powers.

45. *(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, declare 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 boards and district board shall be re-established, and the persons who vacated their offices under clause (a) shall not be deemed disqualified for nomination, appointment or election.

Liability of Members of Boards.

Liability of members for loss, waste or misapplication.

46. A person 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 while a member of a local board or of the district board; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the district board with the sanction of the Commissioner, or by the Secretary of State for India in Council.

Forms and Rules.

Power of Local Government to frame forms and make rules.

47. 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, where a notification under section 6, sub-section (2), is in force, of elective members of district boards;

(b) as to the nomination of members of local boards under section 5;

(c) as to the mode of convening ordinary and special meetings respectively, the notice to be given of such meetings, the business that may be transacted at ordinary 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 division of duties among the members of the board;

(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 and representations to the Local Government under this Act shall pass;

(i) as to the accounts to be kept, and as to the manner in which those 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;

(l) as to the language of the board;

(m) as to the qualifications requisite in the case of persons appointed to offices requiring professional skill; and

(n) generally, for the guidance of local boards, district boards and officers of Government in all matters connected with the carrying out of this Act and for settling their relations to one another.

Procedure for making rules.

48. The Local Government shall, before making any rules under section 47, 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.

Publication of rules.

49. Every rule made under section 47 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 48.

Supplemental Provisions.

Acquisition of land.

50. 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, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the district board. X of 1870.

Penalty on member, officer or servant being interested in contracts made with board or committee.

51. (1) 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 168 of the Indian Penal Code: XLV of 1860.

(2) A person shall not 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 the company and a board or committee, but he shall not take part in any proceedings of the board or committee relating to any such contract.

Saving of Act XI of 1879.

52. Nothing in this Act shall affect the Local Authorities Loans Act, 1879. XI of 1879.

Exceptional Provisions.

Power of Local Government to except local area from operation of Act.

53. 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.

Case of sub-district excepted from provisions regarding election.

54. When a sub-district is excepted, under section 53, 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.

Administrative committee to be appointed for district wholly excepted from Act.

55. When a district is excepted, under section 53, 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 24, or of such of them as the Local Government may, from time to time, specify; and the Local Government shall, from time to time, determine 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 38, and such of the sources of income mentioned in the other clauses of that section as the Local Government thinks fit:

Provided that not less than one-half of the members of the committee shall be persons who own landed property, or reside or carry on trade or business, in the district, and are not in the service of Government.

Amendment of the North-Western Provinces Local Rates Act, 1878.

Section 11, clause (c), Act III of 1878, amended.

56. For section 11, clause (c), of the North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely:— III of 1878.

"(c) Subject to the appropriation directed by clause (a), the Lieutenant-Governor may, from time to time, reserve from such fund such amounts as he thinks fit to be applied in or for the benefit of each district for expenditure on all or any of the following matters:—

(1) the maintenance of the village and road police and the district-post;

(2) the construction, repair and maintenance of lunatic asylums;

(3) the registration of traffic; and

(4) any other matter tending to promote the welfare of the district which it is in his opinion necessary to place under provincial and not under local administration.

"(d) Subject as aforesaid, the Lieutenant-Governor may allot from such fund such amounts as he thinks fit to the district fund constituted under the North-Western Provinces and Oudh Local Boards Act, 1883:

"Provided that the amounts so reserved and allotted in any year for the benefit of any district shall not be less than nine-tenths of the proceeds of the rates assessed under the first clause of section four and the first clause of section five in such district in such year."

Sections 12, 13 and 15 of same repealed.

57. Sections 12, 13 and 15 of the said North-Western Provinces Local Rates Act, 1878, are repealed. III of 1878.

New section substituted for section 14 of same.

58. For section 14 of the said North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely:— 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 official Gazette."

Amendment of the Oudh Local Rates Act, 1878.

Section 11, clause (c), Act IV of 1878, amended.

59. For section 11, clause (c), of the Oudh Local Rates Act, 1878, the following shall be substituted, namely:— IV of 1878.

"(c) Subject to such appropriation, the Chief Commissioner may, from time to time, reserve from such fund such amounts as he thinks fit to be applied in, or for the benefit of, each district for expenditure on all or any of the following matters:—

(1) the construction, repair and maintenance of lunatic asylums;

(2) the registration of traffic; and

(3) any other matters tending to promote the welfare of the district which it is in his opinion necessary to place under provincial and not under local administration.

"(d) Subject as aforesaid, the Chief Commissioner may allot from such fund such amounts as he thinks fit to the district fund constituted under the North-Western Provinces and Oudh Local Boards Act, 1883:

"Provided that the amounts so reserved and allotted in any year for the benefit of any district shall not be less than one-half of the proceeds of the rates assessed in such district in such year."

N.-W. P. and Oudh Local Boards Act, 1883—Sections 60-65.

IV of 1878. Sections 12 and 14 of same repealed.

60. Sections 12 and 14 of the said Oudh Local Rates Act, 1878, are repealed.

IV of 1878. New section substituted for section 13 of same.

61. For section 13 of the said Oudh Local Rates Act, 1878, the following shall be substituted, namely:—

Accounts to be kept.

"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.

"An abstract of such accounts shall also be published annually in the local official Gazette."

Contracts made by, and Government officers employed by, Committees under the North-Western Provinces and Oudh Local Rates Acts.

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III of 1878. IV of 1878.

62. 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 district 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.

Government officers serving under committees to continue under board.

63. A Government officer employed under the committee appointed in a district as aforesaid at the time when a district board comes into existence for the district under section 12 of this Act 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.

Amendment of the Northern India Ferries Act, 1878.

New section to follow section 7 of Act XVII of 1878.

XVII of 1878.

64. After section seven of the Northern India Ferries Act, 1878, the following shall be inserted, namely:—

In North-Western Provinces and Oudh management may be vested in district board;

"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;

and proceeds paid into district fund.

"and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

Amendments of sections 6 and 17 of same Act.

65. 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" where they first occur, the following shall be inserted, namely:—"and section 7A."

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th September, 1883, and is hereby promulgated for general information:—

ACT No. XV OF 1883.

THE NORTH-WESTERN PROVINCES AND OUDH MUNICIPALITIES ACT, 1883.

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An Act to make better provision for the Organization and Administration of Municipalities in the North-Western Provinces and Oudh.

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.

1. *(1)* This Act may be called the North-Western Provinces and Oudh Municipalities 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 1st day of November, 1883.

Commencement.

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

Definitions.

(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.

3. *(1)* The Local Government may, from time to time, by notification published in the official Gazette, and in such other manner as the Local Government may from time to time determine, declare its intention to apply this Act to any town or to any group of towns in the immediate neighbourhood of one another.

Notification of intention to apply Act.

(2) Every notification under this section 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 part of a 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 the application of the Act, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

Application of Act.

(2) When six weeks from the publication of the notification in the Gazette 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 a notification in the official Gazette, apply this Act to the local area.

5. The Local Government may, by notification in the official Gazette, apply this Act to any local area which is 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—

Special rule as to application of Act to towns to which Act XV of 1873 applies.

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 official Gazette, that the provisions of this Act are unsuited to that local area.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter II.—Organization of Municipal Boards—Sections 6-13.

CHAPTER II.

ORGANIZATION OF MUNICIPAL BOARDS.

Constitution of Boards.

6. 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 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 section 64, from time to time, appoint in this behalf.

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 meet at a time and place specified in the notices, for the purpose of preparing and submitting, within such further time not exceeding three months from the date of the meeting as the Local Government may fix in this behalf, proposals for determining the system of representation and election to be established in the municipality.

Magistrate to convene meeting to determine system of election.

(2) The Local Government may, for special reasons, grant an extension, not exceeding one month, of the time fixed under this section for submitting proposals.

8. Notices under section 7 shall be issued to the following persons, namely:—

Persons to be invited to meeting.

(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;

(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 who in the opinion of the Magistrate of the district should be allowed to take part in the discussion.

9. The persons who meet in compliance with the notices issued under section 7 shall consider, and shall, within the time limited under that section, submit through the Magistrate of the district to the Local Government proposals regarding the following matters, namely:—

Matters to be considered at the meeting.

(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) nay other matters regarding the system of representation and of election which it may seem to the meeting expedient to consider.

10. *(1)* The Local Government shall, after taking into consideration the proposals (if any) submitted under section 9, make rules regulating the matters referred to in that section, and may in making such rules direct that the breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

Power to Local Government to make rules regarding election.

(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.

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, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

Term of office of member of board.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

12. A member of a municipal board may resign by notifying in writing his intention to do so to the Local Government, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Resignation of member.

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 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 three consecutive months to be present at the meetings of the board.

Removal of member.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter II.—Organization of Municipal Boards—Sections 14-20.

14. *(1)* When the place of an elected member of a municipal board becomes vacant by his resignation, removal or death, a new member shall be elected in manner prescribed to fill the place:

Filling of casual vacancies.

Provided that the Local Government may, subject to the limitation of the proportion of appointed members of the board fixed by section 6, clause (*b*), direct in any such case that the vacancy shall be left unfilled.

(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 64, 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 64, 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. *(1)* 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 in which Act XX of 1856 (*an Act to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal*) is in force, that Act shall cease to have effect in the local area, and every panchayát constituted under that Act for the local area shall cease to exist.

Consequences of establishment of municipal board where municipal committee exists or Act XX of 1856 is in force.

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 right and liability belonging to or incurred 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 when 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; and

(*f*) the board shall be substituted for the committee in all legal proceedings by or against the committee pending at the time when the board comes into existence.

(2) 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 in which Act XX of 1856 (*an Act to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal*) is in force, that Act shall cease to have effect in the local area, and every panchayát constituted under that Act for the local area shall cease to exist.

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 qualified for election as a member, 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—

(*a*) If the office of chairman remains vacant for three months from the date of the first meeting of the board, or in the case of a vacancy afterwards occurring, from the occurrence of that vacancy, and no person is within that period elected under this section to fill it, the Local Government may in its discretion appoint such person as it thinks fit by name or by virtue of his office to be chairman; and

(*b*) 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 Local Government may, from time to time, appoint such person as it thinks fit by name or by virtue of his office to be chairman.

19. 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.

Election of vice-chairman.

20. *(1)* The term of office of a member of the board elected to be chairman shall be the residue of his term of office as member.

Term of office of chairman and vice-chairman.

(2) The term of office of any other person elected to be chairman, or of a chairman appointed by the Local Government, shall be such term not exceeding three years as the Local Government may, from time to time, by rule prescribe.

(3) The term of office of a vice-chairman shall be one year: Provided that when at the time of his election as vice-chairman the residue of his term of office as member of the board is less than one year, his term of office as vice-chairman shall be the residue of his term as member.

(4) An outgoing chairman or vice-chairman shall, if otherwise qualified, be again eligible for election or appointment.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter II.—Organization of Municipal Boards—Sections 21-31.

21. *(1)* A chairman of a municipal board may resign by notifying in writing his intention to do so to the Local Government, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Resignation of chairman or vice-chairman.

(2) A vice-chairman of a municipal board may resign by notifying in writing his intention to do so to the board, and, on his resignation being accepted by the board, he shall be deemed to have vacated his office.

22. The Local Government may remove any chairman or vice-chairman of a municipal board from his office as such chairman or vice-chairman if he 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 chairman or vice-chairman, or if he, without sufficient excuse, neglects for more than three consecutive months to be present at the meetings of the board.

Removal of chairman or vice-chairman.

23. *(1)* If an elected chairman or vice-chairman dies or resigns his office, or is removed, a new chairman or vice-chairman shall be elected or appointed in manner provided by section 18 or section 19, as the case may be.

Casual vacancies in office of chairman or vice-chairman.

(2) If a chairman appointed by the Local Government dies, resigns his office or is removed, 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. Provided that if a person so elected is a member of the board at the time of his election, he shall go out of office on ceasing to be a member.

(4) A person going out of office under sub-section (3) shall, if otherwise qualified, be again eligible for election or appointment.

24. 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 his 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.

Notification of Elections, Appointments and Vacancies.

25. Every election and appointment of a member or chairman of a municipal board and every vacancy in the office of member or chairman shall be notified in the official Gazette.

Notification of elections, appointments and vacancies.

Joint Committees.

26. *(1)* A municipal board may, from time to time, concur with any other municipal board, or with a district board, or with a cantonment authority, or with more than one such board or 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 the committee, and in delegating to any such committee any power which might be exercised by either or any of the boards or authorities, 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 committees.

(2) If any difference of opinion arises between boards or authorities acting under this section, the decision thereon of the Commissioner of the division, if the areas under the boards and authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

27. *(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 34.

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 either an ordinary or a special meeting at any other time.

28. *(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.

29. *(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.

(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 section 34:

Provided that, if at any ordinary or special 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.

30. *(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.

31. *(1)* Except as otherwise provided by this Act, or by any rule made by the Local Government

Vote of majority decisive.

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.

32. 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.

33. *(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 or 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.

(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.

34. *(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 of convening ordinary and special meetings respectively and of giving notice thereof;

(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 division of duties among the 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) 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.

35. *(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 a person who is 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) When a member of the board is appointed to be secretary, he shall receive no remuneration in respect of his services. In other cases, the board may, with the previous sanction of the Commissioner, assign to a secretary any such pay as it thinks fit.

Employment of other officers and servants.

36. 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 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 as it thinks fit.

Pensions of Government officials serving boards.

37. In the case of a Government official employed by a municipal board, the board may—

(1) if his services are wholly lent to it, contribute to his pension, gratuities and leave allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension, gratuities and leave allowances in such proportion as may be determined by the Government.

Pensions of servants of boards.

38. In the case of a servant not being a Government official referred to in section 37, a board may—

(1) grant him leave allowances and, if his monthly pay is less than ten rupees, gratuities; and

(2) if empowered in this behalf by the Local Government—

(*a*) subscribe in his behalf for pension, gratuities and leave allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave allowance or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, he would be entitled if the service had been service under the Government.

Contracts.

Authority to contract.

39. *(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.

Mode of executing contracts.

40. *(1)* Every contract made by or on behalf of a municipal board whereof the value or amount exceeds twenty rupees shall be in writing.

(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 39, sub-section (1).

(3) If a contract to which this section applies is executed otherwise than in conformity therewith, it shall not be binding on the board.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

Taxes which may be imposed.

41. 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 42, any of the following taxes, namely:—

(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 centum 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 vehicles and on animals used for riding or driving or as beasts of burthen, when such vehicles or animals are kept within the municipality;

(d) a tax on vehicles and on animals as aforesaid entering the municipality, and on boats moored therein;

(e) an octroi on goods or animals 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.

Procedure in imposing taxes.

42. *(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 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, with the objections (if any) which have been submitted as aforesaid.

(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 any proposals which, under section 41, 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 them, 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.

Tax not invalid for defect of form.

43. A tax imposed under this Act shall not be invalid for defect of form, and when any property is described for the purpose of assessing any such tax, it shall be sufficient to describe it so that it shall be generally known, and it shall not be necessary to name the owner or occupier.

Power to abolish or reduce tax.

44. 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.

Taxes leviable under Act XV of 1873 to be deemed to be taxes under this Act.

45. All taxes leviable in any local area under the North-Western Provinces and Oudh Municipalities Act, 1873, 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. XV of 1873.

Recovery of taxes.

46. 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.

Municipal Fund.

Constitution and application of municipal fund.

47. *(1)* There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

(a) all sums received by or on behalf of the board;

(b) all fines realized in cases in which prosecutions are instituted under this Act or section 34 of Act V of 1861 for offences committed within the municipality;

(c) 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 when the municipal board came into existence; and XV of 1873.

(d) when there has been included within the municipality any local area in which the said Act XX of 1856 was in force at the time when the municipal board came into existence, the amount (if any) then available under section 36 of that Act for

purposes of cleansing, lighting and improvement in that local area.

(2) 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.

Custody and investment of municipal fund.

48. *(1)* In places where there is a Government treasury or sub-treasury, or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in the treasury, sub-treasury or bank.

(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 and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

(3) A municipal board may, from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund in securities of the Government of India or such other securities as the Governor General in Council may, from time to time, approve in this behalf, and vary such investments for others of the like nature. The income resulting from the securities and the proceeds of the sale of the same shall be credited to the municipal fund.

CHAPTER IV.

POWERS AND DUTIES OF MUNICIPAL BOARDS GENERALLY.

Municipal Police.

Police-establishment.

49. 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.

III of 1880.

Constitution of establishment.

50. Subject to the provisions of section 9 of the Cantonments Act, 1880, the establishment maintained under section 49 shall, as the board with the approval of the Local Government may from time to time direct, be either a body of watchmen or a part of the general police force under the Local Government within the meaning of section 2 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, and subject to the final decision of the Local Government, direct.

Appointment, punishment and duties of municipal watchmen.

51. If the establishment maintained under section 49 is a body of watchmen, the watchmen shall be appointed and promoted, 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.

XVI of 1873.
XVIII of 1876.

Duties of municipal police enrolled under Act V of 1861.

52. 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.

Powers under section 34 of Act V of 1861.

53. In any municipality in which section 34 of Act V of 1861 is in force, every watchman under this Act shall have the powers of a police-officer under that section.

Conservancy and General Improvement.

Duties of municipal board generally.

54. Every municipal board, so far as the municipal fund at its disposal will permit, but subject to any agreement between the board and the Local Government as to the application of that fund, shall, after providing for the maintenance of the police-establishment referred to in the foregoing sections,—

(1) provide for the construction, maintenance, repair and cleansing of the public streets, roads, drains, tanks and watercourses;

(2) cause those streets and roads to be watered and lighted;

(3) provide for the establishment, maintenance and management of schools and dispensaries and of other public 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 order of the Local Government, have been excepted from the operation of this section;

(4) provide for the establishment, 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.

Power to make and enforce Rules.

Power to make rules.

55. *(1)* A municipal board may, from time to time, at a special meeting, make rules—

(a) for prohibiting, preventing and punishing such acts or omissions within the municipality as may, in the opinion of the board, 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 have occasion to use any public right, or may, in its opinion, be prejudicial to the public health, safety or convenience, or offences against public decency;

(b) for protecting from injury or interference anything within the municipality being the property of Her Majesty or of the board;

(c) for prohibiting or controlling the establishment or maintenance of markets, sáráis and halting places, and controlling the management of the same and of any places of public entertainment and resort;

(d) for controlling and regulating the use and management of burial and burning grounds;

(e) 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 within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;

(f) for securing a proper registration of births, marriages and deaths;

(g) for defining the cases, manner and times in and at which officers of the board may enter on private property for the enforcement of rules made under this section;

(h) in hilly tracts, for regulating or prohibiting the cutting of trees or shrubs, or the excavation or removal of soil, where such regulation or prohibition appears necessary for the preservation of the soil, the prevention of landslips or of the formation of ravines or torrents, the protection of land against erosion, or the deposit thereon of sand, stones or gravel; and

(i) 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 breach, with a further fine which may extend to 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 of any vehicles to which that Act applies.

XIV of 1879.

Power to prohibit commission of public nuisances.

56. 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.

Powers as to conditional orders in respect of certain acts and omissions.

57. *(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 133 of the Code of Criminal Procedure, and with power to make conditional orders of the nature referred to in that section, in respect of all or any acts or omissions punishable under rules made in exercise of the power conferred by section 55, clauses *(a)*, *(b)*, *(c)*, *(d)* and *(h)*.

(2) Sections 133 to 142 (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.

Provided that, for the purposes of such proceedings, section 133 of the Code shall be read as if for the words "before himself or some other Magistrate of the first or second class" the words "before the District Magistrate or some magistrate of the first or second class appointed by him in this behalf" were substituted.

(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 under sections 56 and 57.

58. 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 56, or with which the board may have been invested under section 57.

CHAPTER V.

CONTROL.

Control by Commissioner or Magistrate.

59. The Commissioner of the division or the Magistrate of the district, when he is not a member of the municipal board, 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.

Power to suspend action under Act.

60. *(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 [illegible] or body of persons.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter V.—Control—Sections 61-64.

(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.

61. *(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 on him by this section.

Powers of Local Government in case of default of board.

62. *(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 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 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.

63. *(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 Her Majesty.

(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 for being members.

Power of Local Government to frame forms and make rules.

64. *(1)* 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) as to the appointment of members of a municipal board ;

(b) as to the language of the board ;

(c) for the assessment and collection of taxes imposed under this Act, and for preventing evasion of the same ;

(d) as to the authority on which money may be paid from the municipal fund ;

(e) as to the conditions on which property vested in the board may be transferred by sale, mortgage, lease, exchange or otherwise ;

(f) as to the qualifications requisite in the case of persons appointed by the board to offices requiring professional skill ;

(g) as to the intermediate office or offices, if any, through which correspondence between boards and the Local Government or officers of that Government and representations addressed to the Local Government under this Act shall pass ;

(h) 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 ;

(i) 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 ;

(j) 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 ;

(k) as to the returns, statements and reports to be submitted by boards ; and

(l) generally, for the guidance of boards and public officers in all matters connected with the carrying out of this Act.

(2) In making rules under clause *(c)*, the Local Government may direct that a breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter VI.—Supplemental—Sections 65-74.

CHAPTER VI.

SUPPLEMENTAL.

Penalty on member, officer or servant of board being interested in contract made with board.

65. *(1)* 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 168 of the Indian Penal Code.

XLV of 1860.

(2) A person shall not 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 the company and the board, but he shall not take part in any proceedings of the board relating to any such contract.

Liability of members for loss, waste or misapplication.

66. Every person 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 while a member of the board, and a suit for compensation may be instituted against him by the board with the previous sanction of the Commissioner, or by the Secretary of State for India in Council.

Acquisition of land under Act X of 1870.

67. 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, 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, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the board.

X of 1870.

Procedure for making rules.

68. *(1)* The authority empowered to make rules under section 10, section 55, or section 64 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, 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.

(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.

Prosecutions.

69. A Court shall not take cognizance of an offence punishable under this Act, or the rules made under this Act, except on the complaint of the municipal board or of some person authorized by the board in this behalf.

Saving of prosecutions under other laws.

70. 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 made under it, or from being liable under that other law to any higher punishment or penalty than that provided by this Act or the rules made under it : Provided that a person shall not be punished twice for the same offence.

Continuance of existing rules.

71. All rules made under the North-Western Provinces and Oudh Municipalities Act, 1873, or any Act thereby repealed, and in force in any local area comprised in a municipality constituted under this Act at the time the municipal board for that municipality comes into existence under section 16, shall, as far as may be, be deemed to have been made under this Act, and shall continue in force until repealed by new rules so made.

XV of 1873.

(2) The authority empowered to make such new rules shall, as soon as may be, make them and take such action as may be requisite for bringing them into force.

Notification of intention to alter limits of municipality.

72. The Local Government may, from time to time, by notification published in the official Gazette, and in such other manner as the Local Government may from time to time determine, declare its intention—

(a) to exclude from a municipality any local area comprised therein and defined in the notification, or

(b) to include within a municipality any local area in the vicinity of the same and defined in the notification :

Provided that where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous consent of the Governor General in Council.

Alteration of limits of municipality.

73. *(1)* Any inhabitant of a municipality or local area in respect of which a notification has been published in the Gazette under section 72 may, if he objects to the alteration proposed, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification in the Gazette 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 a notification in the official Gazette exclude the local area from the municipality or include it therein, as the case may be.

Effect of exclusion of local area from municipality.

74. *(1)* When a local area is excluded from a municipality under section 73—

(a) this Act and all rules, orders, directions and powers made, issued or conferred under this Act shall cease to apply thereto ; and

(b) the Local Government shall, after consulting the municipal board, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the municipal board shall vest in Her Majesty for the benefit of the local area, and in

N.-W. P. and Oudh Municipalities Act, 1883.
Chapter VII.—Exceptional Provisions—Sections 75-79.

what manner the liabilities of the board shall be apportioned between the board and the Secretary of State for India in Council, and on the publication of the scheme in the local official Gazette, the property and liabilities shall vest and be apportioned accordingly.

(2) All property vested in Her Majesty under sub-section *(1)* shall be applied under the orders of the local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area.

Effect of including local area in municipality.

75. When a local area is included in a municipality under section 73, this Act and all rules, orders, directions and powers made, issued or conferred under this Act and in force throughout the whole municipality at the time the local area is so included shall apply to the local area.

Saving of Act XI of 1879.

XI of 1879.

76. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

Member of municipal board to be municipal commissioner.

77. Every member of a municipal board constituted under this Act shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force.

CHAPTER VII.

EXCEPTIONAL PROVISIONS.

Power to except municipalities from operation of provisions of Act regarding election.

78. *(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, exempt 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.

(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.

Power to withdraw municipal area altogether from operation of this Act or Act XV of 1873.

79. *(1)* The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, withdraw from the operation of this Act or the North-Western Provinces and Oudh Municipalities Act, 1873, the area of any municipality constituted under that Act.

XV of 1873.

(2) When a notification is issued under this section in respect of any municipality, this Act, and all rules, bye-laws, orders, directions and powers made, issued or conferred under the Act, shall cease to apply to the local area comprised in the municipality, the balance of the municipal fund and all other property which at the time of the issue of the notification is vested in the municipal board or municipal committee shall vest in Her Majesty, and the liabilities of the board or committee shall be transferred to the Secretary of State for India in Council.

(3) All property vested in Her Majesty under sub-section (2) shall be applied under the orders of the Local Government to discharge the liabilities imposed on the Secretary of State for India in Council by that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area comprised in the municipality.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 4th October, 1883, and is hereby promulgated for general information:—

ACT No. XVI OF 1883.

An Act 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:—

Short title.

Commencement.

1. *(1)* This Act may be called the Protection of Inventions Act, 1883;

(2) And it shall come into force at once.

Act to be read with Act XV of 1859.

2. This Act 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.

3. If, within six months from the time of the opening of an 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 "Exhibition."

4. In this Act, "Exhibition" means the International Exhibition to be held in the years one thousand eight hundred and eighty-three and one thousand eight hundred and eighty-four at Calcutta, and any Exhibition to be held in India which the Governor General in Council may, on 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.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 4th October, 1883, and is hereby promulgated for general information :—

ACT No. XVII OF 1883.

An Act to amend the Native Passenger Ships Act, 1876.

VIII 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 :—

Short title. Commencement.

1. *(1)* This Act may be called the Native Passenger Ships Act, 1883; and

(2) 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 eleven 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, 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 made under this Act."

Substitution of new section for section 26 of 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."

4. In section [illegible] be [illegible]

Addition to section 28 of 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 forty-six 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 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 Local Government to direct medical inspection of passengers.

"28C. *(1)* The Local Government may, from time to time, direct that no passenger shall be received on board any ship or any ship of a specified class sailing from any port in British India to any port in

the Red Sea unless and until he has been inspected, at such time and place as the Local Government may fix in this behalf, by a medical officer to be appointed by the Local Government in this behalf.

"(2) If, in the opinion of the officer making an inspection under this section, a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark."

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:—

Penalty on master or medical officer of certain ships disobeying rules.

"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 of certain ships sailing without medical officer.

"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 owner and master of certain ships not propelled by steam.

"38C. If any ship sailing from or to any port in British India to or from any port in the Red Sea is not principally propelled by steam, the owner and master shall each 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 master receiving passenger in contravention of section 28C.

"38D. If the master of any ship, while a direction under section 28C is in force, knowingly receives on board his ship any person in contravention of that section or of the direction, 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."

Additions to section 46 of same Act.

8. After clause (*b*) of section forty-six of the same Act the following clause shall be added:—

"(*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."

New section added to same Act.

9. To the same Act the following section shall be added, namely:—

Power to exempt ship from provisions of Act.

"50. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, for any special reason and subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act."

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 4th October, 1883, and is hereby promulgated for general information:—

ACT No. XVI OF 1883.

An Act 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:—

Short title.

1. *(1)* This Act may be called the Protection of Inventions Act, 1883;

Commencement.

(2) And it shall come into force at once.

[illegible] shall be read with and taken as part of, Act XV of 1859 (*to amend the law relating to Patents for Inventions*).

Inventions exhibited when to be deemed new though publicly used or made publicly known.

3. If, within six months from the time of the opening of an 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 "Exhibition."

4. In this Act, "Exhibition" means the International Exhibition to be held in the years one thousand eight hundred and eighty-three and one thousand eight hundred and eighty-four at Calcutta, and any Exhibition to be held in India which the Governor General in Council may, on 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.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 4th October, 1883, and is hereby promulgated for general information:—

ACT NO. XVII OF 1883.

An Act to amend the Native Passenger Ships Act, 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:—

VIII of 1876.

Short title. Commencement.

1. *(1)* This Act may be called the Native Passenger Ships Act, 1883; and

(2) 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 eleven 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 made under this Act."

Substitution of new section for section 26 of same Act.

3. For section twenty-six of the same Act the following section shall be substituted:—

"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—

Bond where ship clears for port in Red Sea.

"(*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 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 forty-six 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 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 Local Government to direct medical inspection of passengers.

"28C. *(1)* The Local Government may, from time to time, direct that no passenger shall be received on board any ship or any ship of a specified class sailing from any port in British India to any port in

the Red Sea unless and until he has been inspected, at such time and place as the Local Government may fix in this behalf, by a medical officer to be appointed by the Local Government in this behalf.

"(2) If, in the opinion of the officer making an inspection under this section, a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark."

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:—

Penalty on master or medical officer of certain ships disobeying rules.

"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 of certain ships sailing without medical officer.

"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 owner and master of certain ships not propelled by steam.

"38C. If any ship sailing from or to any port in British India to or from any port in the Red Sea is not principally propelled by steam, the owner and master shall each 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 master receiving passenger in contravention of section 28C.

"38D. If the master of any ship, while a direction under section 28C is in force, knowingly receives on board his ship any person in contravention of that section or of the direction, 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."

Additions to section 46 of same Act.

8. After clause (*b*) of section forty-six of the same Act the following clause shall be added:—

"(*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."

New section added to same Act.

9. To the same Act the following section shall be added, namely:—

Power to exempt ship from provisions of Act.

"50. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, for any special reason and subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act."

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th October, 1883, and is hereby promulgated for general information:—

ACT NO. XVIII OF 1883.

An Act to amend the Cattle-trespass Act, 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 or 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 or the Magistrate of the district under that Act, within the local area subject to the jurisdiction of the local authority; or I of 1871.

(*b*) direct that the whole or any part of 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.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th October, 1883, and is hereby promulgated for general information:—

ACT No. XIX OF 1883.

An Act to consolidate and amend the law relating to loans of money by the Government for agricultural improvements.

WHEREAS it is expedient to consolidate and amend the law relating to loans of money by the Government for agricultural improvements; It is hereby enacted as follows:—

Short title. Local extent. Commencement.

1. *(1)* This Act may be called the Land Improvement Loans Act, 1883.

(2) It extends to the whole of British India, but shall not come into force in any part of British India until such date as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, appoint in this behalf.

XXVI. of 1871.

Acts XXVI of 1871 and XXI of 1876 repealed.

2. *(1)* The Land Improvement Act, 1871, and Act XXI of 1876 *(an Act to amend the Land Improvement Act, 1871,)* shall, except as regards the recovery of advances made before this Act comes into force and costs incurred by the Government in respect of such advances, be repealed.

(2) When in any Act, Regulation or notification, passed or issued before this Act comes into force, reference is made to either of those Acts, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part of this Act.

"Collector" defined.

3. In this Act, "Collector" means the Collector of land-revenue of a district, or the Deputy Commissioner, or any officer empowered by the Local Government by name or by virtue of his office to discharge the functions of a Collector under this Act.

Purposes for which loans may be granted under this Act.

4. *(1)* Subject to such rules as may be made under section ten, loans may be granted under this Act, by such officer as may, from time to time, be empowered in this behalf by the Local Government, for the purpose of making any improvement, to any person having a right to make that improvement, or, with the consent of that person, to any other person.

(2) "Improvement" means any work which adds to the letting value of land, and includes the following, namely:—

(*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 purposes or waste-land which is culturable;

(*d*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(*e*) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto, and

(*f*) such other works as the Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by notification in the local official Gazette, declare to be improvements for the purposes of this Act.

Mode of dealing with applications for loans.

5. *(1)* When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice, in such manner as the Local Government may, from time to time, direct, calling upon all persons objecting to the loan to appear before him at a time and place fixed therein and submit their objections.

(2) The officer shall consider every objection submitted under sub-section *(1)*, and make an order in writing either admitting or overruling it:

Provided that, when the question raised by an objection is, in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

Period for repayment of loans.

6. *(1)* Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise), within such period from the date of the actual advance of the loan, or, when the loan is advanced in instalments, from the

date of the actual advance of the last instalment, as may, from time to time, be fixed by the rules made under this Act.

(2) The period fixed as aforesaid shall not ordinarily exceed thirty-five years.

(3) The Local Government and Governor General in Council, in making and sanctioning the rules fixing the period, shall, in considering whether the period should extend to thirty-five years or whether it should extend beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work.

Recovery of loans.

7. *(1)* Subject to such rules as may be made under section ten, all loans granted under this Act, all interest (if any) chargeable thereon, and costs (if any) incurred in making the same, shall, when they become due, be recoverable by the Collector in all or any of the following modes, namely :—

(*a*) from the borrower—as if they were arrears of land-revenue due by him ;

(*b*) from his surety (if any)—as if they were arrears of land-revenue due by him ;

(*c*) out of the land for the benefit of which the loan has been granted—as if they were arrears of land-revenue due in respect of that land ;

(*d*) out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land-revenue by the sale of immoveable property other than the land on which that revenue is due :

Provided that no proceeding in respect of any land under clause (*c*) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under section four with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest or costs is paid to the Collector by a surety or an owner of property comprised in any collateral security, or is recovered under sub-section *(1)* by the Collector from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in manner provided by sub-section *(1)*.

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

Order granting loan conclusive on certain points.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to, or with the consent of, a person mentioned therein, for the purpose of carrying out a work described therein, for the benefit of land specified therein, shall, for the purposes of this Act, be conclusive evidence—

(*a*) that the work described is an improvement within the meaning of this Act ;

(*b*) that the person mentioned had at the date of the order a right to make such an improvement ; and

(*c*) that the improvement is one benefiting the land specified.

Liability of joint borrowers as among themselves.

9. When a loan is made under this Act to the members of a village-community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Power to make rules.

10. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by notification in the local official Gazette, make rules consistent with this Act to provide for the following matters, namely :—

(*a*) the manner of making applications for loans ;

(*b*) the officers by whom loans may be granted ;

(*c*) the manner of conducting inquiries relative to applications for loans, and the powers to be exercised by officers conducting those inquiries ;

(*d*) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which, and the conditions under which, loans may be granted, and the manner and time of granting loans ;

(*e*) the inspection of works for which loans have been granted ;

(*f*) the instalments by which, and the mode in which, loans, the interest to be charged on them and the costs incurred in the making thereof, shall be paid ;

(*g*) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same ; and

(*h*) all other matters pertaining to the working of the Act.

Exemption of improvements from assessment to land-revenue.

11. When land is improved with the aid of a loan granted under this Act, the increase in value derived from the improvement shall not be taken into account in revising the assessment of land-revenue on the land :

Provided as follows :—

(1) Where the improvement consists of the reclamation of waste-land, or of the irrigation of land assessed at unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed

by the Local Government with the approval of the Governor General in Council.

(2) Nothing in this section shall entitle any person to call in question any assessment of land-revenue otherwise than as it might have been called in question if this Act had not been passed.

III of 1877.

Act III of 1877 amended.

12. *(1)* In the Indian Registration Act, 1877, section 17, clause (*l*), for the word "certificates" the words "orders granting loans" shall be substituted.

(2) In the same Act, section 58, for the words "a certificate" the words "an order" shall be substituted.

(3) In the same Act, section 89, first clause,—

(*a*) for the words "a certificate" the words "a loan," and

(*b*) for the words "such certificate" the words "his order,"

shall be substituted.

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 IV.

Acts of the Governor General's Council assented to by the Governor General

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 4th October, 1883, and is hereby promulgated for general information:—

ACT No. XVI OF 1883.

An Act 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:—

Short title. Commencement.

1. *(1)* This Act may be called the Protection of Inventions Act, 1883;

(2) 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.

3. If, within six months from the time of the opening of an 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 "Exhibition."

4. In this Act, "Exhibition" means the International Exhibition to be held in the years one thousand eight hundred and eighty-three and one thousand eight hundred and eighty-four at Calcutta, and any Exhibition to be held in India which the Governor General in Council may, on 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.

D. FITZPATRICK,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 4th October, 1883, and is hereby promulgated for general information:—

ACT No. XVII OF 1883.

An Act to amend the Native Passenger Ships Act, 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:— VIII of 1876.

Short title. Commencement.

1. *(1)* This Act may be called the Native Passenger Ships Act, 1883; and

(2) It shall come into force on such day as the Governor General in Council directs by notification in the *Gazette of India*.

Addition to section 11 of the Native Passenger Ships Act, 1876.

2. After clause (*e*) of section eleven of the Native Passenger Ships Act, 1876, the following clause shall be added:— VIII of 1876.

"(*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 made under this Act."

Substitution of new section for section 26 of 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 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 forty-six 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 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 Local Government to direct medical inspection of passengers.

"28C. *(1)* The Local Government may, from time to time, direct that no passenger shall be received on board any ship or any ship of a specified class sailing from any port in British India to any port in

the Red Sea unless and until he has been inspected, at such time and place as the Local Government may fix in this behalf, by a medical officer to be appointed by the Local Government in this behalf.

"(2) If, in the opinion of the officer making an inspection under this section, a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark."

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. If any ship sailing from or to any port in British India to or from any port in the Red Sea is not principally propelled by steam, the owner and master shall each 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 direction under section 28C is in force, knowingly receives on board his ship any person in contravention of that section or of the direction, 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 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."

New section added to same Act.

9. To the same Act the following section shall be added, namely:—

"50. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, for any special reason and subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act."

Power to exempt ship from provisions of Act.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th October, 1883, and is hereby promulgated for general information:—

ACT NO. XVIII OF 1883.

An Act to amend the Cattle-trespass Act, 1871.

WHEREAS it is expedient to amend the Cattle-trespass Act, 1871; It is hereby enacted as follows:— 1 of 1871.

Power for Local Government to transfer functions of District Magistrate or 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 or the Magistrate of the district under that Act, within the local area subject to the jurisdiction of the local authority; or 1 of 1871.

(*b*) direct that the whole or any part of 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.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th October, 1883, and is hereby promulgated for general information:—

ACT No. XIX OF 1883.

An Act to consolidate and amend the law relating to loans of money by the Government for agricultural improvements.

WHEREAS it is expedient to consolidate and amend the law relating to loans of money by the Government for agricultural improvements; It is hereby enacted as follows:—

Short title.

1. *(1)* This Act may be called the Land Improvement Loans Act, 1883.

Local extent. Commencement.

(2) It extends to the whole of British India, but shall not come into force in any part of British India until such date as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, appoint in this behalf.

Acts XXVI of 1871 and XXI of 1876 repealed.

2. *(1)* The Land Improvement Act, 1871, and Act XXI of 1876 *(an Act to amend the Land Improvement Act, 1871,)* shall, except as regards the recovery of advances made before this Act comes into force and costs incurred by the Government in respect of such advances, be repealed.

(2) When in any Act, Regulation or notification, passed or issued before this Act comes into force, reference is made to either of those Acts, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part of this Act.

"Collector" defined.

3. In this Act, "Collector" means the Collector of land-revenue of a district, or the Deputy Commissioner, or any officer empowered by the Local Government by name or by virtue of his office to discharge the functions of a Collector under this Act.

Purposes for which loans may be granted under this Act.

4. *(1)* Subject to such rules as may be made under section ten, loans may be granted under this Act, by such officer as may, from time to time, be empowered in this behalf by the Local Government, for the purpose of making any improvement, to any person having a right to make that improvement, or, with the consent of that person, to any other person.

(2) "Improvement" means any work which adds to the letting value of land, and includes the following, namely:—

(*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 purposes or waste-land which is culturable;

(*d*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(*e*) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto, and

(*f*) such other works as the Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by notification in the local official Gazette, declare to be improvements for the purposes of this Act.

Mode of dealing with applications for loans.

5. *(1)* When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice, in such manner as the Local Government may, from time to time, direct, calling upon all persons objecting to the loan to appear before him at a time and place fixed therein and submit their objections.

(2) The officer shall consider every objection submitted under sub-section *(1)*, and make an order in writing either admitting or overruling it:

Provided that, when the question raised by an objection is, in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

Period for repayment of loans.

6. *(1)* Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise), within such period from the date of the actual advance of the loan, or, when the loan is advanced in instalments, from the

date of the actual advance of the last instalment, as may, from time to time, be fixed by the rules made under this Act.

(2) The period fixed as aforesaid shall not ordinarily exceed thirty-five years.

(3) The Local Government and Governor General in Council, in making and sanctioning the rules fixing the period, shall, in considering whether the period should extend to thirty-five years or whether it should extend beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work.

Recovery of loans.

7. *(1)* Subject to such rules as may be made under section ten, all loans granted under this Act, all interest (if any) chargeable thereon, and costs (if any) incurred in making the same, shall, when they become due, be recoverable by the Collector in all or any of the following modes, namely :—

(*a*) from the borrower—as if they were arrears of land-revenue due by him;

(*b*) from his surety (if any)—as if they were arrears of land-revenue due by him;

(*c*) out of the land for the benefit of which the loan has been granted—as if they were arrears of land-revenue due in respect of that land;

(*d*) out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land-revenue by the sale of immoveable property other than the land on which that revenue is due:

Provided that no proceeding in respect of any land under clause (*c*) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under section four with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest or costs is paid to the Collector by a surety or an owner of property comprised in any collateral security, or is recovered under sub-section *(1)* by the Collector from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in manner provided by sub-section *(1)*.

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

Order granting loan conclusive on certain points.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to, or with the consent of, a person mentioned therein, for the purpose of carrying out a work described therein, for the benefit of land specified therein, shall, for the purposes of this Act, be conclusive evidence—

(*a*) that the work described is an improvement within the meaning of this Act;

(*b*) that the person mentioned had at the date of the order a right to make such an improvement; and

(*c*) that the improvement is one benefiting the land specified.

Liability of joint borrowers as among themselves.

9. When a loan is made under this Act to the members of a village-community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Power to make rules.

10. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by notification in the local official Gazette, make rules consistent with this Act to provide for the following matters, namely :—

(*a*) the manner of making applications for loans;

(*b*) the officers by whom loans may be granted;

(*c*) the manner of conducting inquiries relative to applications for loans, and the powers to be exercised by officers conducting those inquiries;

(*d*) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which, and the conditions under which, loans may be granted, and the manner and time of granting loans;

(*e*) the inspection of works for which loans have been granted;

(*f*) the instalments by which, and the mode in which, loans, the interest to be charged on them and the costs incurred in the making thereof, shall be paid;

(*g*) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same; and

(*h*) all other matters pertaining to the working of the Act.

Exemption of improvements from assessment to land-revenue.

11. When land is improved with the aid of a loan granted under this Act, the increase in value derived from the improvement shall not be taken into account in revising the assessment of land-revenue on the land:

Provided as follows :—

(1) Where the improvement consists of the reclamation of waste-land, or of the irrigation of land assessed at unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed

by the Local Government with the approval of the Governor General in Council.

(2) Nothing in this section shall entitle any person to call in question any assessment of land-revenue otherwise than as it might have been called in question if this Act had not been passed.

III of 1877.

Act III of 1877 amended.

12. *(1)* In the Indian Registration Act, 1877, section 17, clause (*l*), for the word "certificates" the words "orders granting loans" shall be substituted.

(2) In the same Act, section 58, for the words "a certificate" the words "an order" shall be substituted.

(3) In the same Act, section 89, first clause,—

(*a*) for the words "a certificate" the words "a loan," and

(*b*) for the words "such certificate" the words "his order,"

shall be substituted.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th October, 1883, and is hereby promulgated for general information:—

ACT No. XX OF 1883.

THE PANJÁB DISTRICT BOARDS ACT, 1883.

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WHEREAS it is expedient to amend the law in force in the territories administered by the Lieutenant-Governor of the Panjáb for the levy and expenditure of rates on land; and

Whereas it is also expedient to provide for the constitution of district boards and local boards in those territories, and to define and regulate the powers to be exercised by those boards;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. *(1)* This Act may be called the Panjáb District Boards Act, 1883.

Extent.

(2) It shall extend only to the territories for the time being administered by the Lieutenant-Governor of the Panjáb; and

Commencement.

(3) It shall come into force in each district on such date as the Local Government, by notification, directs.

Repeal of Act V of 1878.

2. From the date on which this Act comes into force in any district, the Panjáb Local Rates Act, 1878, shall be repealed throughout that district. But all rates imposed, sums credited to the Local Government, and notifications published under that Act, shall, so far as may be, be deemed to have been respectively imposed, credited and published under this Act. V of 1878.

Definitions.

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

(1) "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.

(2) "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.

(3) "Landholder" means any person responsible for the payment of the land-revenue, if any, assessed on land. It also includes the proprietor of land the land-revenue of which has been wholly, or in part, released, compounded for, redeemed or assigned.

(4) "Annual value" means—

(*a*) double the land-revenue for the time being assessed on any land, whether the assessment is leviable or not; or

(*b*) where 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; or

(*c*) where no land-revenue has been assessed, double the amount which would have been assessed if the average village-rate had been applied:

Provided that, in any tract in which, under the settlement for the time being in force, 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, that rate shall be added to the land-revenue for the purpose of computing the annual value.

(5) "Financial year" means the year commencing on the first day of April.

(6) "Prescribed day" means such day as the Local Government may, from time to time, prescribe.

(7) "Notification" means a notification published in the official Gazette.

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 4-11.)

(8) "Notified" means notified in the official Gazette.

(9) "Deputy Commissioner" means the Deputy Commissioner of a district, and includes any officer specially appointed by the Local Government to perform the functions of a Deputy Commissioner under this Act.

Powers exercisable from time to time.

4. All powers conferred by this Act may be exercised from time to time as occasion requires.

CHAPTER II.

OF THE LOCAL RATE ON LAND.

The local rate.

5. *(1)* All land shall be subject to the payment of a rate, to be called the local rate, not exceeding one anna for every rupee of its annual value.

(2) The proportion which the local rate shall bear to the annual value of land shall, except as provided in sub-section (3), be fixed for each district by the Local Government by notification.

(3) The Local Government may, by notification, delegate to the district board, subject to such restrictions or conditions as it thinks fit, its powers under sub-section (2), and may, by notification, cancel or vary any such notification.

Road, school and post cesses to merge in the rate.

6. From such date as may be notified in respect of each district by the Local Government, all authorized rates and cesses for the maintenance of roads, schools and the district-post 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 those purposes.

Liability for local rate.

7. The landholder shall be liable for the local rate subject to the following provisoes, namely:—

(1) where the landholder pays the land-revenue in kind to any assignee of revenue or any village-headman, the assignee of revenue or village-headman shall be liable 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 the landholder in respect of the payment of the rate; and

(2) where the Government has, under any lease current at the time when this Act comes into force, paid the local rate on trini, it shall continue to pay the rate during the currency of the lease.

Power to recover a share of the rate from occupancy-tenant.

8. When a local rate is payable by a landholder in respect of lands held by a tenant with a right of occupancy holding at a favourable rent, the landholder may realize from the tenant a share of the rate, bearing the same proportion to the whole rate as the excess of the annual value over the rent paid by the tenant bears to half the annual value.

Appropriation of proceeds of local rate.

9. Four-fifths of the net proceeds of the local rate levied in each district, after deducting the expenses of collection, shall, except as provided in section 68, be allotted to the district board established for that district under this Act.

The remaining one-fifth shall be carried to the credit of the Local Government, and may—

(*a*) be allotted by that Government to any district board established under this Act; or

(*b*) be applied by that Government to provide in the territories to which this Act extends, or any part thereof, for any of the matters on which district boards may expend the funds at their disposal under this Act:

Provided that the Local Government may direct that the whole or any portion of the net proceeds of the local rate levied within the limits of any municipality or military cantonment, after deducting the expenses of collection, shall be carried to the credit of the municipal fund, or made available for the purpose of public improvement in the cantonment or for carrying out therein any rules made under section 25 of the Cantonments Act, 1880, as the case may be. III of 1880.

CHAPTER III.

OF DISTRICT AND LOCAL BOARDS.

A.—Constitution of District and Local Boards.

Establishment of district and local boards.

10. *(1)* The Local Government shall, by notification, establish a district board for each district.

(2) The Local Government may, by notification, establish a local board or local boards within the limits of any district, and may cancel or vary any such notification.

(3) A district board shall have authority throughout the district for which it is established, and a local board shall have authority throughout such portion of the district in which it is established, as the Local Government may, by notification, direct:

Provided that a board shall not have authority over any portion of a district which is for the time being included in a military cantonment or a municipality.

Number and appointment or election of members.

11. *(1)* A district board or local board shall consist of such number of members, not less than six, as the Local Government may fix in this behalf.

(2) The members may be appointed by the Local Government either by name or by official designation, or may be elected in accordance with rules made by the Local Government under this Act, or some may be appointed and some elected, as the Local Government directs:

Provided that—

(*a*) when the Local Government has directed that all or any proportion of the members shall be elected, it shall not thereafter direct that they shall be appointed, unless a majority of the electors declare that they so desire, or the Governor General in Council, for some reason affecting the public interests, sanctions the direction;

(*b*) except with the approval of the Governor General in Council, or unless salaried officers of the Government are elected, not less than two-thirds of the members of every board shall be persons other than salaried officers of the Government; and

(*c*) not less than one-half of the members of the board shall be landholders in the district.

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 12-20.)

(3) When, under a direction issued under sub-section (2), any places on a board are required to be filled by election, and a sufficient number of members is not elected, the Local Government may fill those places by appointment.

12. (1) A member of a district board or local board, when appointed by virtue of an office, shall, unless and until the Local Government otherwise directs, continue to be a member of the board while he continues to hold that office.

Term of office of members.

(2) The term of office of all other elected and appointed members respectively of a district board or local board shall be fixed by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(3) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

13. A member of a local board or of a district board 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.

Resignation of members.

14. The Local Government may remove any member of a district board or local board—

Powers of the Local Government as to removal of members.

(a) if he refuses to act, or becomes incapable of acting, or is declared 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;

(b) if he has been declared by notification to be disqualified for employment in the public service;

(c) if he, being a member of a local board, without an excuse sufficient in the opinion of the Local Government, neglects for more than three consecutive months to be present at the meetings of that board, or, being a member of the district board, without such sufficient excuse, neglects for more than six consecutive months to be present at the meetings of that board;

(d) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace or order; or,

(e) when he is a salaried officer of the Government, if his continuance in office is, in the opinion of the Local Government, unnecessary or undesirable.

15. (1) When the place of an elected member of a local board or district board becomes vacant by the resignation or removal of the member or by his death, a new member shall be chosen in accordance with the rules made by the Local Government under this Act to fill the place:

Filling of casual vacancies.

Provided that the Local Government may direct in any such case that the vacancy shall be left unfilled.

(2) When the place of a member of a local board or district board appointed by name becomes vacant as aforesaid, the Local Government may, if it thinks fit, appoint a new member to fill the place.

(3) A person chosen 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.

16. Every district board shall be a body corporate by the name of the district board of its district, and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to any rules made by the Local Government under this Act, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Incorporation of district boards.

17. The several district boards and local boards constituted under this Act shall come into existence at such time as the Local Government may, by notification, fix in this behalf.

Time for district and local boards coming into existence.

18. (1) A member of every district board or local board shall be elected or appointed to be chairman of the board, and shall hold office for such term, not exceeding three years, as the Local Government may, by a rule made under this Act, fix.

Chairman.

(2) The Local Government shall determine, as regards each board or as regards any class of boards, whether the chairman shall be a person appointed by virtue of his office or by name or be elected.

19. (1) A district board or local board may elect one of its members to be vice-chairman.

Vice-chairman.

(2) A vice-chairman so elected shall hold office for such term as the board may, by rule, fix.

B.—Duties of District and Local Boards.

20. (1) The following matters shall, subject to such exceptions and conditions as the Local Government may make and impose, be under the control and administration of each district board within the area subject to its authority:—

Duties of district board.

(a) the management of all property vested in the district board;

(b) the construction, repair and maintenance of public roads and other means of communication;

(c) the establishment, management, maintenance and visiting of public hospitals, dispensaries, saráis and schools, 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, cooking and bathing purposes; and

(f) the planting and preservation of trees.

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 21-26.)

(2) The Local Government may direct that any of the following matters shall, subject to such exceptions and conditions as it may make and impose, be under the control and administration of a district board within the area subject to its authority:—

(g) the management of any property vested in Her Majesty;

(h) the establishment, maintenance, visiting and management of markets, rest-houses, encamping-grounds and other public institutions, and the construction and repair of all buildings connected with these institutions;

(i) the construction and repair of embankments, and the supply, storage and control of water for agricultural purposes;

(j) the preservation and reclamation of soil, and the drainage and reclamation of swamps;

(k) the construction, repair and maintenance of famine preventive works, and the establishment and maintenance of such relief-works, relief-houses and other measures in time of famine or scarcity as may be entrusted to the charge of the board by the Local Government;

(l) the registration of births, marriages and deaths;

(m) fairs and agricultural shows and industrial exhibitions;

(n) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in force, such functions of the Local Government and the Magistrate of the district under that Act as may be transferred to the board by the Local Government;

1 of 1871.

(o) the management of such public ferries as may be entrusted to the charge of the board under section 7 A of the Northern India Ferries Act, 1878, as amended by this Act;

XVII of 1878.

(p) any other local works or measures likely to promote the health, comfort, convenience and interests of the public or the agricultural or industrial prosperity of the country; and

(q) any other matters which the Local Government may declare to be fit and proper matters to be taken under the control and administration of the board.

(3) The Local Government may cancel or modify any direction given by it under sub-section (2).

(4) A district board shall, so far as the funds at its disposal permit, make due provision for all matters placed under its control or administration by or under this section.

21. (1) The Local Government, or, subject to the control of the Local Government, a district board, may direct that, within the area subject to the authority of a local board, any matter placed under the control and administration of the district board by or under section 20 shall be transferred to the control and administration of the local board.

Duties of local board.

(2) A local board, as the agent of, and subject to the control of, the district board, shall, so far as the funds at its disposal permit, make due provision for all matters transferred to its control and administration under sub-section (1).

(3) It shall be the duty of the district board to enforce the responsibility imposed on a local board by sub-section (2).

22. Except as otherwise provided by this Act, a local board shall not incur expenses or undertake liabilities to any amount exceeding the limit imposed by the district board of its district.

Limits on expenditure of local board.

23. (1) If a local board makes default in the performance of any duty imposed on it by or under this Act, the district board may, by order in writing, fix a period for the performance of the duty.

Power for district board to provide for performance of duty in default of local board.

(2) If the duty is not performed within that period, the district board may appoint some person to perform it, and may provide for the expenses of, and incidental to, its performance out of the funds appropriated to or for the purposes of the local board.

C.—Joint Committees.

24. A district board may concur with any other district board, or with any municipal committee or with any cantonment authority, or with more than one such board, committee or authority, in appointing, out of their respective bodies, a joint committee 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 boards, committees or authorities concerned, and in framing or modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

Joint committees.

D.—Conduct of Business.

25. (1) Minutes of the proceedings at each meeting of a district or local board 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 of the district who pays any rate or tax under this Act.

Record and publication of proceedings.

(2) A copy of every resolution passed by a local board at a meeting shall, within three days from the date of the meeting, be forwarded to the district board and to the Deputy Commissioner.

(3) A copy of every resolution passed by a district board at a meeting shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner.

26. Every district board, and every local board with the sanction of the district board, may make rules as to—

Power to make rules as to business and affairs.

(a) the time and place of its meetings and the manner in which notice of meetings shall be given;

(b) the conduct of proceedings at meetings and the adjournment of meetings;

(c) the custody of the common seal and the purposes for which it shall be used;

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 27-32.)

(*d*) the division of duties amongst its members;

(*e*) the powers to be exercised by sub-committees or members to whom particular duties have been assigned;

(*f*) the persons by whom receipts shall be granted for money received under this Act;

(*g*) the duties, appointment, leave, suspension and removal of the officers and servants of the board;

(*h*) the term for which the vice-chairman shall hold office, and

(*i*) other similar matters:

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, and shall be published in such manner as the Local Government may direct.

E.—Officers and Servants.

Employment of officers and servants.

27. *(1)* Subject to the provisions of this Act and to any rules which may be made under this Act in this behalf, every district board may employ and pay such officers and servants as may be necessary and proper for the efficient execution of its duties and of the duties of the local boards acting under it:

Provided that if, at any time, in the opinion of the Deputy Commissioner,—

(*a*) the number of persons employed by a board under this section, or the remuneration assigned by the board to those persons, or to any of them, is excessive, or

(*b*) any such person is unfit for his employment,

the board shall, on the requirement of the Deputy Commissioner, reduce the number, or remuneration, of those persons, or, as the case may be, dismiss the unfit person.

(2) The board may appeal against any requirement under this section to the Commissioner of the division, whose decision shall be final.

Pensions of Government officials serving boards.

28. In the case of a Government official, a district board may—

(1) if his services are wholly lent to it, contribute to his pension or gratuity and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension or gratuity and leave-allowances in such proportion as may be determined by the Government.

Pensions of servants of boards.

29. In the case of an officer or servant, not being a Government official referred to in section 28, a district board may—

(1) grant him leave-allowances, and, if he is employed under the district committee when this Act comes into force and not entitled to pension, or if his monthly pay is less than ten rupees, a gratuity; and

(2) if empowered in this behalf by the Local Government—

(*a*) subscribe in his behalf for pension or gratuity and leave-allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, the servant would be entitled if the service had been service under the Government.

F.—Taxation and Finance.

Powers of taxation conferred on district boards.

30. Subject to any general rules or special orders which the Governor General in Council may make in this behalf, a district board may impose, in manner prescribed by section 31, such taxes as may be approved by the Local Government:

Provided that no such tax shall be imposed in respect of any property subject to the local rate.

Procedure in imposing taxes.

31. *(1)* A district board may resolve, at a meeting, convened and constituted in such manner as the Local Government may prescribe, to propose the imposition of any tax under section 30.

(2) When a resolution has been passed under sub-section *(1)*, the board 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 person likely to be directly affected by the proposed tax, and objecting to the same, may, within thirty days from the publication of the notice, send his objection in writing to the board; and the board shall, at a meeting convened and constituted as aforesaid, take his objection into consideration.

(4) If no objection is sent within the said period of thirty days, 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 and with its decision thereon.

(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 proposals of a district board in respect of a tax have been sanctioned by the Local Government, the board may, at a meeting convened and constituted as aforesaid, direct the imposition of the tax in accordance with those proposals:

Provided that, in giving such direction, the board shall fix a date not less than one month from the date of the meeting on which the tax shall come into force.

(7) Every direction under sub-section *(6)* shall be notified, and the notification shall be conclusive evidence that the tax has been imposed in accordance with law.

Reduction and abolition of tax.

32. The Local Government may, by notification, and the district board may, with the sanction of the Local Government, by a resolution passed at a meeting

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 33-39.)

convened and constituted as the Local Government may prescribe, abolish or reduce any tax imposed under sections 30 and 31.

Levy of fees.

33. With the previous sanction of the Local Government, or of such officer as the Local Government may authorize in this behalf, a district board or local board may fix and levy school-fees and fees for the use of, or benefits derived from, any of the works specified in section 20, clauses (*c*), (*e*), (*h*), (*i*) and (*j*), and fees at fairs, agricultural shows and industrial exhibitions held under its authority.

Additional funds to be provided by the Government.

34. When the control and administration of any matter is by or under this Act transferred to a district board, and at the time of the transfer the cost of that control and administration is defrayed from provincial revenue, the Local Government shall, from time to time, allot to the district board such funds, or place at the disposal of the board such sources of income, as may, in the opinion of the Local Government and of the board, be sufficient for maintaining the control and administration of the said matter in the state of efficiency existing at the date of transfer.

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—

V of 1878.

(*a*) the balance (if any) of the allotments made for the district under section 7 of the Panjáb Local Rates Act, 1878, and of the road and school cesses, which may be available for expenditure in the district on the day on which the district board comes into existence;

(*b*) all proceeds of rates allotted to the district board under section 9;

(*c*) the proceeds of all taxes imposed in the district under sections 30 and 31;

(*d*) the amount of all fees levied by the district board or by local boards in the district under section 33;

(*e*) all funds allotted to the district board and the income arising from all sources of income placed at its disposal under section 34;

(*f*) all rents and profits accruing from property vested in the district board or managed by the district board or a local board in the district;

(*g*) all sums contributed to the fund by Government or by any committee, board or private person;

(*h*) all sums received by the district board or by a local board in the district in the discharge of functions exercised by it under this Act; and

(*i*) the proceeds of all sources of income which the Local Government may order to be placed at the disposal of the district board:

Provided that the Local Government may revoke any order made under clause (*i*).

Vesting, custody and investment of district fund.

36. *(1)* 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 or sub-treasury or in the bank to which the Government treasury business has been made over, unless the Local Government in any cases otherwise permits.

(2) Subject to such rules as the Governor General in Council may make in this behalf, the district board may, with the previous sanction of the Local Government, invest any portion of the district fund in securities of the Government of India or such other securities as the Governor General in Council may approve in this behalf, and vary such investments for others of the same nature, or dispose of them. The income resulting from the securities, and the proceeds of the sale of the same, shall be credited to the district fund.

Application of district fund.

37. *(1)* The district fund shall be charged with the payment of the expenses of the district-post, the payment of the expenses of pauper lunatics sent to public asylums from the area under the authority of the district board, the expenses incurred in auditing the accounts of the district boards and local boards, and 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 the district board in return for services rendered to the board by those Departments.

(2) Subject to the charges specified in sub-section *(1)*, and to such rules as the Local Government may make with respect to the priority to be given to the several duties of the board or otherwise, the district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the matters specified in sections 20, 27, 28 and 29, and to the provision of grants-in-aid to educational and medical institutions, within the area subject to the authority of the district board, and, with the sanction of the Commissioner, outside that area when such application of the fund is for the benefit of the inhabitants of that area.

Works or undertakings benefiting several districts.

38. In the case of works or undertakings which benefit more districts than one, when the district boards cannot agree, the Commissioner or Commissioners of the division or divisions, or, when the districts are in different divisions and the Commissioners 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 of the districts benefited thereby; and such proportion shall be payable out of the several district funds accordingly.

Annual estimates of income and expenditure of district boards.

39. *(1)* Every district board shall appoint a finance committee consisting of not less than three of its members.

(2) Every district board shall, on or before a prescribed day in each year, hold a meeting at which the finance committee shall submit to the board an estimate of the income and expenditure of the board for the next financial year, in such form as the Local Government may, by a rule made under this Act, prescribe.

(3) The board shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The board shall, on or before a prescribed day, cause copies of the estimate, as provisionally

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 40-45.)

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 board his approval or disapproval of the estimate. When he disapproves of the estimate, he shall state the nature of his objection. The board 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 order shall be final and binding on the board.

(6) When the Deputy Commissioner has signified his approval of an estimate, or the board has modified an estimate so as to remove the Deputy Commissioner's objections, or when the Commissioner has passed orders as provided in sub-section (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) When the Deputy Commissioner is a member of the district board, the Commissioner and the Local Government shall take the place of the Deputy Commissioner and the Commissioner respectively for the purposes of this section.

40. Accounts of the receipts and expenditure of every district board shall be made up periodically to such days and in such form as the Local Government prescribes, and shall be examined and audited as soon as may be after they are so made up by such persons as the Local Government appoints in this behalf.

Accounts of district boards.

41. *(1)* Every local board shall submit annually to the district board of its district, on or before such date as the district board may appoint in this behalf, a statement of the requirements, and an estimate of the probable expenditure, of the local board for the coming financial year, and shall submit, as often as the district board may require, accounts of its receipts and expenditure.

Estimates and accounts of local boards.

(2) The district board shall signify in writing to the local board its approval or disapproval of an estimate submitted under this section, and powers similar to those conferred on the Deputy Commissioner and Commissioner by section 39, clauses (5) and (6), shall be exercised, in regard to the estimate, by the district board and the Deputy Commissioner, or (when the Deputy Commissioner is a member of the district board) the Commissioner, respectively:

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 district board.

(3) The district board 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.

42. Every district board shall cause a copy of every annual estimate provisionally or finally approved under section 39, and of every account made up under section 40, 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.

43. A statement of the accounts of a district board for each financial year, showing the income of the district 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 at the end of the year, shall be prepared by the board in such form as the Local Government prescribes; and an abstract of the same shall be published in the English and Vernacular official Gazettes, or in such other manner as the Local Government may direct.

Publication of abstract of accounts.

G.—Control.

44. *(1)* The Commissioner of the division, or the Deputy Commissioner of the district when he is not a member of the district board, may—

Control of Commissioner and Deputy Commissioner 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*) by order in writing 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*) by order in writing 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 Deputy Commissioners in the same division, to the Commissioner; and

(*b*) if it arises between two or more Deputy Commissioners 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.

45. 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 a district board or local board 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.

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 46-54.)

46. *(1)* In cases of emergency, the Deputy Commissioner 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 of doing the act shall be forthwith paid by the district board.

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 district 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.

47. *(1)* When the Commissioner, after due enquiry, is satisfied that a district board 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 board to that person.

Power to provide for performance of duties in case of default of board.

(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 district 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.

48. When the control and administration of any public work is by or under this Act transferred to a district board, and at the time of the transfer the cost of that control and administration is defrayed from provincial revenue, the Local Government may invest any officer with respect to that work with the powers of a Commissioner under section 44 or section 47, or with the powers of a Deputy Commissioner under section 46.

Power to invest other officers with power of control.

49. When the Commissioner makes any order under section 45 or section 47, he shall forthwith forward to the Local Government, and when the Deputy Commissioner makes any order under section 45 or section 46, or an officer empowered under section 48 makes any order under section 46 or section 47, he shall forthwith forward to the Commissioner, for submission to the Local Government, a copy of the order, with a statement of the reasons for making it, and with such explanation, if any, as the board or committee concerned may wish to offer. The Local Government may thereupon confirm, modify or rescind the order.

Report of action under preceding sections.

50. *(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 district boards and local boards shall be in conformity with law and with the rules in force thereunder.

Powers of Local Government and its officers over boards.

(2) The Local Government may exercise all powers necessary for the purpose of sub-section *(1)*, and may, amongst other things, by order in writing, annul any proceeding which it considers not to be in conformity with law and with the said rules.

(3) 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 conferred upon them by rules made in this behalf by the Local Government.

51. If a district board or local 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, 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 board to be superseded:

Power of Local Government to supersede in case of incompetency, persistent default or abuse of powers.

Provided that, in case of public emergency, the notification may be issued without the previous approval of the Governor General in Council, but shall be immediately reported to the Governor General in Council and shall be subject to his orders.

52. When a district board or local board is superseded under section 51, the following consequences shall ensue:—

Consequences of supersession.

(*a*) All members of the board shall from the date of the notification vacate their offices as such members:

(*b*) All powers and duties of the board may, until the board is re-constituted, be exercised and performed by such person as the Local Government appoints in that behalf:

(*c*) Where a district board is superseded, all property vested in it shall, until it is re-constituted, vest in Her Majesty.

53. *(1)* When a district board is superseded, the Local Government shall, as soon as in its judgment conveniently may be, constitute another district board in its place.

Constitution of new board, and transfer of functions of superseded local boards.

(2) When a local board is superseded, the Local Government may either constitute another local board in its place, or transfer its functions to the district board or, by a notification under section 10, to any other local board.

54. *(1)* If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more boards constituted under this Act, or between a municipal committee or cantonment authority and any such board, the matter shall be referred—

Disputes.

(*a*) to the Deputy Commissioner if the local authorities concerned are in the same district;

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 55-59.)

(*b*) to the Commissioner or Commissioners of the division or divisions if the local authorities concerned are in different districts; and

(*c*) to the Local Government if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

(*2*) The decision of the authority to which any dispute is referred under this section shall be final

(*3*) If, in the case mentioned in clause (*a*), the Deputy Commissioner is a member of one of the boards or committees concerned, his functions under this section shall be discharged by the Commissioner.

(*4*) "Local authority" in this section means a district board, local board, municipal committee or cantonment authority.

55. So far as may be consistent with the provisions of this Act—

Power of the Governor General in Council and the Local Government to make rules.

(1) the Governor General in Council may—

(*a*) make general rules or special orders for the regulation of taxation under section 30; and

(*b*) make rules regulating the powers of district boards to make, vary and dispose of investments;

(2) the Local Government may, for any district or local board, or any class of such boards, make rules for—

(*c*) dividing boards into classes, and fixing the powers of boards of each class;

(*d*) determining the mode and time of appointment or election of members of boards, the term of office, allowances (if any), and the qualifications and disqualifications of such members, and the qualifications and disqualifications of voters, and generally for regulating all elections under this Act;

(*e*) regulating the powers of boards to transfer property;

(*f*) regulating the powers of boards to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts;

(*g*) determining the intermediate offices, if any, through which correspondence between boards or members of boards and the Local Government or its officers shall pass;

(*h*) determining the language in which business shall be transacted;

(*i*) the employment, payment, suspension and removal of officers and servants under section 27;

(*j*) the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district;

(*k*) the application of district funds;

(*l*) the form of estimates of income and expenditure under section 39;

(*m*) the form of accounts and the manner of periodical audit under section 40;

(*n*) the publication of abstracts of accounts under section 43;

(*o*) 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 which, and the conditions subject to which, such plans and estimates may be sanctioned;

(*p*) the powers of supervision to be exercised by Commissioners and Deputy Commissioners under section 50;

(*q*) the conduct of proceedings of boards, including the fixing of a quorum, the appointment or election of a chairman, and the term of office of a chairman and vice-chairman;

(*r*) the appointment and payment of auditors of the accounts of boards; and

(*s*) 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; and

(*t*) generally determining the relations between district boards and local boards, and guiding boards and Government officers in all matters connected with the carrying out of the provisions of this Act.

All such rules and alterations of rules shall be notified, and no rules or alteration of rules under clause (2) (*d*) shall come into operation until three months after they have been notified.

H.—Regulations.

56. (*1*) Every district board or local board empowered in this behalf by the Local Government may make regulations for carrying out all or any of the purposes of this Act.

Power to make regulations.

(*2*) A regulation made under this section shall not have effect until it has been confirmed by the Local Government and published in such manner and for such time as the Local Government may direct.

57. (*1*) In making any regulation under section 56, a board may direct that a breach of the same shall be punished with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day during which the breach is continued after he has been convicted of such breach.

Penalty for infringement of regulations.

(*2*) In default of payment of any fine imposed under this section, the defaulter shall be liable to simple imprisonment for a term which may extend to eight days.

58. (*1*) Prosecutions under this Act for breach of regulations may be instituted by any board, or by any person authorized by the board in this behalf.

Prosecutions.

(*2*) A Judge or Magistrate shall not be deemed to be within the meaning of section 555 of the Code of Criminal Procedure a party to, or personally interested in, any case under this section merely because he is a member of the board. X of 1882.

I.—Supplemental and Exceptional Provisions.

59. Every person 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

Liability of members of boards.

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 60-69.)

direct consequence of his neglect or misconduct while a member of a local board or of the district board, and a suit for compensation for the same may be instituted against him in such Court as the Local Government directs, by the district board with the sanction of the Commissioner, or by the Secretary of State for India in Council.

60. (*1*) The Local Government, before making any rules under section 55 or section 67, and a district or local board, before making any regulations under section 56, shall publish, in such manner as the Local Government may deem sufficient for giving information to persons interested, a draft of the proposed rules or regulations, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall, before making the rules or regulations, 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 and regulations.

(*2*) Every such rule or regulation shall be published in the official Gazette in English and in such other language as the Local Government directs, and such publication shall be conclusive evidence that the rule or regulation has been made as required by this section.

61. Where any land is required for the purposes of this Act, the Local Government may, at the request of a district board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on the payment by the board of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the board.

Acquisition of land.

I of 1870.

62. (*1*) If any member, officer or servant of a district or local board or joint committee appointed under this Act is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that 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 board or joint committee.

XLV of 1860.

(*2*) A person shall not, 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 the company and a board or committee; but he shall not take part in the proceedings of the board or committee relating to any such contract.

63. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

Saving for Act XI of 1879.

XI of 1879.

64. 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.

65. Every contract entered into, whether in its own name or in the name of Government, by the committee appointed in a district under section 11 of

Contracts of local committees.

the Panjáb Local Rates Act, 1878, may be enforced by and against the district 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.

V of 1878.

66. A Government officer employed under the committee appointed in a district as aforesaid at the time when a district board comes into existence for the district under section 17 of this Act 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.

Government officers serving under committees to continue under board.

67. (*1*) 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 chapter 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.

(*2*) While any notification under this section is in force, the Local Government may make rules to provide for any matter dealt with by the provisions to which the notification applies.

68. When a district is excepted, under section 67, from all the provisions of this chapter, a committee shall, except where the Local Government for special reasons otherwise directs, be constituted for the control and administration in that district of the matters mentioned in section 20, or of such of them as the Local Government may, from time to time, specify; and the Local Government shall, from time to time, determine 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,—

Committee to be constituted for district wholly excepted from Act.

(*a*) the balance standing at the credit of the district fund at the time when the district is excepted or, as the case may be, the balance of the allotments made for the district under section 7 of the Panjáb Local Rates Act, 1878, and of the road and school cesses, which may be available for expenditure in the district at that time;

V of 1878.

(*b*) all proceeds of rates which but for the district being excepted would be allotted to the district board under section 9 of this Act; and

(*c*) such other sources of income mentioned in section 35 of this Act as the Local Government thinks fit:

Provided that not less than one-half of the members of the committee shall be persons who own landed property or reside or carry on trade or business in the district and are not servants of the Government.

69. (*1*) When any local area in which Act XX of 1856 (*an Act to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations,*

Power to direct that Act XX of 1856 shall cease to be in force.

Panjáb District Boards Act, 1883.

(Chapter V.—Amendment of the Northern India Ferries Act, 1878—Sections 70-79.)

Suburbs and Bázárs in the Presidency of Fort William in Bengal) is in force is included in any local area over which a district board established under this Act has authority, the Local Government may, by notification, direct that that Act shall cease to be in force in the local area so included, and that every panchâyat constituted under that Act for that local area shall cease to exist.

(2) When a direction is issued under this section in respect of any local area in which the said Act XX of 1856 is in force, the amount, if any, then available under section 36 of that Act for purposes of improvement in that local area shall be expended therein by the Deputy Commissioner for such purposes.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS AS TO TAXATION.

Recovery of rates.

70. 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.

Local rate or tax how to be assessed and collected.

71. (1) The Local Government may, by notification, determine the persons by whom the local rate or any tax imposed under this Act shall be assessed and collected, and make rules for the assessment and collection of the rate or tax, and direct in what manner persons employed in the assessment or collection shall be remunerated.

(2) The provisions of section 60 shall apply to all rules made under this section.

Appeals.

72. (1) 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 or collections to such person as the Local Government appoints:

Provided that the appeal shall be presented within 30 days from the date of the order.

(2) The order passed on an appeal under this section shall be final.

Instalments of rates and taxes.

73. (1) The Local Government may, by notification, prescribe by what instalments and at what times any rate or tax leviable under this Act shall be payable:

Provided that every instalment of the local rate leviable under section 5 shall be payable with an instalment of the land-revenue.

(2) In any local area subject to the authority of a district board the Local Government may, by notification, delegate to the board, subject to such conditions as it thinks fit, its powers under this section.

Power of Local Government to exempt from taxation.

74. The Local Government may, by notification, remit or reduce any rate or tax imposed under this Act, or exempt any person or class of persons, or any description of property, wholly or in any part from liability to any such rate or tax, and cancel any such remission, reduction or exemption.

Power to direct measurements.

75. 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, direct such measurements to be made.

Suits relating to rates and taxes under this Act cognizable by Courts having cognizance of suits for rent.

76. 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 any such rate or tax, or for settlement of accounts connected therewith, shall, unless the Local Government otherwise directs, be cognizable by the Courts which for the time being have cognizance of suits for rent due on land.

Confirmation and recovery of existing rates.

77. 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.

CHAPTER V.

AMENDMENT OF THE NORTHERN INDIA FERRIES ACT, 1878.

Amendment of the Northern India Ferries Act.

78. After section 7 of the Northern India Ferries Act, 1878, the following shall be inserted, namely:— XVII of 1878.

"7A. The Local Government may direct that any public ferry, wholly or partly within the area subject to the authority of a district board or local board in any district in the territories under the administration of the Lieutenant-Governor of the Panjáb, shall 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; 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.

Further amendment.

79. 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."

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th October, 1883, and is hereby promulgated for general information:—

ACT NO. XVIII OF 1883.

An Act to amend the Cattle-trespass Act, 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 or 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 or the Magistrate of the district under that Act, within the local area subject to the jurisdiction of the local authority; or I of 1871.

(b) direct that the whole or any part of 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.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th October, 1883, and is hereby promulgated for general information:—

ACT NO. XIX OF 1883.

An Act to consolidate and amend the law relating to loans of money by the Government for agricultural improvements.

WHEREAS it is expedient to consolidate and amend the law relating to loans of money by the Government for agricultural improvements; It is hereby enacted as follows:—

1. *(1)* This Act may be called the Land Improvement Loans Act, 1883. (Short title.)

(2) It extends to the whole of British India, but shall not come into force in any part of British India until such date as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, appoint in this behalf. (Local extent. Commencement.)

2. *(1)* The Land Improvement Act, 1871, and Act XXI of 1876 *(an Act to amend the Land Improvement Act, 1871,)* shall, except as regards the recovery of advances made before this Act comes into force and costs incurred by the Government in respect of such advances, be repealed. (Acts XXVI of 1871 and XXI of 1876 repealed.) XXVI of 1871.

(2) When in any Act, Regulation or notification, passed or issued before this Act comes into force, reference is made to either of those Acts, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part of this Act.

3. In this Act, "Collector" means the Collector of land-revenue of a district, or the Deputy Commissioner, or any officer empowered by the Local Government by name or by virtue of his office to discharge the functions of a Collector under this Act. ("Collector" defined.)

4. *(1)* Subject to such rules as may be made under section ten, loans may be granted under this Act, by such officer as may, from time to time, be empowered in this behalf by the Local Government, for the purpose of making any improvement, to any person having a right to make that improvement, or, with the consent of that person, to any other person. (Purposes for which loans may be granted under this Act.)

(2) "Improvement" means any work which adds to the letting value of land, and includes the following, namely:—

(*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 purposes or waste-land which is culturable;

(*d*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(*e*) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto, and

(*f*) such other works as the Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by notification in the local official Gazette, declare to be improvements for the purposes of this Act.

5. *(1)* When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice, in such manner as the Local Government may, from time to time, direct, calling upon all persons objecting to the loan to appear before him at a time and place fixed therein and submit their objections. (Mode of dealing with applications for loans.)

(2) The officer shall consider every objection submitted under sub-section *(1)*, and make an order in writing either admitting or overruling it:

Provided that, when the question raised by an objection is, in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

6. *(1)* Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise), within such period from the date of the actual advance of the loan, or, when the loan is advanced in instalments, from the (Period for repayment of loans.)

date of the actual advance of the last instalment, as may, from time to time, be fixed by the rules made under this Act.

(2) The period fixed as aforesaid shall not ordinarily exceed thirty-five years.

(3) The Local Government and Governor General in Council, in making and sanctioning the rules fixing the period, shall, in considering whether the period should extend to thirty-five years or whether it should extend beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work.

Recovery of loans.

7. *(1)* Subject to such rules as may be made under section ten, all loans granted under this Act, all interest (if any) chargeable thereon, and costs (if any) incurred in making the same, shall, when they become due, be recoverable by the Collector in all or any of the following modes, namely :—

(*a*) from the borrower—as if they were arrears of land-revenue due by him;

(*b*) from his surety (if any)—as if they were arrears of land-revenue due by him;

(*c*) out of the land for the benefit of which the loan has been granted—as if they were arrears of land-revenue due in respect of that land;

(*d*) out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land-revenue by the sale of immoveable property other than the land on which that revenue is due:

Provided that no proceeding in respect of any land under clause (*c*) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under section four with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest or costs is paid to the Collector by a surety or an owner of property comprised in any collateral security, or is recovered under sub-section *(1)* by the Collector from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in manner provided by sub-section *(1)*.

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

Order granting loan conclusive on certain points.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to, or with the consent of, a person mentioned therein, for the purpose of carrying out a work described therein, for the benefit of land specified therein, shall, for the purposes of this Act, be conclusive evidence—

(*a*) that the work described is an improvement within the meaning of this Act;

(*b*) that the person mentioned had at the date of the order a right to make such an improvement; and

(*c*) that the improvement is one benefiting the land specified.

Liability of joint borrowers as among themselves.

9. When a loan is made under this Act to the members of a village-community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them, and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Power to make rules.

10. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by notification in the local official Gazette, make rules consistent with this Act to provide for the following matters, namely :—

(*a*) the manner of making applications for loans;

(*b*) the officers by whom loans may be granted;

(*c*) the manner of conducting inquiries relative to applications for loans, and the powers to be exercised by officers conducting those inquiries;

(*d*) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which, and the conditions under which, loans may be granted, and the manner and time of granting loans;

(*e*) the inspection of works for which loans have been granted;

(*f*) the instalments by which, and the mode in which, loans, the interest to be charged on them and the costs incurred in the making thereof, shall be paid;

(*g*) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same; and

(*h*) all other matters pertaining to the working of the Act.

Exemption of improvements from assessment to land-revenue.

11. When land is improved with the aid of a loan granted under this Act, the increase in value derived from the improvement shall not be taken into account in revising the assessment of land-revenue on the land:

Provided as follows :—

(1) Where the improvement consists of the reclamation of waste-land, or of the irrigation of land assessed at unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed by the Local Government with the approval of the Governor General in Council.

(2) Nothing in this section shall entitle any person to call in question any assessment of land-revenue otherwise than as it might have been called in question if this Act had not been passed.

III of 1877. Act III of 1877 amended.

12. *(1)* In the Indian Registration Act, 1877, section 17, clause (*b*), for the word "certificates" the words "orders granting loans" shall be substituted.

(2) In the same Act, section 78, for the words "a certificate" the words "an order" shall be substituted.

(3) In the same Act, section 89, first clause,—

(*a*) for the words "a certificate" the words "a loan," and

(*b*) for the words "such certificate" the words "his order,"

shall be substituted.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th October, 1883, and is hereby promulgated for general information :—

ACT No. XX OF 1883.

THE PANJÁB DISTRICT BOARDS ACT, 1883.

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CHAPTER V.

AMENDMENT OF THE NORTHERN INDIA FERRIES ACT, 1878.

78. Amendment of the Northern India Ferries Act.
79. Further amendment.

An act to make better provision for Local Self-government in the Districts of 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 and expenditure of rates on land; and

WHEREAS it is also expedient to provide for the constitution of district boards and local boards in those territories, and to define and regulate the powers to be exercised by those boards;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. *(1)* This Act may be called the Panjáb District Boards Act, 1883.

Extent.

(2) It shall extend only to the territories for the time being administered by the Lieutenant-Governor of the Panjáb; and

Commencement.

(3) It shall come into force in each district on such date as the Local Government, by notification, directs.

Repeal of Act V of 1878.

2. From the date on which this Act comes into force in any district, the Panjáb Local Rates Act, 1878, shall be repealed throughout that district. But all rates imposed, sums credited to the Local Government, and notifications published under that Act, shall, so far as may be, be deemed to have been respectively imposed, credited and published under this Act. V of 1878.

Definitions.

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

(1) "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.

(2) "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.

(3) "Landholder" means any person responsible for the payment of the land-revenue, if any, assessed on land. It also includes the proprietor of land the land-revenue of which has been wholly, or in part, released, compounded for, redeemed or assigned.

(4) "Annual value" means—

(a) double the land-revenue for the time being assessed on any land, whether the assessment is leviable or not; or

(b) where 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; or

(c) where no land-revenue has been assessed, double the amount which would have been assessed if the average village-rate had been applied:

Provided that, in any tract in which, under the settlement for the time being in force, 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, that rate shall be added to the land-revenue for the purpose of computing the annual value.

(5) "Financial year" means the year commencing on the first day of April.

(6) "Prescribed day" means such day as the Local Government may, from time to time, prescribe.

(7) "Notification" means a notification published in the official Gazette.

(8) "Notified" means notified in the official Gazette.

(9) "Deputy Commissioner" means the Deputy Commissioner of a district, and includes any officer specially appointed by the Local Government to perform the functions of a Deputy Commissioner under this Act.

Powers exercisable from time to time.

4. All powers conferred by this Act may be exercised from time to time as occasion requires.

CHAPTER II.

OF THE LOCAL RATE ON LAND.

The local rate.

5. *(1)* All land shall be subject to the payment of a rate, to be called the local rate, not exceeding one anna for every rupee of its annual value.

(2) The proportion which the local rate shall bear to the annual value of land shall, except as provided in sub-section (3), be fixed for each district by the Local Government by notification.

(3) The Local Government may, by notification, delegate to the district board, subject to such restrictions or conditions as it thinks fit, its powers under sub-section (2), and may, by notification, cancel or vary any such notification.

Road, school and post cesses to merge in the rate.

6. From such date as may be notified in respect of each district by the Local Government, all authorized rates and cesses for the maintenance of roads, schools and the district-post 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 those purposes.

Liability for local rate.

7. The landholder shall be liable for the local rate subject to the following provisoes, namely:—

(1) where the landholder pays the land-revenue in kind to any assignee of revenue or any village-headman, the assignee of revenue or village-headman shall be liable 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 the landholder in respect of the payment of the rate; and

(2) where the Government has, under any lease current at the time when this Act comes into force, paid the local rate on trini, it shall continue to pay the rate during the currency of the lease.

Power to recover a share of the rate from occupancy-tenant.

8. When a local rate is payable by a landholder in respect of lands held by a tenant with a right of occupancy holding at a favourable rent, the landholder may realize from the tenant a share of the rate, bearing the same proportion to the whole rate as the excess of the annual value over the rent paid by the tenant bears to half the annual value.

Appropriation of proceeds of local rate.

9. Four-fifths of the net proceeds of the local rate levied in each district, after deducting the expenses of collection, shall, except as provided in section 68, be allotted to the district board established for that district under this Act.

The remaining one-fifth shall be carried to the credit of the Local Government, and may—

(a) be allotted by that Government to any district board established under this Act; or

(b) be applied by that Government to provide in the territories to which this Act extends, or any part thereof, for any of the matters on which district boards may expend the funds at their disposal under this Act:

Provided that the Local Government may direct that the whole or any portion of the net proceeds of the local rate levied within the limits of any municipality or military cantonment, after deducting the expenses of collection, shall be carried to the credit of the municipal fund, or made available for the purpose of public improvement in the cantonment or for carrying out therein any rules made under section 25 of the Cantonments Act, 1880, as the case may be. III of 1880.

CHAPTER III.

OF DISTRICT AND LOCAL BOARDS.

A.—Constitution of District and Local Boards.

Establishment of district and local boards.

10. *(1)* The Local Government shall, by notification, establish a district board for each district.

(2) The Local Government may, by notification, establish a local board or local boards within the limits of any district, and may cancel or vary any such notification.

(3) A district board shall have authority throughout the district for which it is established, and a local board shall have authority throughout such portion of the district in which it is established, as the Local Government may, by notification, direct:

Provided that a board shall not have authority over any portion of a district which is for the time being included in a military cantonment or a municipality.

Number and appointment or election of members.

11. *(1)* A district board or local board shall consist of such number of members, not less than six, as the Local Government may fix in this behalf.

(2) The members may be appointed by the Local Government either by name or by official designation, or may be elected in accordance with rules made by the Local Government under this Act, or some may be appointed and some elected, as the Local Government directs:

Provided that—

(a) when the Local Government has directed that all or any proportion of the members shall be elected, it shall not thereafter direct that they shall be appointed, unless a majority of the electors declare that they so desire, or the Governor General in Council, for some reason affecting the public interests, sanctions the direction;

(b) except with the approval of the Governor General in Council, or unless salaried officers of the Government are elected, not less than two-thirds of the members of every board shall be persons other than salaried officers of the Government; and

(c) not less than one-half of the members of the board shall be landholders in the district.

(3) When, under a direction issued under sub-section (2), any places on a board are required to be filled by election, and a sufficient number of members is not elected, the Local Government may fill those places by appointment.

12. (1) A member of a district board or local board, when appointed by virtue of an office, shall, unless and until the Local Government otherwise directs, continue to be a member of the board while he continues to hold that office.

Term of office of members.

(2) The term of office of all other elected and appointed members respectively of a district board or local board shall be fixed by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(3) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

13. A member of a local board or of a district board 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.

Resignation of members.

14. The Local Government may remove any member of a district board or local board—

Powers of the Local Government as to removal of members.

(a) if he refuses to act, or becomes incapable of acting, or is declared 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;

(b) if he has been declared by notification to be disqualified for employment in the public service;

(c) if he, being a member of a local board, without an excuse sufficient in the opinion of the Local Government, neglects for more than three consecutive months to be present at the meetings of that board, or, being a member of the district board, without such sufficient excuse, neglects for more than six consecutive months to be present at the meetings of that board;

(d) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace or order; or,

(e) when he is a salaried officer of the Government, if his continuance in office is, in the opinion of the Local Government, unnecessary or undesirable.

15. (1) When the place of an elected member of a local board or district board becomes vacant by the resignation or removal of the member or by his death, a new member shall be chosen in accordance with the rules made by the Local Government under this Act to fill the place:

Filling of casual vacancies.

Provided that the Local Government may direct in any such case that the vacancy shall be left unfilled.

(2) When the place of a member of a local board or district board appointed by name becomes vacant as aforesaid, the Local Government may, if it thinks fit, appoint a new member to fill the place.

(3) A person chosen 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.

16. Every district board shall be a body corporate by the name of the district board of its district, and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to any rules made by the Local Government under this Act, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Incorporation of district boards.

17. The several district boards and local boards constituted under this Act shall come into existence at such time as the Local Government may, by notification, fix in this behalf.

Time for district and local boards coming into existence.

18. (1) A member of every district board or local board shall be elected or appointed to be chairman of the board, and shall hold office for such term, not exceeding three years, as the Local Government may, by a rule made under this Act, fix.

Chairman.

(2) The Local Government shall determine, as regards each board or as regards any class of boards, whether the chairman shall be a person appointed by virtue of his office or by name or be elected.

19. (1) A district board or local board may elect one of its members to be vice-chairman.

Vice-chairman.

(2) A vice-chairman so elected shall hold office for such term as the board may, by rule, fix.

B.—Duties of District and Local Boards.

20. (1) The following matters shall, subject to such exceptions and conditions as the Local Government may make and impose, be under the control and administration of each district board within the area subject to its authority:—

Duties of district board.

(a) the management of all property vested in the district board;

(b) the construction, repair and maintenance of public roads and other means of communication;

(c) the establishment, management, maintenance and visiting of public hospitals, dispensaries, saráis and schools, 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, cooking and bathing purposes; and

(f) the planting and preservation of trees.

(2) The Local Government may direct that any of the following matters shall, subject to such exceptions and conditions as it may make and impose, be under the control and administration of a district board within the area subject to its authority:—

(g) the management of any property vested in Her Majesty;

(h) the establishment, maintenance, visiting and management of markets, rest-houses, encamping-grounds and other public institutions, and the construction and repair of all buildings connected with these institutions;

(i) the construction and repair of embankments, and the supply, storage and control of water for agricultural purposes;

(j) the preservation and reclamation of soil, and the drainage and reclamation of swamps;

(k) the construction, repair and maintenance of famine preventive works, and the establishment and maintenance of such relief-works, relief-houses and other measures in time of famine or scarcity as may be entrusted to the charge of the board by the Local Government;

(l) the registration of births, marriages and deaths;

(m) fairs and agricultural shows and industrial exhibitions;

(n) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in force, such functions of the Local Government and the Magistrate of the district under that Act as may be transferred to the board by the Local Government;

I of 1871.

(o) the management of such public ferries as may be entrusted to the charge of the board under section 7 A of the Northern India Ferries Act, 1878, as amended by this Act;

XVII of 1878.

(p) any other local works or measures likely to promote the health, comfort, convenience and interests of the public or the agricultural or industrial prosperity of the country; and

(q) any other matters which the Local Government may declare to be fit and proper matters to be taken under the control and administration of the board.

(3) The Local Government may cancel or modify any direction given by it under sub-section (2).

(4) A district board shall, so far as the funds at its disposal permit, make due provision for all matters placed under its control or administration by or under this section.

21. (1) The Local Government, or, subject to the control of the Local Government, a district board, may direct that, within the area subject to the authority of a local board, any matter placed under the control and administration of the district board by or under section 20 shall be transferred to the control and administration of the local board.

Duties of local board.

(2) A local board, as the agent of, and subject to the control of, the district board, shall, so far as the funds at its disposal permit, make due provision for all matters transferred to its control and administration under sub-section (1).

(3) It shall be the duty of the district board to enforce the responsibility imposed on a local board by sub-section (2).

22. Except as otherwise provided by this Act, a local board shall not incur expenses or undertake liabilities to any amount exceeding the limit imposed by the district board of its district.

Limits on expenditure of local board.

23. (1) If a local board makes default in the performance of any duty imposed on it by or under this Act, the district board may, by order in writing, fix a period for the performance of the duty.

Power for district board to provide for performance of duty in default of local board.

(2) If the duty is not performed within that period, the district board may appoint some person to perform it, and may provide for the expenses of, and incidental to, its performance out of the funds appropriated to or for the purposes of the local board.

C.—Joint Committees.

24. A district board may concur with any other district board, or with any municipal committee or with any cantonment authority, or with more than one such board, committee or authority, in appointing, out of their respective bodies, a joint committee 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 boards, committees or authorities concerned, and in framing or modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

Joint committees.

D.—Conduct of Business.

25. (1) Minutes of the proceedings at each meeting of a district or local board 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 of the district who pays any rate or tax under this Act.

Record and publication of proceedings.

(2) A copy of every resolution passed by a local board at a meeting shall, within three days from the date of the meeting, be forwarded to the district board and to the Deputy Commissioner.

(3) A copy of every resolution passed by a district board at a meeting shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner.

26. Every district board, and every local board with the sanction of the district board, may make rules as to—

Power to make rules as to business and affairs.

(a) the time and place of its meetings and the manner in which notice of meetings shall be given;

(b) the conduct of proceedings at meetings and the adjournment of meetings;

(c) the custody of the common seal and the purposes for which it shall be used;

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(*d*) the division of duties amongst its members;

(*e*) the powers to be exercised by sub-committees or members to whom particular duties have been assigned;

(*f*) the persons by whom receipts shall be granted for money received under this Act;

(*g*) the duties, appointment, leave, suspension and removal of the officers and servants of the board;

(*h*) the term for which the vice-chairman shall hold office, and

(*i*) other similar matters:

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, and shall be published in such manner as the Local Government may direct.

E.—Officers and Servants.

Employment of officers and servants.

27. *(1)* Subject to the provisions of this Act and to any rules which may be made under this Act in this behalf, every district board may employ and pay such officers and servants as may be necessary and proper for the efficient execution of its duties and of the duties of the local boards acting under it:

Provided that if, at any time, in the opinion of the Deputy Commissioner,—

(*a*) the number of persons employed by a board under this section, or the remuneration assigned by the board to those persons, or to any of them, is excessive, or

(*b*) any such person is unfit for his employment,

the board shall, on the requirement of the Deputy Commissioner, reduce the number, or remuneration, of those persons, or, as the case may be, dismiss the unfit person.

(2) The board may appeal against any requirement under this section to the Commissioner of the division, whose decision shall be final.

Pensions of Government officials serving boards.

28. In the case of a Government official, a district board may—

(*1*) if his services are wholly lent to it, contribute to his pension or gratuity and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(*2*) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension or gratuity and leave-allowances in such proportion as may be determined by the Government.

Pensions of servants of boards.

29. In the case of an officer or servant, not being a Government official referred to in section 28, a district board may—

(*1*) grant him leave-allowances and, if he is employed under the district committee when this Act comes into force and not entitled to pension, or if his monthly pay is less than ten rupees, a gratuity; and

(*2*) if empowered in this behalf by the Local Government—

(*a*) subscribe in his behalf for pension or gratuity and leave-allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, the servant would be entitled if the service had been service under the Government.

F.—Taxation and Finance.

Powers of taxation conferred on district boards.

30. Subject to any general rules or special orders which the Governor General in Council may make in this behalf, a district board may impose, in manner prescribed by section 31, such taxes as may be approved by the Local Government:

Provided that no such tax shall be imposed in respect of any property subject to the local rate.

Procedure in imposing taxes.

31. (*1*) A district board may resolve, at a meeting, convened and constituted in such manner as the Local Government may prescribe, to propose the imposition of any tax under section 30.

(*2*) When a resolution has been passed under sub-section (*1*), the board 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 person likely to be directly affected by the proposed tax, and objecting to the same, may, within thirty days from the publication of the notice, send his objection in writing to the board; and the board shall, at a meeting convened and constituted as aforesaid, take his objection into consideration.

(*4*) If no objection is sent within the said period of thirty days, 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 and with its decision thereon.

(*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 proposals of a district board in respect of a tax have been sanctioned by the Local Government, the board may, at a meeting convened and constituted as aforesaid, direct the imposition of the tax in accordance with those proposals:

Provided that, in giving such direction, the board shall fix a date not less than one month from the date of the meeting on which the tax shall come into force.

(*7*) Every direction under sub-section (*6*) shall be notified, and the notification shall be conclusive evidence that the tax has been imposed in accordance with law.

Reduction and abolition of tax.

32. The Local Government may, by notification, and the district board may, with the sanction of the Local Government, by a resolution passed at a meeting

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 33-39.)

convened and constituted as the Local Government may prescribe, abolish or reduce any tax imposed under sections 30 and 31.

Levy of fees.

33. With the previous sanction of the Local Government, or of such officer as the Local Government may authorize in this behalf, a district board or local board may fix and levy school-fees and fees for the use of, or benefits derived from, any of the works specified in section 20, clauses (*c*), (*e*), (*h*), (*i*) and (*j*), and fees at fairs, agricultural shows and industrial exhibitions held under its authority.

Additional funds to be provided by the Government.

34. When the control and administration of any matter is by or under this Act transferred to a district board, and at the time of the transfer the cost of that control and administration is defrayed from provincial revenue, the Local Government shall, from time to time, allot to the district board such funds, or place at the disposal of the board such sources of income, as may, in the opinion of the Local Government and of the board, be sufficient for maintaining the control and administration of the said matter in the state of efficiency existing at the date of transfer.

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 7 of the Panjáb Local Rates Act, 1878, and of the road and school cesses, which may be available for expenditure in the district on the day on which the district board comes into existence;

V of 1878.

(*b*) all proceeds of rates allotted to the district board under section 9;

(*c*) the proceeds of all taxes imposed in the district under sections 30 and 31;

(*d*) the amount of all fees levied by the district board or by local boards in the district under section 33;

(*e*) all funds allotted to the district board and the income arising from all sources of income placed at its disposal under section 34;

(*f*) all rents and profits accruing from property vested in the district board or managed by the district board or a local board in the district;

(*g*) all sums contributed to the fund by Government or by any committee, board or private person;

(*h*) all sums received by the district board or by a local board in the district in the discharge of functions exercised by it under this Act; and

(*i*) the proceeds of all sources of income which the Local Government may order to be placed at the disposal of the district board:

Provided that the Local Government may revoke any order made under clause (*i*).

Vesting, custody and investment of district fund.

36. (*1*) 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 or sub-treasury or in the bank to which the Government treasury business has been made over, unless the Local Government in any cases otherwise permits.

(*2*) Subject to such rules as the Governor General in Council may make in this behalf, the district board may, with the previous sanction of the Local Government, invest any portion of the district fund in securities of the Government of India or such other securities as the Governor General in Council may approve in this behalf, and vary such investments for others of the same nature, or dispose of them. The income resulting from the securities, and the proceeds of the sale of the same, shall be credited to the district fund.

Application of district fund.

37. *(1)* The district fund shall be charged with the payment of the expenses of the district-post, the payment of the expenses of pauper lunatics sent to public asylums from the area under the authority of the district board, the expenses incurred in auditing the accounts of the district boards and local boards, and 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 the district board in return for services rendered to the board by those Departments.

(*2*) Subject to the charges specified in sub-section (1), and to such rules as the Local Government may make with respect to the priority to be given to the several duties of the board or otherwise, the district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the matters specified in sections 20, 27, 28 and 29, and to the provision of grants-in-aid to educational and medical institutions, within the area subject to the authority of the district board, and, with the sanction of the Commissioner, outside that area when such application of the fund is for the benefit of the inhabitants of that area.

Works or undertakings benefiting several districts.

38. In the case of works or undertakings which benefit more districts than one, when the district boards cannot agree, the Commissioner or Commissioners of the division or divisions, or, when the districts are in different divisions and the Commissioners 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 of the districts benefited thereby; and such proportion shall be payable out of the several district funds accordingly.

Annual estimates of income and expenditure of district boards.

39. *(1)* Every district board shall appoint a finance committee consisting of not less than three of its members.

(*2*) Every district board shall, on or before a prescribed day in each year, hold a meeting at which the finance committee shall submit to the board an estimate of the income and expenditure of the board for the next financial year, in such form as the Local Government may, by a rule made under this Act, prescribe.

(*3*) The board shall consider the estimate, and may provisionally approve of it with or without modification.

(*4*) The board shall, on or before a prescribed day, cause copies of the estimate, as provisionally

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 40-45.)

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 board his approval or disapproval of the estimate. When he disapproves of the estimate, he shall state the nature of his objection. The board 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 order shall be final and binding on the board.

(6) When the Deputy Commissioner has signified his approval of an estimate, or the board has modified an estimate so as to remove the Deputy Commissioner's objections, or when the Commissioner has passed orders as provided in sub-section (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) When the Deputy Commissioner is a member of the district board, the Commissioner and the Local Government shall take the place of the Deputy Commissioner and the Commissioner respectively for the purposes of this section.

40. Accounts of the receipts and expenditure of every district board shall be made up periodically to such days and in such form as the Local Government prescribes, and shall be examined and audited as soon as may be after they are so made up by such persons as the Local Government appoints in this behalf.

Accounts of district boards.

41. *(1)* Every local board shall submit annually to the district board of its district, on or before such date as the district board may appoint in this behalf, a statement of the requirements, and an estimate of the probable expenditure, of the local board for the coming financial year, and shall submit, as often as the district board may require, accounts of its receipts and expenditure.

Estimates and accounts of local boards.

(2) The district board shall signify in writing to the local board its approval or disapproval of an estimate submitted under this section, and powers similar to those conferred on the Deputy Commissioner and Commissioner by section 39, clauses (5) and (6), shall be exercised, in regard to the estimate, by the district board and the Deputy Commissioner, or (when the Deputy Commissioner is a member of the district board) the Commissioner, respectively:

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 district board.

(3) The district board 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.

42. Every district board shall cause a copy of every annual estimate provisionally or finally approved under section 39, and of every account made up under section 40, 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.

43. A statement of the accounts of a district board for each financial year, showing the income of the district 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 at the end of the year, shall be prepared by the board in such form as the Local Government prescribes; and an abstract of the same shall be published in the English and Vernacular official Gazettes, or in such other manner as the Local Government may direct.

Publication of abstract of accounts.

G.—Control.

44. *(1)* The Commissioner of the division, or the Deputy Commissioner of the district when he is not a member of the district board, may—

Control of Commissioner and Deputy Commissioner 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) by order in writing 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) by order in writing 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 Deputy Commissioners in the same division, to the Commissioner; and

(b) if it arises between two or more Deputy Commissioners 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.

45. 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 a district board or local board or joint committee, or prohibit the

Power to suspend action.

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 46-54.)

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.

46. *(1)* In cases of emergency, the Deputy Commissioner 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 of doing the act shall be forthwith paid by the district board.

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 district 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.

47. *(1)* When the Commissioner, after due enquiry, is satisfied that a district board 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 board to that person.

Power to provide for performance of duties in case of default of board.

(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 district 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.

48. When the control and administration of any public work is by or under this Act transferred to a district board, and at the time of the transfer the cost of that control and administration is defrayed from provincial revenue, the Local Government may invest any officer with respect to that work with the powers of a Commissioner under section 44 or section 47, or with the powers of a Deputy Commissioner under section 46.

Power to invest other officers with power of control.

49. When the Commissioner makes any order under section 45 or section 47, he shall forthwith forward to the Local Government, and when the Deputy Commissioner makes any order under section 45 or section 46, or an officer empowered under section 48 makes any order under section 46 or section 47, he shall forthwith forward to the Commissioner, for submission to the Local Government, a copy of the order, with a statement of the reasons for making it, and with such explanation, if any, as the board or committee concerned may wish to offer. The Local Government may thereupon confirm, modify or rescind the order.

Report of action under preceding sections.

50. *(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 district boards and local boards shall be in conformity with law and with the rules in force thereunder.

Powers of Local Government and its officers over boards.

(2) The Local Government may exercise all powers necessary for the purpose of sub-section *(1)*, and may, amongst other things, by order in writing, annul any proceeding which it considers not to be in conformity with law and with the said rules.

(3) 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 conferred upon them by rules made in this behalf by the Local Government.

51. If a district board or local 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, 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 board to be superseded:

Power of Local Government to supersede in case of incompetency, persistent default or abuse of powers.

Provided that, in case of public emergency, the notification may be issued without the previous approval of the Governor General in Council, but shall be immediately reported to the Governor General in Council and shall be subject to his orders.

52. When a district board or local board is superseded under section 51, the following consequences shall ensue:—

Consequences of supersession.

(a) All members of the board shall from the date of the notification vacate their offices as such members:

(b) All powers and duties of the board may, until the board is re-constituted, be exercised and performed by such person as the Local Government appoints in that behalf:

(c) Where a district board is superseded, all property vested in it shall, until it is re-constituted, vest in Her Majesty.

53. *(1)* When a district board is superseded, the Local Government shall, as soon as in its judgment conveniently may be, constitute another district board in its place.

Constitution of new board, and transfer of functions of superseded local boards.

(2) When a local board is superseded, the Local Government may either constitute another local board in its place, or transfer its functions to the district board or, by a notification under section 10, to any other local board.

54. *(1)* If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more boards constituted under this Act, or between a municipal committee or cantonment authority and any such board, the matter shall be referred—

Disputes.

(a) to the Deputy Commissioner if the local authorities concerned are in the same district;

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 55-59.)

(*b*) to the Commissioner or Commissioners of the division or divisions if the local authorities concerned are in different districts; and

(*c*) to the Local Government if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

(*3*) The decision of the authority to which any dispute is referred under this section shall be final.

(*3*) If, in the case mentioned in clause (*a*), the Deputy Commissioner is a member of one of the boards or committees concerned, his functions under this section shall be discharged by the Commissioner.

(*4*) "Local authority" in this section means a district board, local board, municipal committee or cantonment authority.

55. So far as may be consistent with the provisions of this Act—

Power of the Governor General in Council and the Local Government to make rules.

(1) the Governor General in Council may—

(*a*) make general rules or special orders for the regulation of taxation under section 30; and

(*b*) make rules regulating the powers of district boards to make, vary and dispose of investments;

(2) the Local Government may, for any district or local board, or any class of such boards, make rules for—

(*c*) dividing boards into classes, and fixing the powers of boards of each class;

(*d*) determining the mode and time of appointment or election of members of boards, the term of office, allowances (if any), and the qualifications and disqualifications of such members, and the qualifications and disqualifications of voters, and generally for regulating all elections under this Act;

(*e*) regulating the powers of boards to transfer property;

(*f*) regulating the powers of boards to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts;

(*g*) determining the intermediate offices, if any, through which correspondence between boards or members of boards and the Local Government or its officers shall pass;

(*h*) determining the language in which business shall be transacted;

(*i*) the employment, payment, suspension and removal of officers and servants under section 27;

(*j*) the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district;

(*k*) the application of district funds;

(*l*) the form of estimates of income and expenditure under section 39;

(*m*) the form of accounts and the manner of periodical audit under section 40;

(*n*) the publication of abstracts of accounts under section 43;

(*o*) 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 which, and the conditions subject to which, such plans and estimates may be sanctioned;

(*p*) the powers of supervision to be exercised by Commissioners and Deputy Commissioners under section 50;

(*q*) the conduct of proceedings of boards, including the fixing of a quorum, the appointment or election of a chairman, and the term of office of a chairman and vice-chairman;

(*r*) the appointment and payment of auditors of the accounts of boards; and

(*s*) 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; and

(*t*) generally determining the relations between district boards and local boards, and guiding boards and Government officers in all matters connected with the carrying out of the provisions of this Act.

All such rules and alterations of rules shall be notified, and no rules or alteration of rules under clause (2) (*d*) shall come into operation until three months after they have been notified.

H.—Regulations.

56. (*1*) Every district board or local board empowered in this behalf by the Local Government may make regulations for carrying out all or any of the purposes of this Act.

Power to make regulations.

(*2*) A regulation made under this section shall not have effect until it has been confirmed by the Local Government and published in such manner and for such time as the Local Government may direct.

57. (*1*) In making any regulation under section 56, a board may direct that a breach of the same shall be punished with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day during which the breach is continued after he has been convicted of such breach.

Penalty for infringement of regulations.

(*2*) In default of payment of any fine imposed under this section, the defaulter shall be liable to simple imprisonment for a term which may extend to eight days.

58. (*1*) Prosecutions under this Act for breach of regulations may be instituted by any board, or by any person authorized by the board in this behalf.

Prosecutions.

(*2*) A Judge or Magistrate shall not be deemed to be within the meaning of section 555 of the Code of Criminal Procedure a party to, or personally interested in, any case under this section merely because he is a member of the board. X of 1882.

I.—Supplemental and Exceptional Provisions.

59. Every person 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

Liability of members of boards.

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 60-69.)

direct consequence of his neglect or misconduct while a member of a local board or of the district board, and a suit for compensation for the same may be instituted against him in such Court as the Local Government directs, by the district board with the sanction of the Commissioner, or by the Secretary of State for India in Council.

60. (*1*) The Local Government, before making any rules under section 55 or section 67, and a district or local board, before making any regulations under section 56, shall publish, in such manner as the Local Government may deem sufficient for giving information to persons interested, a draft of the proposed rules or regulations, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall, before making the rules or regulations, 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 and regulations.

(*2*) Every such rule or regulation shall be published in the official Gazette in English and in such other language as the Local Government directs, and such publication shall be conclusive evidence that the rule or regulation has been made as required by this section.

61. Where any land is required for the purposes of this Act, the Local Government may, at the request of a district board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on the payment by the board of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the board.

Acquisition of land.

I of 1870.

62. (*1*) If any member, officer or servant of a district or local board or joint committee appointed under this Act is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that 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 board of joint committee.

XLV of 1860.

(*2*) A person shall not, 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 the company and a board or committee; but he shall not take part in any proceedings of the board or committee relating to any such contract.

63. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

Saving for Act XI of 1879.

XI of 1879.

64. 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.

65. 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 11 of

Contracts of local committees.

the Panjáb Local Rates Act, 1878, may be enforced by and against the district 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. V of 1878.

66. A Government officer employed under the committee appointed in a district as aforesaid at the time when a district board comes into existence for the district under section 17 of this Act 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.

Government officers serving under committees to continue under board.

67. (*1*) 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 chapter 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.

(*2*) While any notification under this section is in force, the Local Government may make rules to provide for any matter dealt with by the provisions to which the notification applies.

68. When a district is excepted, under section 67, from all the provisions of this chapter, a committee shall, except where the Local Government for special reasons otherwise directs, be constituted for the control and administration in that district of the matters mentioned in section 20, or of such of them as the Local Government may, from time to time, specify; and the Local Government shall, from time to time, determine 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,—

Committee to be constituted for district wholly excepted from Act.

(*a*) the balance standing at the credit of the district fund at the time when the district is excepted or, as the case may be, the balance of the allotments made for the district under section 7 of the Panjáb Local Rates Act, 1878, and of the road and school cesses, which may be available for expenditure in the district at that time; V of 1878.

(*b*) all proceeds of rates which but for the district being excepted would be allotted to the district board under section 9 of this Act; and

(*c*) such other sources of income mentioned in section 35 of this Act as the Local Government thinks fit:

Provided that not less than one-half of the members of the committee shall be persons who own landed property or reside or carry on trade or business in the district and are not servants of the Government.

69. (*1*) When any local area in which Act XX of 1856 (*an Act to make better provision for the appointment and maintenance of Police Chaukidárs in Cities, Towns, Stations,*

Power to direct that Act XX of 1856 shall cease to be in force.

Panjáb District Boards Act, 1883.

(Chapter V.—Amendment of the Northern India Ferries Act, 1878—Sections 70-79.)

Suburbs and Bázárs in the Presidency of Fort William in Bengal) is in force is included in any local area over which a district board established under this Act has authority, the Local Government may, by notification, direct that that Act shall cease to be in force in the local area so included, and that every panchâyat constituted under that Act for that local area shall cease to exist.

(2) When a direction is issued under this section in respect of any local area in which the said Act XX of 1856 is in force, the amount, if any, then available under section 36 of that Act for purposes of improvement in that local area shall be expended therein by the Deputy Commissioner for such purposes.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS AS TO TAXATION.

Recovery of rates.

70. 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.

Local rate or tax how to be assessed and collected.

71. (1) The Local Government may, by notification, determine the persons by whom the local rate or any tax imposed under this Act shall be assessed and collected, and make rules for the assessment and collection of the rate or tax, and direct in what manner persons employed in the assessment or collection shall be remunerated.

(2) The provisions of section 60 shall apply to all rules made under this section.

Appeals.

72. (1) 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 or collections to such person as the Local Government appoints:

Provided that the appeal shall be presented within 30 days from the date of the order.

(2) The order passed on an appeal under this section shall be final.

Instalments of rates and taxes.

73. (1) The Local Government may, by notification, prescribe by what instalments and at what times any rate or tax leviable under this Act shall be payable:

Provided that every instalment of the local rate leviable under section 5 shall be payable with an instalment of the land-revenue.

(2) In any local area subject to the authority of a district board the Local Government may, by notification, delegate to the board, subject to such conditions as it thinks fit, its powers under this section.

Power of Local Government to exempt from taxation.

74. The Local Government may, by notification, remit or reduce any rate or tax imposed under this Act, or exempt any person or class of persons, or any description of property, wholly or in any part from liability to any such rate or tax, and cancel any such remission, reduction or exemption.

Power to direct measurements.

75. 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, direct such measurements to be made.

Suits relating to rates and taxes under this Act cognizable by Courts having cognizance of suits for rent.

76. 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 any such rate or tax, or for settlement of accounts connected therewith, shall, unless the Local Government otherwise directs, be cognizable by the Courts which for the time being have cognizance of suits for rent due on land.

Confirmation and recovery of existing rates.

77. All rates or 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.

CHAPTER V.

AMENDMENT OF THE NORTHERN INDIA FERRIES ACT, 1878.

Amendment of the Northern India Ferries Act.

78. After section 7 of the Northern India Ferries Act, 1878, the following shall be inserted, namely:— XVII of 1878.

"7A. The Local Government may direct that any public ferry, wholly or partly within the area subject to the authority of a district board or local board in any district in the territories under the administration of the Lieutenant-Governor of the Panjáb, shall 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; 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.

Further amendment.

79. 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."

D. FITZPATRICK,
Secretary to the Government of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, NOVEMBER 3, 1883.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th October, 1883, and is hereby promulgated for general information:—

ACT No. XX OF 1883.

THE PANJÁB DISTRICT BOARDS ACT, 1883.

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AMENDMENT OF THE NORTHERN INDIA FERRIES ACT, 1878.

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An act to make better provision for Local Self-government in the Districts of 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 and expenditure of rates on land; and

Whereas it is also expedient to provide for the constitution of district boards and local boards in those territories, and to define and regulate the powers to be exercised by those boards;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. *(1)* This Act may be called the Panjáb District Boards Act, 1883.

Extent.

(2) It shall extend only to the territories for the time being administered by the Lieutenant-Governor of the Panjáb; and

Commencement.

(3) It shall come into force in each district on such date as the Local Government may, by notification, directs.

Repeal of Act V of 1878.

2. From the date on which this Act comes into force in any district, the Panjáb Local Rates Act, 1878, shall be repealed throughout that district. But all rates imposed, sums credited to the Local Government, and notifications published under that Act, shall, so far as may be, be deemed to have been respectively imposed, credited and published under this Act. V of 1878.

Definitions.

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

(1) "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.

(2) "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

(3) "Landholder" means any person responsible for the payment of the land-revenue, if any, assessed on land. It also includes the proprietor of land the land-revenue of which has been wholly, or in part, released, compounded for, redeemed or assigned.

(4) "Annual value" means—

(*a*) double the land-revenue for the time being assessed on any land, whether the assessment is leviable or not; or

(*b*) where 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; or

(*c*) where no land-revenue has been assessed, double the amount which would have been assessed if the average village-rate had been applied:

Provided that, in any tract in which, under the settlement for the time being in force, 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, that rate shall be added to the land-revenue for the purpose of computing the annual value.

(5) "Financial year" means the year commencing on the first day of April.

(6) "Prescribed day" means such day as the Local Government may, from time to time, prescribe.

(7) "Notification" means a notification published in the official Gazette.

(8) "Notified" means notified in the official Gazette.

(9) "Deputy Commissioner" means the Deputy Commissioner of a district, and includes any officer specially appointed by the Local Government to perform the functions of a Deputy Commissioner under this Act.

Powers exercisable from time to time.

4. All powers conferred by this Act may be exercised from time to time as occasion requires.

CHAPTER II.

OF THE LOCAL RATE ON LAND.

The local rate.

5. *(1)* All land shall be subject to the payment of a rate, to be called the local rate, not exceeding one anna for every rupee of its annual value.

(2) The proportion which the local rate shall bear to the annual value of land shall, except as provided in sub-section (3), be fixed for each district by the Local Government by notification.

(3) The Local Government may, by notification, delegate to the district board, subject to such restrictions or conditions as it thinks fit, its powers under sub-section (2), and may, by notification, cancel or vary any such notification.

Road, school and post cesses to merge in the rate.

6. From such date as may be notified in respect of each district by the Local Government, all authorized rates and cesses for the maintenance of roads, schools and the district-post 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 those purposes.

Liability for local rate.

7. The landholder shall be liable for the local rate subject to the following provisoes, namely:—

(1) where the landholder pays the land-revenue in kind to any assignee of revenue or any village-headman, the assignee of revenue or village-headman shall be liable 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 the landholder in respect of the payment of the rate; and

(2) where the Government has, under any lease current at the time when this Act comes into force, paid the local rate on trini, it shall continue to pay the rate during the currency of the lease.

Power to recover a share of the rate from occupancy-tenant.

8. When a local rate is payable by a landholder in respect of lands held by a tenant with a right of occupancy holding at a favourable rent, the landholder may realize from the tenant a share of the rate, bearing the same proportion to the whole rate as the excess of the annual value over the rent paid by the tenant bears to half the annual value.

Appropriation of proceeds of local rate.

9. Four-fifths of the net proceeds of the local rate levied in each district, after deducting the expenses of collection, shall, except as provided in section 68, be allotted to the district board established for that district under this Act.

The remaining one-fifth shall be carried to the credit of the Local Government, and may—

(*a*) be allotted by that Government to any district board established under this Act; or

(*b*) be applied by that Government to provide in the territories to which this Act extends, or any part thereof, for any of the matters on which district boards may expend the funds at their disposal under this Act:

Provided that the Local Government may direct that the whole or any portion of the net proceeds of the local rate levied within the limits of any municipality or military cantonment, after deducting the expenses of collection, shall be carried to the credit of the municipal fund, or made available for the purpose of public improvement in the cantonment or for carrying out therein any rules made under section 25 of the Cantonments Act, 1880, as the case may be. III of 1880.

CHAPTER III.

OF DISTRICT AND LOCAL BOARDS.

A.—Constitution of District and Local Boards.

Establishment of district and local boards.

10. *(1)* The Local Government shall, by notification, establish a district board for each district.

(2) The Local Government may, by notification, establish a local board or local boards within the limits of any district, and may cancel or vary any such notification.

(3) A district board shall have authority throughout the district for which it is established, and a local board shall have authority throughout such portion of the district in which it is established, as the Local Government may, by notification, direct:

Provided that a board shall not have authority over any portion of a district which is for the time being included in a military cantonment or a municipality.

Number and appointment or election of members.

11. *(1)* A district board or local board shall consist of such number of members, not less than six, as the Local Government may fix in this behalf.

(2) The members may be appointed by the Local Government either by name or by official designation, or may be elected in accordance with rules made by the Local Government under this Act, or some may be appointed and some elected, as the Local Government directs:

Provided that—

(*a*) when the Local Government has directed that all or any proportion of the members shall be elected, it shall not thereafter direct that they shall be appointed, unless a majority of the electors declare that they so desire, or the Governor General in Council, for some reason affecting the public interests, sanctions the direction;

(*b*) except with the approval of the Governor General in Council, or unless salaried officers of the Government are elected, not less than two-thirds of the members of every board shall be persons other than salaried officers of the Government; and

(*c*) not less than one-half of the members of the board shall be landholders in the district.

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 12-20.)

(3) When, under a direction issued under sub-section (2), any places on a board are required to be filled by election, and a sufficient number of members is not elected, the Local Government may fill those places by appointment.

12. (1) A member of a district board or local board, when appointed by virtue of an office, shall, unless and until the Local Government otherwise directs, continue to be a member of the board while he continues to hold that office.

Term of office of members.

(2) The term of office of all other elected and appointed members respectively of a district board or local board shall be fixed by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(3) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

13. A member of a local board or of a district board 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.

Resignation of members.

14. The Local Government may remove any member of a district board or local board—

Powers of the Local Government as to removal of members.

(a) if he refuses to act, or becomes incapable of acting, or is declared 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;

(b) if he has been declared by notification to be disqualified for employment in the public service;

(c) if he, being a member of a local board, without an excuse sufficient in the opinion of the Local Government, neglects for more than three consecutive months to be present at the meetings of that board, or, being a member of the district board, without such sufficient excuse, neglects for more than six consecutive months to be present at the meetings of that board;

(d) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace or order; or,

(e) when he is a salaried officer of the Government, if his continuance in office is, in the opinion of the Local Government, unnecessary or undesirable.

15. (1) When the place of an elected member of a local board or district board becomes vacant by the resignation or removal of the member or by his death, a new member shall be chosen in accordance with the rules made by the Local Government under this Act to fill the place:

Filling of casual vacancies.

Provided that the Local Government may direct in any such case that the vacancy shall be left

(2) When the place of a member of a local board or district board appointed by name becomes vacant as aforesaid, the Local Government may, if it thinks fit, appoint a new member to fill the place.

(3) A person chosen 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.

16. Every district board shall be a body corporate by the name of the district board of its district, and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to any rules made by the Local Government under this Act, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Incorporation of district boards.

17. The several district boards and local boards constituted under this Act shall come into existence at such time as the Local Government may, by notification, fix in this behalf.

Time for district and local boards coming into existence.

18. (1) A member of every district board or local board shall be elected or appointed to be chairman of the board, and shall hold office for such term, not exceeding three years, as the Local Government may, by a rule made under this Act, fix.

Chairman.

(2) The Local Government shall determine, as regards each board or as regards any class of boards, whether the chairman shall be a person appointed by virtue of his office or by name or be elected.

19. (1) A district board or local board may elect one of its members to be vice-chairman.

Vice-chairman.

(2) A vice-chairman so elected shall hold office for such term as the board may, by rule, fix.

B.—Duties of District and Local Boards.

20. (1) The following matters shall, subject to such exceptions and conditions as the Local Government may make and impose, be under the control and administration of each district board within the area subject to its authority:—

Duties of district board.

(a) the management of all property vested in the district board;

(b) the construction, repair and maintenance of public roads and other means of communication;

(c) the establishment, management, maintenance and visiting of public hospitals, dispensaries, saráis and schools, 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 [illegible] pollution of water [illegible] drinking, [illegible] and bathing [illegible]

(f) the planting [illegible]

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 21-26.)

(2) The Local Government may direct that any of the following matters shall, subject to such exceptions and conditions as it may make and impose, be under the control and administration of a district board within the area subject to its authority:—

(g) the management of any property vested in Her Majesty;

(h) the establishment, maintenance, visiting and management of markets, rest-houses, encamping-grounds and other public institutions, and the construction and repair of all buildings connected with these institutions;

(i) the construction and repair of embankments, and the supply, storage and control of water for agricultural purposes;

(j) the preservation and reclamation of soil, and the drainage and reclamation of swamps;

(k) the construction, repair and maintenance of famine preventive works, and the establishment and maintenance of such relief-works, relief-houses and other measures in time of famine or scarcity as may be entrusted to the charge of the board by the Local Government;

(l) the registration of births, marriages and deaths;

(m) fairs and agricultural shows and industrial exhibitions;

(n) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in force, such functions of the Local Government and the Magistrate of the district under that Act as may be transferred to the board by the Local Government;

(o) the management of such public ferries as may be entrusted to the charge of the board under section 7 A of the Northern India Ferries Act, 1878, as amended by this Act;

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(p) any other local works or measures likely to promote the health, comfort, convenience and interests of the public or the agricultural or industrial prosperity of the country; and

(q) any other matters which the Local Government may declare to be fit and proper matters to be taken under the control and administration of the board.

(3) The Local Government may cancel or modify any direction given by it under sub-section (2).

(4) A district board shall, so far as the funds at its disposal permit, make due provision for all matters placed under its control or administration by or under this section.

21. (1) The Local Government, or, subject to the control of the Local Government, a district board, may direct that, within the area subject to the authority of a local board, any matter placed under the control and administration of the district board by or under section 20 shall be transferred to the control and administration of the local board.

Duties of local board.

(2) A local board, as the agent of, and subject to the control of, the district board, shall, so far as the funds at its disposal permit, make due provision for all matters transferred to its control and administration under sub-section (1).

(3) It shall be the duty of the district board to enforce the responsibility imposed on a local board by sub-section (2).

22. Except as otherwise provided by this Act, a local board shall not incur expenses or undertake liabilities to any amount exceeding the limit imposed by the district board of its district.

Limits on expenditure of local board.

23. (1) If a local board makes default in the performance of any duty imposed on it by or under this Act, the district board may, by order in writing, fix a period for the performance of the duty.

Power for district board to provide for performance of duty in default of local board.

(2) If the duty is not performed within that period, the district board may appoint some person to perform it, and may provide for the expenses of, and incidental to, its performance out of the funds appropriated to or for the purposes of the local board.

C.—Joint Committees.

24. A district board may concur with any other district board, or with any municipal committee or with any cantonment authority, or with more than one such board, committee or authority, in appointing, out of their respective bodies, a joint committee 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 boards, committees or authorities concerned, and in framing or modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

Joint committees.

D.—Conduct of Business.

25. (1) Minutes of the proceedings at each meeting of a district or local board 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 of the district who pays any rate or tax under this Act.

Record and publication of proceedings.

(2) A copy of every resolution passed by a local board at a meeting shall, within three days from the date of the meeting, be forwarded to the district board and to the Deputy Commissioner.

(3) A copy of every resolution passed by a district board at a meeting shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner.

26. Every district board, and every local board with the sanction of the district board, may make rules as to—

Power to make rules as to business and affairs.

(a) the time and place of its meetings and the manner in which notice of meetings shall be given;

(b) the conduct of proceedings at meetings and the adjournment of meetings;

(c) the custody of the common seal and the purposes for which it shall be used;

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 27-32.)

(*d*) the division of duties amongst its members;

(*e*) the powers to be exercised by sub-committees or members to whom particular duties have been assigned;

(*f*) the persons by whom receipts shall be granted for money received under this Act;

(*g*) the duties, appointment, leave, suspension and removal of the officers and servants of the board;

(*h*) the term for which the vice-chairman shall hold office, and

(*i*) other similar matters:

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, and shall be published in such manner as the Local Government may direct.

E.—Officers and Servants.

Employment of officers and servants.

27. *(1)* Subject to the provisions of this Act and to any rules which may be made under this Act in this behalf, every district board may employ and pay such officers and servants as may be necessary and proper for the efficient execution of its duties and of the duties of the local boards acting under it:

Provided that if, at any time, in the opinion of the Deputy Commissioner,—

(*a*) the number of persons employed by a board under this section, or the remuneration assigned by the board to those persons, or to any of them, is excessive, or

(*b*) any such person is unfit for his employment,

the board shall, on the requirement of the Deputy Commissioner, reduce the number, or remuneration, of those persons, or, as the case may be, dismiss the unfit person.

(2) The board may appeal against any requirement under this section to the Commissioner of the division, whose decision shall be final.

Pensions of Government officials serving boards.

28. In the case of a Government official, a district board may—

(*1*) if his services are wholly lent to it, contribute to his pension or gratuity and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(*2*) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension or gratuity and leave-allowances in such proportion as may be determined by the Government.

Pensions of servants of boards.

29. In the case of an officer or servant, not being a Government official referred to in section 28, a district board may—

(*1*) grant him leave-allowances and, if he is employed under the district committee when this Act comes into force and not entitled to pension, or if his monthly pay is less than ten rupees, a gratuity; and

(*2*) if empowered in this behalf by the Local Government—

(*a*) subscribe in his behalf for pension or gratuity and leave-allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, the servant would be entitled if the service had been service under the Government.

F.—Taxation and Finance.

Powers of taxation conferred on district boards.

30. Subject to any general rules or special orders which the Governor General in Council may make in this behalf, a district board may impose, in manner prescribed by section 31, such taxes as may be approved by the Local Government:

Provided that no such tax shall be imposed in respect of any property subject to the local rate.

Procedure in imposing taxes.

31. *(1)* A district board may resolve, at a meeting, convened and constituted in such manner as the Local Government may prescribe, to propose the imposition of any tax under section 30.

(2) When a resolution has been passed under sub-section *(1)*, the board 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 person likely to be directly affected by the proposed tax, and objecting to the same, may, within thirty days from the publication of the notice, send his objection in writing to the board; and the board shall, at a meeting convened and constituted as aforesaid, take his objection into consideration.

(4) If no objection is sent within the said period of thirty days, 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 and with its decision thereon.

(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 proposals of a district board in respect of a tax have been sanctioned by the Local Government, the board may, at a meeting convened and constituted as aforesaid, direct the imposition of the tax in accordance with those proposals:

Provided that, in giving such direction, the board shall fix a date not less than one month from the date of the meeting on which the tax shall come into force.

(7) Every direction under sub-section *(6)* shall be notified, and the notification shall be conclusive evidence that the tax has been imposed in accordance with law.

Reduction and abolition of tax.

32. The Local Government may, by notification, and the district board may, with the sanction of the Local Government, by a resolution passed at a meeting convened and constituted as the Local Government may prescribe, abolish or reduce any tax imposed under sections 30 and 31.

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 33-39.)

Levy of fees.

33. With the previous sanction of the Local Government, or of such officer as the Local Government may authorize in this behalf, a district board or local board may fix and levy school-fees and fees for the use of, or benefits derived from, any of the works specified in section 20, clauses (*c*), (*e*), (*h*), (*i*) and (*j*), and fees at fairs, agricultural shows and industrial exhibitions held under its authority.

Additional funds to be provided by the Government.

34. When the control and administration of any matter is by or under this Act transferred to a district board, and at the time of the transfer the cost of that control and administration is defrayed from provincial revenue, the Local Government shall, from time to time, allot to the district board such funds, or place at the disposal of the board such sources of income, as may, in the opinion of the Local Government and of the board, be sufficient for maintaining the control and administration of the said matter in the state of efficiency existing at the date of transfer.

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 7 of the Panjáb Local Rates Act, 1878, and of the road and school cesses, which may be available for expenditure in the district on the day on which the district board comes into existence; V of 1878.

(*b*) all proceeds of rates allotted to the district board under section 9;

(*c*) the proceeds of all taxes imposed in the district under sections 30 and 31;

(*d*) the amount of all fees levied by the district board or by local boards in the district under section 33;

(*e*) all funds allotted to the district board and the income arising from all sources of income placed at its disposal under section 34;

(*f*) all rents and profits accruing from property vested in the district board or managed by the district board or a local board in the district;

(*g*) all sums contributed to the fund by Government or by any committee, board or private person;

(*h*) all sums received by the district board or by a local board in the district in the discharge of functions exercised by it under this Act; and

(*i*) the proceeds of all sources of income which the Local Government may order to be placed at the disposal of the district board:

Provided that the Local Government may revoke any order made under clause (*i*).

Vesting, custody and investment of district fund.

36. *(1)* 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 or sub-treasury or in the bank to which the Government treasury business has been made over, unless the Local Government in any cases otherwise permits.

(2) Subject to such rules as the Governor General in Council may make in this behalf, the district board may, with the previous sanction of the Local Government, invest any portion of the district fund in securities of the Government of India or such other securities as the Governor General in Council may approve in this behalf, and vary such investments for others of the same nature, or dispose of them. The income resulting from the securities, and the proceeds of the sale of the same, shall be credited to the district fund.

Application of district fund.

37. *(1)* The district fund shall be charged with the payment of the expenses of the district-post, the payment of the expenses of pauper lunatics sent to public asylums from the area under the authority of the district board, the expenses incurred in auditing the accounts of the district boards and local boards, and 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 the district board in return for services rendered to the board by those Departments.

(2) Subject to the charges specified in sub-section (1), and to such rules as the Local Government may make with respect to the priority to be given to the several duties of the board or otherwise, the district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the matters specified in sections 20, 27, 28 and 29, and to the provision of grants-in-aid to educational and medical institutions, within the area subject to the authority of the district board, and, with the sanction of the Commissioner, outside that area when such application of the fund is for the benefit of the inhabitants of that area.

Works or undertakings benefiting several districts.

38. In the case of works or undertakings which benefit more districts than one, when the district boards cannot agree, the Commissioner or Commissioners of the division or divisions, or, when the districts are in different divisions and the Commissioners 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 of the districts benefited thereby; and such proportion shall be payable out of the several district funds accordingly.

Annual estimates of income and expenditure of district boards.

39. *(1)* Every district board shall appoint a finance committee consisting of not less than three of its members.

(2) Every district board shall, on or before a prescribed day in each year, hold a meeting at which the finance committee shall submit to the board an estimate of the income and expenditure of the board for the next financial year, in such form as the Local Government may, by a rule made under this Act, prescribe.

(3) The board shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The board shall, on or before a prescribed day, cause copies of the estimate, as provisionally

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 40-45.)

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 board his approval or disapproval of the estimate. When he disapproves of the estimate, he shall state the nature of his objection. The board 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 order shall be final and binding on the board.

(6) When the Deputy Commissioner has signified his approval of an estimate, or the board has modified an estimate so as to remove the Deputy Commissioner's objections, or when the Commissioner has passed orders as provided in sub-section (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) When the Deputy Commissioner is a member of the district board, the Commissioner and the Local Government shall take the place of the Deputy Commissioner and the Commissioner respectively for the purposes of this section.

40. Accounts of the receipts and expenditure of every district board shall be made up periodically to such days and in such form as the Local Government prescribes, and shall be examined and audited as soon as may be after they are so made up by such persons as the Local Government appoints in this behalf.

Accounts of district boards.

41. (*1*) Every local board shall submit annually to the district board of its district, on or before such date as the district board may appoint in this behalf, a statement of the requirements, and an estimate of the probable expenditure, of the local board for the coming financial year, and shall submit, as often as the district board may require, accounts of its receipts and expenditure.

Estimates and accounts of local boards.

(*2*) The district board shal signify in writing to the local board its approval or disapproval of an estimate submitted under this section, and powers similar to those conferred on the Deputy Commissioner and Commissioner by section 39, clauses (5) and (6), shall be exercised, in regard to the estimate, by the district board and the Deputy Commissioner, or (when the Deputy Commissioner is a member of the district board) the Commissioner, respectively:

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 district board.

(*3*) The district board 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.

42. Every district board shall cause a copy, of every annual estimate provisionally or finally approved under section 39, and of every account made up under section 40, 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.

43. A statement of the accounts of a district board for each financial year, showing the income of the district 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 at the end of the year, shall be prepared by the board in such form as the Local Government prescribes; and an abstract of the same shall be published in the English and Vernacular official Gazettes, or in such other manner as the Local Government may direct.

Publication of abstract of accounts.

G.—Control.

44. (*1*) The Commissioner of the division, or the Deputy Commissioner of the district when he is not a member of the district board, may—

Control of Commissioner and Deputy Commissioner 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*) by order in writing 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*) by order in writing 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 Deputy Commissioners in the same division, to the Commissioner; and

(*b*) if it arises between two or more Deputy Commissioners 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.

45. 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 a district board or local board 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.

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 46-54.)

46. (*1*) In cases of emergency, the Deputy Commissioner 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 of doing the act shall be forthwith paid by the district board.

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 district 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.

47. (*1*) When the Commissioner, after due enquiry, is satisfied that a district board 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 board to that person.

Power to provide for performance of duties in case of default of board.

(*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 district 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.

48. When the control and administration of any public work is by or under this Act transferred to a district board, and at the time of the transfer the cost of that control and administration is defrayed from provincial revenue, the Local Government may invest any officer with respect to that work with the powers of a Commissioner under section 44 or section 47, or with the powers of a Deputy Commissioner under section 46.

Power to invest other officers with power of control.

49. When the Commissioner makes any order under section 45 or section 47, he shall forthwith forward to the Local Government, and when the Deputy Commissioner makes any order under section 45 or section 46, or an officer empowered under section 48 makes any order under section 46 or section 47, he shall forthwith forward to the Commissioner, for submission to the Local Government, a copy of the order, with a statement of the reasons for making it, and with such explanation, if any, as the board or committee concerned may wish to offer. The Local Government may thereupon confirm, modify or rescind the order.

Report of action under preceding sections.

50. (*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 district boards and local boards shall be in conformity with law and with the rules in force thereunder.

Powers of Local Government and its officers over boards.

(*2*) The Local Government may exercise all powers necessary for the purpose of sub-section (*1*), and may, amongst other things, by order in writing, annul any proceeding which it considers not to be in conformity with law and with the said rules.

(*3*) 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 conferred upon them by rules made in this behalf by the Local Government.

51 If a district board or local 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, 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 board to be superseded;

Power of Local Government to supersede in case of incompetency, persistent default or abuse of powers.

Provided that, in case of public emergency, the notification may be issued without the previous approval of the Governor General in Council, but shall be immediately reported to the Governor General in Council and shall be subject to his orders.

52. When a district board or local board is superseded under section 51, the following consequences shall ensue—

Consequences of supersession.

(*a*) All members of the board shall from the date of the notification vacate their offices as such members:

(*b*) All powers and duties of the board may, until the board is re-constituted, be exercised and performed by such person as the Local Government appoints in that behalf:

(*c*) Where a district board is superseded, all property vested in it shall, until it is re-constituted, vest in Her Majesty.

53. (*1*) When a district board is superseded, the Local Government shall, as soon as in its judgment conveniently may be, constitute another district board in its place.

Constitution of new board, and transfer of functions of superseded local boards.

(*2*) When a local board is superseded, the Local Government may either constitute another local board in its place, or transfer its functions to the district board or, by a notification under section 10, to any other local board.

54. (*1*) If any dispute as to the decision of which this act does not otherwise provide, arises between two or more boards constituted under this Act, or between a municipal committee or cantonment authority and any such board, the matter shall be referred—

Disputes.

(*a*) to the Deputy Commissioner if the local authorities concerned are in the same district;

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 55-59.)

(*b*) to the Commissioner or Commissioners of the division or divisions if the local authorities concerned are in different districts; and

(*c*) to the Local Government if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

(2) The decision of the authority to which any dispute is referred under this section shall be final.

(3) If, in the case mentioned in clause (*a*), the Deputy Commissioner is a member of one of the boards or committees concerned, his functions under this section shall be discharged by the Commissioner.

(4) "Local authority" in this section means a district board, local board, municipal committee or cantonment authority.

55. So far as may be consistent with the provisions of this Act—

Power of the Governor General in Council and the Local Government to make rules.

(1) the Governor General in Council may—

(*a*) make general rules or special orders for the regulation of taxation under section 30; and

(*b*) make rules regulating the powers of district boards to make, vary and dispose of investments;

(2) the Local Government may, for any district or local board, or any class of such boards, make rules for—

(*c*) dividing boards into classes, and fixing the powers of boards of each class;

(*d*) determining the mode and time of appointment or election of members of boards, the term of office, allowances (if any), and the qualifications and disqualifications of such members, and the qualifications and disqualifications of voters, and generally for regulating all elections under this Act;

(*e*) regulating the powers of boards to transfer property;

(*f*) regulating the powers of boards to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts;

(*g*) determining the intermediate offices, if any, through which correspondence between boards or members of boards and the Local Government or its officers shall pass;

(*h*) determining the language in which business shall be transacted;

(*i*) the employment, payment, suspension and removal of officers and servants under section 27;

(*j*) the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district;

(*k*) the application of district funds;

(*l*) the form of estimates of income and expenditure under section 39;

(*m*) the form of accounts and the manner of periodical audit under section 40;

(*n*) the publication of abstracts of accounts under section 43;

(*o*) 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 which, and the conditions subject to which, such plans and estimates may be sanctioned;

(*p*) the powers of supervision to be exercised by Commissioners and Deputy Commissioners under section 50;

(*q*) the conduct of proceedings of boards, including the fixing of a quorum, the appointment or election of a chairman, and the term of office of a chairman and vice-chairman;

(*r*) the appointment and payment of auditors of the accounts of boards; and

(*s*) 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; and

(*t*) generally determining the relations between district boards and local boards, and guiding boards and Government officers in all matters connected with the carrying out of the provisions of this Act.

All such rules and alterations of rules shall be notified, and no rules or alteration of rules under clause (2) (*d*) shall come into operation until three months after they have been notified.

H.—Regulations.

56. (*1*) Every district board or local board empowered in this behalf by the Local Government may make regulations for carrying out all or any of the purposes of this Act.

Power to make regulations.

(*2*) A regulation made under this section shall not have effect until it has been confirmed by the Local Government and published in such manner and for such time as the Local Government may direct.

57. (*1*) In making any regulation under section 56, a board may direct that a breach of the same shall be punished with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day during which the breach is continued after he has been convicted of such breach.

Penalty for infringement of regulations.

(2) In default of payment of any fine imposed under this section, the defaulter shall be liable to simple imprisonment for a term which may extend to eight days.

58. (*1*) Prosecutions under this Act for breach of regulations may be instituted by any board, or by any person authorized by the board in this behalf.

Prosecutions.

(2) A Judge or Magistrate shall not be deemed to be within the meaning of section 555 of the Code of Criminal Procedure a party to, or personally interested in, any case under this section merely because he is a member of the board. X of 1882.

I.—Supplemental and Exceptional Provisions.

59. Every person 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

Liability of members of boards.

Panjáb District Boards Act, 1883.

(Chapter III.—Of District and Local Boards—Sections 60-69.)

direct consequence of his neglect or misconduct while a member of a local board or of the district board, and a suit for compensation for the same may be instituted against him in such Court as the Local Government directs, by the district board with the sanction of the Commissioner, or by the Secretary of State for India in Council.

60. (*1*) The Local Government, before making any rules under section 55 or section 67, and a district or local board, before making any regulations under section 56, shall publish, in such manner as the Local Government may deem sufficient for giving information to persons interested, a draft of the proposed rules or regulations, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall, before making the rules or regulations, 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 and regulations.

(2) Every such rule or regulation shall be published in the official Gazette in English and in such other language as the Local Government directs, and such publication shall be conclusive evidence that the rule or regulation has been made as required by this section.

61. Where any land is required for the purposes of this Act, the Local Government may, at the request of a district board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on the payment by the board of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the board.

Acquisition of land.

X of 1870.

62. (*1*) If any member, officer or servant of a district or local board or joint committee appointed under this Act is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that 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 board or joint committee.

XLV of 1860.

(2) A person shall not, 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 the company and a board or committee; but he shall not take part in any proceedings of the board or committee relating to any such contract.

63. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

Saving for Act XI of 1879.

XI of 1879.

64. 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.

65. 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 11 of

Contracts of local committees.

the Panjáb Local Rates Act, 1878, may be enforced by and against the district 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. V of 1878.

66. A Government officer employed under the committee appointed in a district as aforesaid at the time when a district board comes into existence for the district under section 17 of this Act 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.

Government officers serving under committees to continue under board.

67. (*1*) 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 chapter 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.

(2) While any notification under this section is in force, the Local Government may make rules to provide for any matter dealt with by the provisions to which the notification applies.

68. When a district is excepted, under section 67, from all the provisions of this chapter, a committee shall, except where the Local Government for special reasons otherwise directs, be constituted for the control and administration in that district of the matters mentioned in section 20, or of such of them as the Local Government may, from time to time, specify; and the Local Government shall, from time to time, determine 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,—

Committee to be constituted for district wholly excepted from Act.

(*a*) the balance standing at the credit of the district fund at the time when the district is excepted or, as the case may be, the balance of the allotments made for the district under section 7 of the Panjáb Local Rates Act, 1878, and of the road and school cesses, which may be available for expenditure in the district at that time; V of 1878.

(*b*) all proceeds of rates which but for the district being excepted would be allotted to the district board under section 9 of this Act; and

(*c*) such other sources of income mentioned in section 35 of this Act as the Local Government thinks fit:

Provided that [illegible] members of [illegible] who own landed property or reside or carry on trade or business in the district and are not servants of the Government.

69. (*1*) When any local area in which Act XX. of 1856 (*an Act to make better provision for the appointment and maintenance of Police Chaukidárs in Cities, Towns, Stations,*

Power to direct that Act XX of 1856 shall cease to be in force.

Panjáb District Boards Act, 1883.

(Chapter V.—Amendment of the Northern India Ferries Act, 1878—Sections 70-79.)

Suburbs and Bázárs in the Presidency of Fort William in Bengal) is in force is included in any local area over which a district board established under this Act has authority, the Local Government may, by notification, direct that that Act shall cease to be in force in the local area so included, and that every panchâyat constituted under that Act for that local area shall cease to exist.

(2) When a direction is issued under this section in respect of any local area in which the said Act XX of 1856 is in force, the amount, if any, then available under section 36 of that Act for purposes of improvement in that local area shall be expended therein by the Deputy Commissioner for such purposes.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS AS TO TAXATION.

Recovery of rates.

70. 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.

Local rate or tax how to be assessed and collected.

71. (1) The Local Government may, by notification, determine the persons by whom the local rate or any tax imposed under this Act shall be assessed and collected, and make rules for the assessment and collection of the rate or tax, and direct in what manner persons employed in the assessment or collection shall be remunerated.

(2) The provisions of section 60 shall apply to all rules made under this section.

Appeals.

72. (1) 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 or collections to such person as the Local Government appoints:

Provided that the appeal shall be presented within 30 days from the date of the order.

(2) The order passed on an appeal under this section shall be final.

Instalments of rates and taxes.

73. (1) The Local Government may, by notification, prescribe by what instalments and at what times any rate or tax leviable under this Act shall be payable:

Provided that every instalment of the local rate leviable under section 5 shall be payable with an instalment of the land-revenue.

(2) In any local area subject to the authority of a district board the Local Government may, by notification, delegate to the board, subject to such conditions as it thinks fit, its powers under this section.

Power of Local Government to exempt from taxation.

74. The Local Government may, by notification, remit or reduce any rate or tax imposed under this Act, or exempt any person or class of persons, or any description of property, wholly or in any part from liability to any such rate or tax, and cancel any such remission, reduction or exemption.

Power to direct measurements.

75. 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, direct such measurements to be made.

Suits relating to rates and taxes under this Act cognizable by Courts having cognizance of suits for rent.

76. 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 any such rate or tax, or for settlement of accounts connected therewith, shall, unless the Local Government otherwise directs, be cognizable by the Courts which for the time being have cognizance of suits for rent due on land.

Confirmation and recovery of existing rates.

77. 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.

CHAPTER V.

AMENDMENT OF THE NORTHERN INDIA FERRIES ACT, 1878.

78. After section 7 of the Northern India Ferries Act, 1878, the following shall be inserted, namely:— 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 authority of a district board or local board in any district in the territories under the administration of the Lieutenant-Governor of the Panjáb, shall 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; 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.

Further amendment.

79. 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."

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 18th December 1883, and is hereby promulgated for general information:—

ACT No. XXI OF 1883.

THE INDIAN EMIGRATION ACT, 1883.

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Indian Emigration Act, 1883.

(Chapter II.—Ports from which, and Countries to which, Emigration is lawful.)

An Act to amend the law relating to the Emigration of Natives of India.

WHEREAS it is expedient to amend the law relating to the emigration of Natives of India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

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

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

2. Nothing in this Act or in any rule made under this Act shall apply to any vessel belonging to, or in the service of, Her Majesty or of the Government of India. Exemption of Government vessels.

3. Except as to the power to make rules, this Act shall come into force on such day as the Governor General in Council, by notification in the *Gazette of India*, appoints. Commencement.

4. On and from the day on which this Act comes into force, the Indian Emigration Act, 1871, and Act No. XIV of 1872 (*to exempt the Straits Settlements from the Indian Emigration Act, 1871*) shall be repealed. Repeal of enactments.

5. All notifications issued, contracts entered into, rules and appointments made, and licenses granted under any enactment hereby repealed, and in force on the day on which this Act comes into force, shall (so far as they are consistent with this Act) be deemed to have been respectively issued, entered into, made and granted under this Act. Saving for proceedings under repealed enactments.

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

(*1*) "Emigrate" and "emigration" denote the departure by sea out of British India of a Native of India under an agreement to labour for hire in some country beyond the limits of India other than the island of Ceylon or the Straits Settlements:

Provided that a domestic servant when accompanying his employer shall not be deemed to emigrate within the meaning of the above definition:

(*2*) "Emigrant" means any Native of India who emigrates, or has emigrated, within the meaning of the above definition, or who has been registered under this Act as an emigrant, and includes any dependent of an emigrant:

(*3*) "Dependent" means any of the following persons accompanying any emigrant, namely:—

(*a*) any woman who has not entered into an agreement to emigrate under this Act;

(*b*) any child in whose name and on whose behalf any such agreement has not been entered into; and

(*c*) any aged or incapacitated relative or friend:

(*4*) "Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere a District Magistrate or a Sub-divisional Magistrate, and includes also any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Magistrate under this Act:

(*5*) "Registering Officer" means any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Registering Officer under this Act:

(*6*) "Recruiter" includes a head recruiter or other person who collects or receives emigrants recruited by other persons:

(*7*) "Vessel" includes anything made for the conveyance by water of human beings or property:

(*8*) "Emigrant-vessel" means a vessel the master of which is licensed under this Act to carry emigrants therein: and

(*9*) "Master" means any person (except a pilot or harbour-master) having for the time being control or charge of a vessel.

CHAPTER II.

PORTS FROM WHICH, AND COUNTRIES TO WHICH, EMIGRATION IS LAWFUL.

7. (*1*) Emigration shall not be lawful except from the ports of Calcutta, Madras and Bombay, and from such other ports as the Governor General in Council, from time to time, by notification in the *Gazette of India*, declares to be ports from which emigration is lawful. Ports from which emigration is lawful.

(*2*) The Governor General in Council may at any time, by a like notification, revoke any notification issued under this section.

(*3*) The Local Government may, from time to time, by notification in the official Gazette, fix for the purposes of this Act the limits of any port from which emigration is lawful.

8. (*1*) Emigration shall not be lawful except to the countries specified in the first schedule hereto annexed, and to such other countries Countries to which emigration is lawful.

Indian Emigration Act, 1883.

(Chapter IV.—Protectors of Emigrants and Medical Inspectors.)

as the Governor General in Council, from time to time, by notification in the *Gazette of India*, declares to be countries to which emigration is lawful.

(2) Every notification under this section must contain a declaration that the Governor General in Council has been duly certified that the Government of the country to which the notification refers has made such laws and other provisions as the Governor General in Council thinks sufficient for the protection of emigrants to that country during their residence therein.

Power for Governor General in Council to prohibit emigration to any country.

9. (1) Whenever the Governor General in Council has reason to believe that any of the grounds, hereinafter mentioned, for prohibiting emigration to any country to which emigration is lawful, exists, he may, by notification in the *Gazette of India*, declare that emigration to that country shall cease to be lawful from a day specified in the notification; and from that day emigration to that country shall accordingly cease to be lawful.

(2) The grounds referred to in sub-section (1) of this section are—

(a) that the plague or any other epidemic disease dangerous to human life has broken out in the country;

(b) that the mortality among emigrants in the country is excessive;

(c) that proper measures have not been taken for the protection of emigrants immediately on their arrival in the country or during their residence therein;

(d) that the agreements made with emigrants, as such, before their departure from India are not duly enforced by the Government of the country; and

(e) that the Governor General in Council, having, either directly or through the Secretary of State for India in Council, addressed the Government of the country with a view to obtain information regarding the condition or treatment of emigrants therein, has not within a reasonable time received the information asked for.

Power for Local Government to suspend emigration pending reference to Governor General in Council.

10. (1) Whenever the Local Government has reason to believe that, in any country to which emigration is lawful, the plague or other epidemic disease dangerous to human life has broken out, and that emigrants, if allowed to emigrate to that country, would be exposed to serious risk of life on arrival there, it may, by notification in the official Gazette, declare that emigration to that country from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor General in Council.

(2) The Local Government shall at once report the publication of a notification under this section, with the reasons for it, to the Governor General in Council, who shall thereupon publish a notification in the *Gazette of India* confirming or cancelling the notification published by the Local Government.

Revocation of prohibition.

11. Whenever the Governor General in Council is satisfied that the ground on which a notification has been published by him under either of the two last foregoing sections with respect to any country has ceased to exist, he may, by notification in the *Gazette of India*, declare that emigration to that country shall again be lawful from a day to be specified in the notification.

Power for Local Government to prohibit emigration to specified country from the whole or any specified part of its territories.

12. (1) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the official Gazette, prohibit, from a day specified in the notification, all Natives of India or any specified class of Natives, from emigrating from the whole or any specified part of the territories under its administration to any specified country.

(2) The Local Government may, with the like sanction, in like manner, vary or cancel any notification published under this section.

Saving for acts done before publication of notification.

13. The publication of a notification under any of the four last foregoing sections shall not affect any act done, offence committed or proceedings commenced before the publication.

CHAPTER III.

EMIGRATION AGENTS.

Appointment of Emigration Agents.

14. (1) The Government of every country to which emigration is lawful may, from time to time, appoint a person to be Emigration Agent in any port from which emigration is lawful, and may suspend or remove any person so appointed.

(2) An appointment under this section shall not take effect until the Local Government, by notification in the official Gazette, has declared its approval of the appointment.

Remuneration of Agents.

15. The remuneration to be given to an Emigration Agent shall not depend on, or be regulated by, the number of emigrants sent by him, but shall be in the nature of a fixed salary:

Provided that the Governor General in Council may, from time to time, authorize the payment to specified Emigration Agents of special fees for occasional work.

CHAPTER IV.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

Appointment of Protectors of Emigrants.

16. (1) The Local Government may, from time to time, appoint a proper person to be the Protector of

Indian Emigration Act, 1883.

(Chapter V.—Recruiters.)

Emigrants for any port within the territories administered by it from which emigration is lawful.

(2) The Governor General in Council may, from time to time, define the local area to which the authority of any Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants may be suspended or removed by the Local Government which appointed him.

(4) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

General duties of Protector.

17. Every Protector of Emigrants, in addition to the special duties assigned to him by this Act or the rules made under this Act, shall—

(a) protect and aid with his advice all emigrants;

(b) cause, so far as he can, all the provisions of this Act, and of the rules made under this Act, to be complied with;

(c) inspect, on arrival, all vessels bringing return-emigrants to the port for which he is Protector;

(d) enquire into the treatment received by the return-emigrants both during the period of their service in the country to which they emigrated, and also during the return voyage, and report thereon to the Local Government; and

(e) aid and advise the return-emigrants so far as he reasonably can.

Appointment of Medical Inspector.

18. (1) The Local Government may, from time to time, appoint a Medical Inspector of Emigrants at each port from which emigration is lawful, and may suspend or remove him.

(2) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

Protector and Medical Inspector to have facilities for inspection.

19. Every Emigration Agent, and all persons in charge of, or employed in, any depôt established under this Act, or in charge of, or employed in, any emigrant-vessel, shall give the Protector of Emigrants and the Medical Inspector of Emigrants every facility for making such inspections, examinations and surveys as are required by this Act, or by the rules made under this Act, or as those officers may deem necessary or proper, and shall afford them all such information as they may reasonably require.

CHAPTER V.

RECRUITERS.

Protector of Emigrants to recruiters.

20. (1) The Protector of Emigrants at each of the ports from which emigration is lawful shall, on the application of the Emigration Agent for any country to which emigration is lawful, grant licenses to so many fit persons as to the Protector seems necessary to be recruiters of emigrants within the local area to which the authority of the Protector extends.

(2) A person shall not, unless he holds a license granted under this chapter,—

(a) enter into, or attempt to enter into, any agreement with any person purporting to bind him to emigrate, or

(b) in consideration of any hire or reward, induce, or attempt to induce, any person to leave any place for the purpose of emigrating, or

(c) act or be employed in any other respect as a recruiter of emigrants.

(3) Every recruiter shall produce his license when called upon to do so by any Magistrate or officer in charge of a police-station.

Form of license.

21. Every license granted under this chapter shall specify the particular country for which, and the local area within which, the holder is licensed to recruit, and may be in the form set forth in the second schedule hereto annexed.

Duration of license.

22. (1) A license granted under this chapter shall not be in force for a longer period than one year from the day on which it comes into force.

(2) The Protector of Emigrants may, on the ground of misconduct, cancel any license granted by him under this chapter before the expiration of the period for which it is in force.

Countersignature of license.

23. (1) A recruiter shall not, in any place beyond the limits of a port from which emigration is lawful, enter, or attempt to enter, into any agreement with any person purporting to bind him to emigrate, or induce or assist, or attempt to induce or assist, any person to leave any place for the purpose of emigrating, or act or be employed in any other respect as a recruiter of emigrants, unless his license bears the countersignature of the District Magistrate.

(2) If a District Magistrate has satisfied himself, after such enquiry as he thinks necessary, that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, he may refuse to countersign a recruiter's license.

(3) If a District Magistrate has satisfied himself, after such enquiry as aforesaid, that sufficient and proper accommodation has not been provided in a suitable place, or is not available, for such intending emigrants or emigrants as may be collected by the recruiter pending their registration or removal to the depôt at the port of embarkation, he may refuse to countersign a recruiter's license or to decide whether he will countersign his license until after the expiration of such time as may in his opinion be reasonable.

(4) Before a Magistrate refuses to countersign, or defers his countersignature of, a recruiter's license, he shall record in writing his reasons for so doing.

Indian Emigration Act, 1883.

(Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate.)

24. If any Magistrate, having countersigned a recruiter's license, afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided for intending emigrants or emigrants collected by him has become unsuitable or has ceased to be available, he may require the licensee to produce his license, and may cancel the countersignature on it, or may impound the license and send it for cancellation to the Protector of Emigrants who granted it.

Power for Magistrate to cancel countersignature in certain cases.

25. When a Magistrate countersigns, or refuses to countersign, a recruiter's license, or cancels the countersignature on it, he shall at once report the countersignature, or the refusal or cancellation, and the grounds of the refusal or cancellation, to the Protector of Emigrants who granted the license.

Notice to Protector of Emigrants of countersignature, refusal to countersign or cancellation of countersignature.

26. (*1*) The Emigration Agent on whose application any recruiter is licensed shall supply the recruiter with a written or printed statement, signed by the Agent, and countersigned by the Protector of Emigrants, of the terms of agreement which the recruiter is authorized to offer on behalf of the Agent to intending emigrants.

Recruiter to be supplied with statement of terms of agreement he is authorized to offer.

(*2*) The statement shall be both in English and in the Vernacular language or languages of the local area within which the recruiter is licensed to recruit.

(*3*) The recruiter shall give a true copy of the statement to every person whom he invites to emigrate, and shall produce the statement for the information of any Magistrate or officer in charge of a police-station, when called upon to do so by the Magistrate or officer.

27. (*1*) Every recruiter shall provide sufficient and proper accommodation in a suitable place for such intending emigrants or emigrants as may be collected by him pending their registration or removal to the port of embarkation.

Accommodation to be provided by recruiters.

(*2*) The place where the accommodation is provided shall have a board fixed in some conspicuous position specifying the purpose for which the place is used.

(*3*) Every District Magistrate, and any subordinate Magistrate or officer of Police authorised in this behalf by a rule made under this Act, shall have, for the supervision and regulation of the places where accommodation is provided under this section, the same powers as are by this Act conferred on a Protector of Emigrants in respect of depôts at the port of embarkation.

(*4*) All recruiters or other persons in charge of these places shall afford every Magistrate and any officer of Police authorised as aforesaid in this behalf every facility for visiting and inspecting them.

CHAPTER VI.

REGISTRATION OF EMIGRANTS AND EXECUTION OF AGREEMENTS TO EMIGRATE.

28. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform in a specified local area, but subject to the control of the District Magistrate or such other officer as the Local Government appoints, by name or by virtue of his office, in this behalf, the functions of a Registering Officer under this Act.

Power for Local Government to appoint Registering Officers.

29. Every agreement to emigrate entered into by any person must—

Execution of agreements.

(*a*) if executed within the limits of any port from which emigration is lawful, be executed in the presence of the Protector;

(*b*) if executed elsewhere, be executed in the presence of a Registering Officer.

30. Every recruiter who desires to engage any person to emigrate shall appear before a Registering Officer or the Protector of Emigrants (as the case may be) with that person, and with any persons intending to accompany that person as his dependents.

Appearance of intending emigrants before Registering Officer.

31. (*1*) The Registering Officer or Protector shall thereupon examine the person, apart from the recruiter, with reference to his intended agreement; and, if it appears that he is competent and willing to enter into the agreement and understands its nature, that he has not been induced to enter into it by any coercion, undue influence, fraud, misrepresentation or mistake, that its terms are in conformity with law, and are such as, according to the statement furnished to the recruiter under section twenty-six, he was authorized to offer, shall, subject to the provisions of section thirty-three, register in a book to be kept for the purpose, in such form as the Governor General in Council, from time to time, by rules made under this Act, prescribes, the name, sex, name of the father, caste, occupation and age of the intending emigrant, and the name of the village or place of which he is a resident, and such other particulars (if any) concerning him and his dependents (if any) as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Examination and registration of emigrant.

32. (*1*) Notwithstanding anything contained in the last foregoing section, the Registering Officer or Protector may refuse to register any married woman under that section if he finds that her husband does not consent to her emigrating.

Power to refuse registration in case of married women.

Indian Emigration Act, 1883.

(Chapter VII.—Emigration Depôts.)

(*2*) The Registering Officer or Protector may also, in the case of any woman whom he believes to be married, refuse to decide whether he will register her until after the expiration of such time, not exceeding ten days, as he thinks fit.

33. (*1*) When any person appears before a Registering Officer or Protector under section thirty as a dependent of an intending emigrant, the Registering Officer or Protector shall, if the person is able to give intelligent answers to questions, examine him, apart from the recruiter, as to his dependence on the intending emigrant whom he is about to accompany and as to his willingness to emigrate.

Examination of dependent.

(*2*) Where the Registering Officer or Protector sees reason to doubt the existence of the dependence or willingness, he may, if he thinks fit, refuse to register the intending emigrant unless the name of the dependent is omitted from the register.

34. Whenever the Registering Officer or Protector refuses to register any intending emigrant, he shall record his reasons for the refusal.

Record of reasons for refusal to register.

35. (*1*) When the particulars concerning any intending emigrant and his dependents (if any) have been registered, the Registering Officer or Protector shall cause an agreement to be prepared in triplicate, and shall call on the recruiter and the intending emigrant to execute the agreement in triplicate in his presence, and, if they execute it, shall attest the execution with his signature.

Execution and attestation of agreement.

(*2*) An agreement to emigrate shall not be of any effect until the particulars concerning the intending emigrant and his dependents (if any) have been registered, and the agreement has been executed and attested under this Act.

(*3*) When the particulars concerning any intending emigrant and his dependents (if any) have been registered, and an agreement has been executed and attested under this Act, the intending emigrant shall be deemed to be registered under this Act as an emigrant.

36. Every agreement to emigrate shall contain a copy of the particulars registered concerning the intending emigrant and his dependents (if any) under section thirty-one, and on the reverse such particulars concerning the nature, duration and terms of service and the remuneration of the emigrant, and such other matters (if any) as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Contents of agreement.

37. When the agreement has been executed and attested, one copy thereof shall be delivered to the recruiter for transmission to the Emigration Agent, another shall be delivered to the emigrant, and the third shall be retained by the Protector or sent by the Registering Officer to him.

Disposal of copies of agreement.

38. For the preparation of every agreement under this chapter the recruiter or Emigration Agent shall pay such fee as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes:

Fee for preparation of agreement.

Provided that the Governor General in Council may at any time, by like notification, declare that the fee payable under this section shall be consolidated, either generally or in any specified local area, with the fee payable under section seventy-three.

39. Notwithstanding anything to the contrary in the Indian Contract Act, 1872, it shall be lawful for any person of the age of sixteen years or upwards to enter in manner in this Act provided into an agreement to emigrate to any place to which emigration is lawful.

Power to make agreement if over 16. IX of 1872.

40. Any person entering into an agreement to emigrate, and being the parent or guardian of a child under the age of sixteen years and above the age of ten years, may, in the name of and on behalf of the child, enter into an agreement in manner in this Act provided binding the child to emigrate with him.

Power to make agreement on behalf of child or ward.

CHAPTER VII.

EMIGRATION DEPÔTS.

41. Every Emigration Agent shall establish at the port for which he is appointed a suitable depôt for the reception and lodging of emigrants before embarkation for the country for which he is Emigration Agent, and shall provide all necessary food and clothing for all emigrants during their stay at the depôt.

Depôts to be established at ports of embarkation.

42. (*1*) A depôt established under the last foregoing section shall not be used for the reception and lodging of emigrants until it has been inspected and approved by the Protector of Emigrants and the Medical Inspector of Emigrants, and a license for its use has been granted by the Protector.

Licensing of depôts.

(*2*) A license under this section shall not be granted for a longer period than one year from the day on which it comes into force.

(*3*) The Protector of Emigrants may at any time cancel a license under this section—

(*a*) if he considers that the depôt for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established, or

Indian Emigration Act, 1883.

(Chapter VIII.—Conveyance of Emigrants to Depôts and Procedure on Arrival).

(*b*) if the Emigration Agent fails, after reasonable notice, to comply with any of the requirements of this Act or of the rules made under this Act.

Inspection by Protector and Medical Inspector.

43. The Protector of Emigrants and the Medical Inspector shall, from time to time, and at least once in every week during which any emigrants may be kept in any depôt at the port for which they are Protector and Medical Inspector, respectively, inspect the emigrants in that depôt, and examine the state of the depôt, and the manner in which the emigrants therein are lodged, fed, clothed and otherwise provided for and attended to.

Report by Medical Inspector.

44. The Medical Inspector shall report to the Protector of Emigrants any circumstance that may come to his knowledge showing that any depôt is not suitable for its purpose, or that the emigrants lodged therein are treated with any oppression or neglect.

Treatment of emigrant suffering from disease.

45. (*1*) The Medical Inspector may, if he thinks fit, direct that any emigrant suffering from any disease likely to be dangerous to his neighbours shall be isolated or excluded from the depôt.

(*2*) The Medical Inspector may, if he thinks fit, order the removal of any emigrant so suffering to a proper hospital for treatment at the expense of the Emigration Agent; and the expense (if any) incurred by the Protector of Emigrants in respect of the removal of the emigrant and his treatment in the hospital shall be recoverable from the Emigration Agent by the Protector of Emigrants, with interest thereon at the rate of six per centum per annum from the date on which the expense was incurred.

CHAPTER VIII.

CONVEYANCE OF EMIGRANTS TO DEPÔTS AND PROCEDURE ON ARRIVAL.

Emigrant not to be removed before registration.

46. A recruiter shall not remove or attempt to remove any intending emigrant to a depôt, or induce or attempt to induce him to go to a depôt, or to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned, or aid him in going to a depôt, or in leaving any such local limits, until the intending emigrant has been registered under this Act as an emigrant.

Conveyance of emigrant to depôt.

47. (*1*) Every emigrant must, after he has been registered under this Act, be conveyed with all convenient despatch, by or under the orders of the recruiter or Emigration Agent, to the depôt established at the port of embarkation by the Emigration Agent on whose application the recruiter has been licensed.

(*2*) When an emigrant has been registered at a place beyond the limits of the port of embarkation, he must, while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself, or by a competent person appointed by him with the approval of a Magistrate.

(*3*) The Magistrate shall give to the person so appointed a certificate signed by him stating that he has been appointed for the journey to the depôt.

(*4*) The recruiter or the person so appointed shall, throughout the journey, provide the emigrant with proper and sufficient food and lodging.

Report of arrival at depôt.

48. The arrival at a depôt of each emigrant must immediately be reported by the person in charge of the depôt to the Emigration Agent, and by the Agent to the Protector of Emigrants.

Examination by Medical Inspector.

49. (*1*) The copy of the agreement received by the recruiter from the Registering Officer or Protector must, as soon as conveniently may be after the arrival of the emigrant at the depôt, be shown by the Emigration Agent to the Medical Inspector of Emigrants.

(*2*) The Medical Inspector shall examine each emigrant entered in the agreement to ascertain whether he is fit, having regard to his age and state of health, to undertake the journey to the country to which he has agreed to emigrate.

(*3*) The Medical Inspector, if satisfied of his fitness, shall give a certificate to that effect to the Emigration Agent. If not so satisfied, he shall give a certificate to that effect to the Protector of Emigrants.

Power for Protector to order payment of expenses of return of emigrant in certain cases.

50. (*1*) In any of the following cases, namely:—

(*a*) if the Medical Inspector of Emigrants finds that an emigrant is, or has become, unfit to undertake the journey to the country to which he has agreed to emigrate, and if the Protector of Emigrants considers that the emigrant has not dishonestly represented himself as fit to undertake the journey, or

(*b*) if the Protector finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of any emigrant as makes it just to rescind the agreement to emigrate, or

(*c*) if the Emigration Agent refuses to fulfil the agreement entered into with the emigrant,

the Protector may order the Emigration Agent to pay to the emigrant such sum as the Protector deems reasonable as compensation, and, when the emigrant has been registered at a place beyond the limits of the port of embarkation, such reasonable sum as is necessary to enable him to return to the place at which he was registered, and may take any steps which he thinks necessary for the conveyance of the emigrant to that place.

Indian Emigration Act, 1883.

(Chapter IX.—Emigrant-vessels.)

(*2*) Any emigrant who has been registered at any place beyond the limits of the port of embarkation, and who from his state of health is, in the opinion of the Medical Inspector of Emigrants, unfit to undertake at once the return-journey to the place at which he was registered, shall be entitled to be fed, lodged, clothed and attended to at the depôt at the expense of the Emigration Agent until he is reported by the Medical Inspector fit to undertake the return-journey.

Payment of expenses of dependents and relatives.

51. (*1*) When any order is made under the last foregoing section with reference to any emigrant who was registered at any place beyond the limits of the port of embarkation, any emigrant who has been registered as his dependent,

or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant, shall be entitled—

(*a*) to be conveyed at the expense of the Emigration Agent with the emigrant to the place at which he was registered; and

(*b*) if the emigrant is unable to travel, to be lodged, fed and clothed in the depôt at the expense of the Emigration Agent until the emigrant is able to travel.

(*2*) The Protector of Emigrants may include any expenses incurred under this section in an order made under the last foregoing section with respect to the emigrant.

Compensation to emigrant for ill-treatment on journey.

52. If it appears that during the journey to the depôt any emigrant has suffered any ill-treatment, or that, in the case of any emigrant who has been registered at a place beyond the limits of the port of embarkation, the provisions of section forty-seven have not been complied with, the Protector of Emigrants may order the Emigration Agent to pay—

(*a*) to the emigrant a reasonable sum by way of compensation, and

(*b*) if any expenses have been incurred by or under the orders of the Protector on behalf of the emigrant by reason of the neglect to comply with the provisions of section forty-seven, to the Protector the expenses so incurred.

Power for Protector to pay and recover expenses incurred on behalf of emigrant.

53. (*1*) On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any sum to an emigrant under any of the last three foregoing sections, the Protector may pay the same to the emigrant.

(*2*) Every sum paid by the Protector to an emigrant under sub-section (1), and, on failure of the Emigration Agent for twenty-four hours to comply with an order for payment thereof under the last foregoing section, every sum which the Protector may have ordered the Emigration Agent to pay to him under that section, shall be recoverable from the Emigration Agent with interest thereon at the rate of six per centum per annum from the date of payment.

(*3*) Further proof shall not be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the sum, and that the Emigration Agent for twenty-four hours failed to comply with the order.

CHAPTER IX.

EMIGRANT-VESSELS.

Master of emigrant-vessel to be licensed.

54. It shall not be lawful to receive any emigrant on board any vessel unless a license to carry emigrants in the vessel has been obtained from the Local Government.

Application for license.

55. (*1*) When the master or owner of any vessel desires to obtain a license to carry emigrants in his vessel, he shall apply in writing through the Protector of Emigrants to the Local Government for the license.

(*2*) The application must state the number of emigrants which, according to the rules as to space contained in this chapter, the applicant deems the vessel capable of carrying, and the tonnage and such other particulars respecting the vessel as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Survey and licensing of vessel.

56. (*1*) The Protector of Emigrants shall cause the vessel to be surveyed by a competent person at the cost of the master or owner, with a view to ascertain her seaworthiness, and the extent and nature of her accommodation for emigrants, and to ascertain that she is properly ventilated, and is supplied with all the tackle, apparel and furniture requisite for her intended voyage.

(*2*) If the Local Government is of opinion that the vessel is in all respects suitable for the carrying of emigrants under this Act, and is properly manned and officered, it shall give to the master of the vessel a license to carry emigrants therein specifying the number of emigrants which may be received on board.

Accommodation required on board emigrant-vessel.

57. (*1*) A license shall not be granted under the last foregoing section unless—

(*a*) there is provided for the emigrants, either between-decks or, subject to the approval

Indian Emigration Act, 1883.
(Chapter X.—Embarkation and Departure.)

of the Protector of Emigrants and the Medical Inspector, in cabins on the upper deck, a space devoted to the exclusive use of the emigrants having in every part a height of not less than six feet;

(*b*) a separate place is fitted up for a hospital; and

(*c*) such arrangements are made for the separation of women (married or single) and children from the other emigrants as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

(*2*) The cabins on the upper deck provided under clause (*a*) of this section must be firmly secured and entirely covered in.

Rules as to space on board emigrant-vessel.

58. Every emigrant-vessel must contain within the space referred to in clause (*a*) of the last foregoing section at least twelve superficial feet and seventy-two cubic feet of space for each emigrant:

Provided that two emigrants under the age of ten years shall for the purposes of this section count as one only.

Provisions, clothing, fuel and water.

59. There must be on board every emigrant-vessel, at the time of departure of the vessel from the port at which they embark, provisions, clothing, fuel and water for the emigrants (over and above the supply for the master, officers and crew, and of the cabin and other passengers, if any), in such quantity and of such description and quality as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Surgeons, attendants, medicines and stores.

60. Every emigrant-vessel must, at the time of departure of the vessel from the port at which the emigrants embark, have on board, and must carry with her, a properly qualified surgeon, and also such compounders, interpreters and attendants subordinate to the surgeon, and such medicines and other stores, in such quantity and of such quality as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Duty of Protector and Medical Inspector with respect to enforcement of foregoing sections.

61. The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of the last two foregoing sections are complied with.

Bond to be executed by master of emigrant-vessel.

62. (*1*) Every master licensed under this Act shall, on the requisition of the Protector of Emigrants, and before any emigrant embarks on board his vessel, execute to the Protector, in duplicate, a bond, in such form as the Local Government, from time to time, prescribes, binding himself and the owner of the vessel in a penal sum of ten thousand rupees, to perform the duties imposed by this Act or any rule made under this Act on a master and owner respectively.

(*2*) The Protector of Emigrants shall forward one copy of the bond to such officer as may be appointed in this behalf by the Government of the country to which the emigrants are to be conveyed, or, in the case of a foreign colony, to the British Consular Agent, and the other copy to the Local Government.

CHAPTER X.

EMBARKATION AND DEPARTURE.

Time of embarkation after arrival.

63. An emigrant shall not embark, except with the permission of the Protector of Emigrants, until seven days have elapsed from the date of his arrival at the depôt.

Time at which emigrant-vessels may leave India.

64. (*1*) An emigrant-vessel shall not sail from any port in British India—

(*a*) to any country west of the Cape of Good Hope, except at such seasons as the Governor General in Council, from time to time, by rules made under this Act, prescribes as seasons during which it shall be lawful for emigrant-vessels generally, or of a class to which the vessel belongs, to sail to that country;

(*b*) to any country during any season which the Governor General in Council, from time to time, by notification in the *Gazette of India*, declares to be a season during which the sailing of emigrant-vessels to that country is prohibited.

Procedure if emigrant refuses to embark.

65. If any emigrant without sufficient cause refuses or neglects to embark when called on by the Emigration Agent to do so, it shall not be lawful to compel the emigrant to embark; but nothing in this section shall affect the civil or criminal liabilities which an emigrant incurs by reason or in respect of any such refusal or neglect.

List of, and passes for, emigrants.

66. (*1*) When any emigrants are about to embark on board any vessel, the Emigration Agent shall supply the master of the vessel with four copies of a list, specifying, as accurately as may be, the names, ages and occupations of the emigrants, and the names of their respective fathers.

(*2*) The master shall not receive any emigrant on board unless he is provided with a pass, signed by the Emigration Agent, and countersigned by the Protector, stating the name and age of the emigrant, the name of his father, and the country to which he has agreed to emigrate, and certifying that he is in a fit state of health to undertake the voyage to that country.

Indian Emigration Act, 1883.
(Chapter X.—Embarkation and Departure.)

(*3*) Every emigrant shall on embarkation deliver the pass to the master.

(*4*) The master shall compare the emigrants who embark and the passes delivered by them with the list supplied by the Emigration Agent; and, if the list appears to be correct and to correspond with the passes delivered and with the emigrants embarked, the master shall sign the four copies of the list.

(*5*) The master shall not permit any emigrant to remain on board who has not delivered up his pass to the master, or is not mentioned in the list.

Disposal of the two copies of list to be given by master to Protector.

67. (*1*) When the copies of the list have been signed, the master shall give two of the copies to the Protector of Emigrants, who shall sign them if he believes them to be correct.

(*2*) The Protector shall send one of the copies so signed by him by the vessel which carries the emigrants to such officer as may be appointed in this behalf by the Government of the country to which the emigrants have agreed to emigrate, or, in the case of a foreign colony, to the British Consular Agent, and shall file the other copy in his own office.

Disposal of the two copies of list to be given by master to Emigration Agent.

68. (*1*) The master shall give to the Emigration Agent the two remaining copies of the list.

(*2*) The Emigration Agent shall thereupon sign the copies, and shall return one of them to the master.

(*3*) The master shall, on the arrival of the vessel at the country to which the emigrants have agreed to emigrate, and before their disembarkation, deliver the copy so returned to him to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

Examination of emigrants by Medical Inspector.

69. (*1*) The Medical Inspector shall be present at the embarkation of all emigrants, and shall examine each emigrant to ascertain if he is in a fit state of health to undertake the voyage to the country to which he has agreed to emigrate; and, if he finds that he is not fit to undertake the voyage, he shall inform the Protector accordingly.

(*2*) The Protector may thereupon refuse to permit the emigrant to embark; and any emigrant, registered as a dependent of an emigrant whom the Protector has refused to permit to embark, or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian, or ward of the emigrant, may, notwithstanding anything in this Act, refuse to embark.

(*3*) The provisions of sections fifty, fifty-one and fifty-three shall apply to emigrants who under this section are not permitted to embark, and to any emigrants who under this section refuse to embark, and to the recovery of expenses incurred under this Act in respect of them.

Emigration Agent to deliver agreements to emigrate to master.

70. The Emigration Agent shall, after all the emigrants have embarked, deliver to the master all the agreements made by the Emigration Agent or under his authority with the emigrants, and delivered or sent to him under this Act; and the master shall, on arrival at the country to which the emigrants are to be conveyed, deliver these agreements to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

Certificates from Protector of Emigrants and Emigration Agent.

71. Before any emigrant-vessel clears out of any port, the master of the vessel shall obtain from the Protector of Emigrants at the port, and from the Emigration Agent for the country to which the emigrants are to be conveyed, certificates, signed by the Protector and Emigration Agent, respectively, to the effect that the Protector and Agent have, in respect of all the emigrants embarking at that part in the vessel, done all that is required by the foregoing provisions of this Act, or by the rules made under this Act, to be done on the part of the Protector and Agent, respectively, and that all the directions for the security, well-being and protection of emigrants which are contained in this Act, or in the rules made under this Act, have in the case of that vessel been complied with.

Copies of Act and rules to be kept on board.

72. The master of every emigrant-vessel shall keep on board the vessel during the whole voyage two copies of this Act and of all rules made under this Act, and two copies of a translation of this Act, and of those rules, in such language or languages as the Local Government directs, and shall, on request made at any reasonable time, produce one of those copies to any emigrant for his perusal.

Fee for each embarked emigrant.

73. For each emigrant who embarks on board an emigrant-vessel the Emigration Agent shall pay to the Protector of Emigrants a fee of such amount as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes:

Provided as follows:—

(*a*) the fee payable under this section shall not be more than is, in the opinion of the Governor General in Council, sufficient to raise the total income from fees under this Act to an amount which will cover the cost of any establishment or supervision which the Governor General in Council thinks necessary to provide for the control of emigration:

(*b*) if it appears to the Governor General in Council expedient to provide, in the case of any country, any special establishment or

Indian Emigration Act, 1883.
(Chapter XI.—Rules.)

expenditure for the protection of Indian emigrants to that country, the Governor General in Council may increase the fee payable in the case of emigrants to that country to an amount sufficient, in his opinion, to cover the cost of the special establishment or expenditure.

74. It shall be the duty of every master licensed under this Act to see that all the provisions of this Act and the rules made under this Act are observed on board his vessel during the voyage from British India to the country to which the emigrants are to be conveyed.

Duty of master to see to observance of Act and rules on board his vessel.

75. The master shall return his pass to each emigrant before he disembarks in the country to which he has agreed to emigrate.

Return of pass to emigrant.

Special Provisions as to Vessels sailing from Calcutta.

76. The master of every vessel carrying emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the emigrants as have first embarked.

Emigrant-vessel sailing from Calcutta to depart within 24 hours of embarkation.

77. Every sailing-vessel leaving the port of Calcutta with emigrants shall proceed from Garden Reach to sea under tow of a steamer declared to be competent by such officer as the Local Government appoints in this behalf.

Emigrant-vessel sailing from Calcutta to be towed to sea.

78. (*1*) When an emigrant-vessel leaves the port of Calcutta, if during her passage down the river, and while between Garden Reach and Diamond Harbour, the disease of measles, scarlet-fever or small-pox appears on board, the master shall, if so required by the surgeon in charge of the emigrants, send to the hospital at Diamond Harbour all emigrants suffering from the disease, with any emigrants registered as their dependents, and any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of any such emigrant and who wishes to accompany him or her, and shall at once inform the Protector of Emigrants at Calcutta of the number and names of the emigrants so sent to hospital.

Power of surgeon of emigrant-vessel leaving Calcutta to require sick emigrants to be sent to hospital.

(*2*) The provisions of sections fifty, fifty-one and fifty-three shall, so far as may be, apply to emigrants landed under this section, and to the recovery of expenses incurred in respect of them.

79. (*1*) In the event of cholera in an epidemic form appearing among the emigrants on board any such vessel carrying emigrants from the port of Calcutta, the surgeon in charge of the emigrants may require the master to land all the emigrants on board the vessel at Diamond Harbour.

Power of surgeon of emigrant-vessel leaving Calcutta to require all emigrants to be landed when cholera appears.

(*2*) The master shall at once comply with the request of the surgeon, and shall immediately give notice of his having done so to the Protector of Emigrants at Calcutta, who shall take such action thereon as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

CHAPTER XI.

RULES.

Power for Governor General in Council to make rules.

80. (*1*) The Governor General in Council may, from time to time, make rules consistent with this Act—

(*a*) to provide for the supervision and regulation of places of accommodation provided under this Act, and to define the classes of Magistrates and the officers of Police to be authorized to visit and inspect those places;

(*b*) to prescribe the form of the register required under this Act, and the particulars to be entered therein, and to regulate the control to be exercised over Registering Officers by the District Magistrate or officer (if any) appointed in this behalf under this Act;

(*c*) to prescribe the forms of the agreements to be made under this Act, and the particulars to be contained therein and the language or languages in which agreements must be expressed;

(*d*) to prescribe the conditions on which licenses for the establishment of depôts under this Act may be given, to provide for the supervision and regulation of depôts, and for the medical care of the emigrants during their residence there, and the measures to be taken on the outbreak of any epidemic or infectious disease there;

(*e*) to prescribe the forms to be supplied by Emigration Agents and recruiters for the purposes of this Act;

(*f*) to prescribe the particulars which the owner or master of a vessel applying for a license to carry emigrants in his vessel must state;

(*g*) to regulate the proportion of women to be ordinarily carried in any emigrant-vessel with male emigrants, and to prescribe the arrangements to be made for the separation of women (married or single) and children from the other emigrants on board an emigrant-vessel;

(*h*) to prescribe the description, quantity and quality of provisions, fuel and water to be taken by emigrant-vessels, the daily allowance of food and water to be issued, and the nature and amount of clothing to be supplied to each emigrant during the voyage;

(*i*) to fix the number of the compounders, interpreters and attendants subordinate to the surgeon to be carried for the care of the sick or weakly on board each emigrant-vessel;

Indian Emigration Act, 1883.
(Chapter XII.—Offences.)

(*j*) to prescribe the nature, quantity and quality of medicines and other stores to be carried on board emigrant-vessels;

(*k*) to provide for the ventilation and cleanliness of every emigrant-vessel during a voyage, and for its being furnished with a sufficient number of life-buoys, boats, water-buckets and other appliances to be used in case of shipwreck or fire;

(*l*) to prescribe the seasons at which alone emigrant-vessels or specified classes of emigrant-vessels may sail from any port in British India to any country west of the Cape of Good Hope to which emigration is for the time being lawful;

(*m*) to provide for the disposal of emigrants who may be landed under section seventy-nine;

(*n*) to provide for the medical care of the emigrants on the voyage, and to provide for the measures to be taken on the outbreak of any epidemic or infectious disease on a voyage;

(*o*) to provide for a journal being kept by the surgeon of every emigrant-vessel, recording the health of the emigrants, and his treatment of the sick, with full explanation of the causes of every death; and to define the duties and powers of the surgeon in respect of the emigrants committed to his care;

(*p*) to define and regulate the powers and duties of the several officers appointed by the Government under this Act; and

(*q*) generally to provide for the security, well-being and protection of emigrants:

Provided that the Local Government may, in special cases, notwithstanding anything contained in rules made under clause (*g*) of this section, permit an emigrant-vessel to sail though it does not carry the proportion of women required to be carried in ordinary cases.

(*2*) The power to make rules conferred by this section may be exercised at any time after the passing of this Act, but any rule made under this section shall not take effect until the Act comes into force.

81. (*1*) The Governor General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

Publication of drafts and rules.

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

(*3*) The Governor General in Council 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.

(*4*) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

CHAPTER XII.

OFFENCES.

82. (*1*) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—

Unlawful recruiting.

(*a*) makes, or attempts to make, any agreement with any Native of India purporting to bind him to emigrate, or

(*b*) in consideration of any hire or reward, induces, or attempts to induce, any Native of India to leave any place for the purpose of emigrating, or otherwise acts or is employed as a recruiter of emigrants, or

(*c*) in consideration of any hire or reward, receives into or detains in any place, or, being a recruiter, in any place other than a place in which accommodation has been provided in accordance with this Act or the rules made under this Act, any person with a view to his being registered as an emigrant, or after his registration as an emigrant and before his departure for the depôt at the port of embarkation,

shall be punished with fine which may extend to five hundred rupees.

(*2*) If any person, other than a recruiter licensed under this Act, commits an offence under this section, any Police-officer may arrest him without warrant.

83. Whoever, being a recruiter licensed under this Act,—

Recruiters removing unregistered emigrants to depôt.

(*a*) removes, or attempts to remove, any intending emigrant to a depôt before he has been registered under this Act as an emigrant, or induces, or attempts to induce, him to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned before he has been so registered, or aids, or attempts to aid, him in leaving any such local limits or going to any depôt before he has been so registered, or

(*b*) fails to give a true copy of the statement with which he is provided under section twenty-six to any person whom he invites to emigrate, or

(*c*) fails to provide any emigrant whom he has engaged, and who has been registered at a place beyond the limits of the port of embarkation, with suitable lodging and food, or otherwise ill-treats any emigrant on his journey to the depôt,

shall be punished with fine which may extend to five hundred rupees.

84. (*1*) Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any Native of India

Fraudulently inducing Native to emigrate.

to emigrate, or to enter into any agreement to emigrate, or to leave any place with a view to emigrating, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

False representation of Government authority.

85. Whoever, without lawful authority, issues any written order to the Police to assist himself or any other person to procure emigrants, or falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government, 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.

Receiving emigrants on board vessel in contravention of Act.

86. If any master of a vessel—

(*a*) knowingly receives on board his vessel any emigrant who has not complied with the provisions of this Act, or the rules made under this Act, so far as they are binding on him, or

(*b*) not being licensed under this Act, knowingly receives any emigrant on board his vessel, or

(*c*) being licensed under this Act, knowingly receives on board his vessel any emigrant in excess of the number specified in his license,

he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees for each emigrant so received, or with both; and the vessel, her tackle, apparel and furniture, may be declared by the Court before which the master is tried to be forfeited to Her Majesty.

Fraudulent acts on part of master.

87. If any master licensed under this Act fraudulently does, or suffers to be done, any act or thing whereby the license becomes inapplicable to the altered state of the vessel or other matter to which the license relates, he shall be punished with fine which may extend to five thousand rupees;

and he may also be sued on any bond which he may have executed under section sixty-two.

Clearance without compliance with Act.

88. If any master of an emigrant-vessel clears, or attempts to clear, his vessel outwards when any of the provisions of section fifty-seven, fifty-nine or sixty have not been complied with in respect of his vessel, he shall be punished with fine which may extend to four thousand rupees.

Failure of master to comply with provisions as to lists and passes.

89. If any master receives on board his vessel any emigrants and fails to comply with the requirements of sections sixty-six, sixty-seven and sixty-eight in respect of those emigrants, he shall be punished with fine which may extend to two hundred rupees for each emigrant so received on board.

Master taking on board, after clearance, emigrants not entered in list.

90. If any master, having cleared his vessel, takes on board any emigrant not entered in the list mentioned in section sixty-six or not furnished with a pass required by that section, he shall be punished with fine which may extend to two hundred rupees for each emigrant so taken.

Master landing emigrant at other than specified country.

91. If any master lands any emigrant in any country other than the country for which he has been shipped by the Emigration Agent, he shall be punished for every emigrant so landed with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both, unless the landing has been caused by stress of weather or unavoidable accident, or has taken place under the provisions of section seventy-eight or seventy-nine.

Failure to comply with provisions as to leaving Calcutta.

92. If any master of a sailing-vessel leaving the port of Calcutta with emigrants on board—

(*a*) does not leave Garden Reach with his vessel within the time prescribed in section seventy-six, or

(*b*) without reasonable excuse, causes or allows his vessel to go below Garden Reach without being in tow of such a steamer as is referred to in section seventy-seven,

he shall be punished with fine which may extend to one thousand rupees.

Emigrant deserting or refusing to proceed to depôt.

93. (*1*) If any emigrant deserts before arrival at depôt, or refuses without reasonable cause to proceed to the depôt, he shall be punished with fine which may extend to twenty rupees, or to the cost incurred in entering into an agreement with, registering and conveying him to the depôt, whichever is greater, and, in default of payment of the fine, with imprisonment which may extend to one month.

(*2*) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

Emigrant deserting from depôt or failing to embark.

94. (*1*) If any emigrant—

(*a*) deserts from the depôt, or

(*b*) without reasonable cause, refuses or neglects to embark when called upon to do so by the Emigration Agent,

he shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or to double the amount of the cost incurred in entering into an agreement with, registering and conveying him to the depôt, and maintaining him therein, or with both.

(*2*) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

Causing, or permitting, embarkation of emigrant in contravention of section 63.

95. If any person causes, or if any master knowingly permits, any emigrant to embark contrary to the provisions of section sixty-three, he shall be punished with fine which may extend to two hundred rupees for each emigrant so embarked.

Institution of prosecutions.

96. (*1*) Prosecutions under sections eighty-six to ninety-five (both inclusive) shall not be instituted except as follows, namely:—

(*a*) Prosecutions under sections eighty-six to ninety-two, both inclusive, by the Emigration Agent, or by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.

(*b*) Prosecutions under section ninety-three, by or with the sanction of a Magistrate or Registering Officer or of the Protector of Emigrants at the port of embarkation.

(*c*) Prosecutions under section ninety-four, by the Emigration Agent with the sanction of the Protector.

(*d*) Prosecutions under section ninety-five, by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.

Defence to charges of desertion.

97. The following shall be good defences to charges under section ninety-three and ninety-four, respectively, namely:—

(*a*) to a charge under section ninety-three, that the accused person or other emigrants accompanying him has or have been ill treated, deceived or defrauded by the recruiter or any person under his control;

(*b*) to a charge under section ninety four, that the emigrant has suffered any ill-treatment or neglect in the depôt or on the journey thither.

Power for Customs-officers to search and detain for purposes of Act.

98. All the powers for the time being conferred by law on officers of sea-customs with regard to the searching and detention of vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

CHAPTER XIII.

SUPPLEMENTAL.

Power for Local Government to appoint Magistrates for purposes of Act.

99. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform within a specified local area the functions of a Magistrate under this Act.

Suits against Emigration Agent for breach of duty.

100. (*1*) Whenever an Emigration Agent is chargeable with a breach of any duty to an emigrant arising from any agreement with the emigrant or imposed by this Act or the rules made under this Act, the Protector of Emigrants may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of compensation for the breach.

(*2*) In awarding compensation under this section, all sums ordered to be paid under section fifty or section fifty-two shall be taken into consideration.

Power for Governor General in Council to determine probable lengths of voyages for purposes of Act.

101. (*1*) The Governor General in Council may, from time to time, by notification in the *Gazette of India*, determine what shall be held to be, for the purposes of this Act, the probable length of the voyages by sailing-vessels and vessels using steam-power, respectively, from any port from which, to any country to which, emigration is for the time being lawful.

(*2*) Until otherwise determined under this section, the probable length of the voyage by sailing-vessels from the ports mentioned in the third schedule hereto annexed to the countries mentioned in that schedule shall be deemed to be the lengths stated in that schedule.

Emigration to Straits Settlements and adjoining Native States.

102. (*1*) The Governor General in Council may, by notification in the *Gazette of India*, extend the Straits Settlements Emigration Act, 1877, to the whole or any part of British India.

(*2*) The Governor General in Council may also, from time to time, by a like notification, declare that all or any of the protected Native States adjoining the Straits Settlements shall, for the purposes of any law relating to emigration to those settlements, form part of those settlements.

(*3*) On and from the date of any notification published under sub-section (*2*), a Native of India who departs by sea out of British India under an agreement to labour for hire in the Native State or States to which the notification refers shall not be deemed to emigrate within the meaning of this Act.

Application of Act to emigration from British ports to French and Dutch colonies.

103. The provisions of this Act shall apply to emigration from British Indian ports—

(*a*) to the French colonies, under the terms of the Convention executed at Paris on the first day of July, 1861, and ratified at the same place on the 30th day of July, 1861, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French; and

(*b*) to the Netherlands colony of Dutch Guiana, under the terms of the Convention

Indian Emigration Act, 1883.

(Schedule III.—Probable Lengths of Voyage under this Act.)

executed at the Hague on the 8th day of September, 1870, and ratified at the same place on the 17th day of February, 1872, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the King of the Netherlands:

Provided that, in any case in which there is any conflict between the provisions of this Act and those contained in either of those Conventions, the latter shall prevail.

Application of Act to proceedings in British India connected with emigration from French ports in India to French colonies.

104. The provisions of this Act shall, so far as they relate to proceedings which are to be conducted in British India, apply, in the case of Natives of India who depart by sea from a French port in India under an agreement to labour for hire in a French colony under the Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French referred to in the last foregoing section, as if such Natives were emigrants within the meaning of this Act:

Provided that, in any case in which there is any conflict between the provisions of this Act and those contained in that Convention, the latter shall prevail.

Prohibition of departure by land of a Native of India under an agreement to labour for hire in some country beyond the sea.

105. (*1*) The departure by land out of British India of a Native of India under a contract to labour for hire in some country beyond the sea other than the Island of Ceylon or the Straits Settlements is prohibited:

Provided that nothing in this section applies to the departure by land—

(*a*) of a domestic servant when accompanying his employer;

(*b*) of a Native of India, for the purpose of departing by sea from a French port in India under an agreement to labour for hire in a French colony in accordance with the Convention referred to in section one hundred and two.

(*2*) Whoever induces, or attempts to induce, any Native of India to depart by land out of British India in contravention of this section shall be deemed to have committed an offence under section eighty-two.

SCHEDULE I.

(*See Section 8.*)

COUNTRIES TO WHICH EMIGRATION IS LAWFUL.

I.—The British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji.

II.—The French Colonies of Martinique, Guadeloupe and its dependencies, and Guiana.

III.—The Netherlands Colony of Dutch Guiana.

IV.—The Danish Colony of St. Croix.

SCHEDULE II.

(*See Section 21.*)

FORM OF RECRUITER'S LICENSE.

OFFICE of the Protector of Emigrants at the Port of

A. B., described in the descriptive roll annexed, is hereby licensed under the Indian Emigration Act, 1883, to be a recruiter of emigrants for [*here state the country for which the recruiter is licensed to recruit*] in [*here specify the local area within which the recruiter is licensed to recruit*].

This license will be in force until the of , unless previously cancelled.

(*Signed*) *C. D.*,
Protector of Emigrants.

Dated the day of

Descriptive Roll.

Name.	Father's name.	Age. Years.	Age. Months.	Caste.	Colour.	Height. Feet.	Height. Inches.	Distinguishing marks.	Name of village, local sub-division (tahsil, taluk, &c.) and district to which he belongs.

SCHEDULE III.

(*See Section 101.*)

PROBABLE LENGTHS OF VOYAGE UNDER THIS ACT.

FROM CALCUTTA—

To Mauritius	From the month of April to the month of October, both inclusive, ten weeks; and from the month of November to the month of March, both inclusive, eight weeks.

Indian Emigration Act, 1883.

(Schedule III.—Probable Lengths of Voyage under this Act.)

To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	Twenty weeks.
To Natal	Twelve weeks.
To Fiji	Eighteen weeks.

FROM MADRAS—

To Mauritius	From the month of April to the month of October, both inclusive, seven weeks; and from the month of November to the month of March, both inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	Nineteen weeks.
To Natal	Ten weeks.
To Fiji	Seventeen weeks.

FROM BOMBAY—

To Mauritius	From the month of April to the month of September, both inclusive, five weeks; and from the month of October to the month of March, both inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	Nineteen weeks.
To Natal	Ten weeks.
To Fiji	Seventeen weeks.

D. FITZPATRICK,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 18th December, 1883, and is hereby promulgated for general information:—

ACT No. XXII OF 1883.

THE RANGOON TRAMWAYS ACT, 1883.

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SCHEDULE.

An Act to authorize the making, and to regulate the working, of Street Tramways in Rangoon.

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.

1. This Act may be called the Rangoon Tramways Act, 1883; and it shall come into force at once.

Short title.

Commencement.

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

Definitions.

"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 belong to a tramway:

"street" means the way of any street, road, thoroughfare, passage or place along or across which any tramway authorized by this Act is or is intended to be laid, and includes the surface-soil and sub-soil of any such street, and the foot-way and drains of any such street, and any bridge, culvert or causeway forming part of any such street.

B.—Powers of Grantee generally.

Powers 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:

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 and lay rails, &c.

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 or 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 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 direct, 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 turn-outs 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.

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:—

(*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 opened or broken up, 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 of 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.

Reservation of power of Committee and Government over streets.

7. (*1*) Nothing in this Act shall prevent the Committee or any Government officers 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 or officers aforesaid or the Secretary of State for India in Council 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 use of any power lawfully exercised in connection with the same.

D.—Rights over Tramways and Streets on which they are laid.

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:

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 or in the said agreement, the Grantee shall not acquire any right other than that of user over any street along or across which he lays any tramway.

Power of Committee and Government officers to regulate traffic on streets.

10. Nothing in this Act shall affect the powers of the Committee or of any Government officers 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 officers aforesaid 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.

Rates of fares and charges.

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.

Mode of payment of fares and charges.

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.

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 they 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 it to be opened to ascertain the fact.

F.—Offences and Penalties.

Penalty for failure of Grantee to comply with certain provisions of Act and agreement.

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.

Penalty for obstructing Grantee in the exercise of his powers.

15. Any person who without lawful excuse (the proof whereof shall lie on him) 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 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 anything in such a manner as to obstruct any carriage using any such tramway; or

(*c*) abets within the meaning of the Indian Penal Code the doing of anything mentioned in clause (*a*) or clause (*b*),—

shall be punished with fine which may extend to one hundred rupees.

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.

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.

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 are refused by him and are 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, in the opinion of the Committee, require.

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.

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.

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.

Provisions as to general Acts.

And whereas the agreement set forth in the schedule annexed to this Act was executed by the parties thereto under a belief that all the streets specified in the first article thereof as streets along which the construction of tramways was authorized were situate within the Municipality of Rangoon, and it now appears that some portion of those streets is not so situate; It is hereby enacted as follows:—

24. All streets specified in the first article of the said agreement as streets along which the construction of tramways is authorized shall, for the purposes of the agreement and of this Act, be deemed to be, and to have been, on and from the date of the agreement, situate within the limits of the Municipality of Rangoon.

Certain streets to be deemed within the Municipality.

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 WILLAM 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 convenants 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:— VII of 1874

1. The said Committee grant to the said Grantee and his heirs, executors, administrators and assigns, all which persons are hereinafter 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 authorized 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 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 the other 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 above mentioned 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.

D. FITZPATRICK,
Secretary to the Government of India.

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