

MADRAS RECORD OFFICE.

1888

REP-DEC

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The Gazette of India.

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CALCUTTA, SATURDAY, FEBRUARY 4, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 27th January, 1888, and was referred to a Select Committee on the 3rd February, 1888 :—

NO. 1 OF 1888.

A Bill to provide for the levy of a Customs-duty on Petroleum.

WHEREAS it is expedient to provide for the levy of a customs-duty on petroleum; It is hereby enacted as follows :—

1. To the second schedule to the Indian Tariff Act, 1882, the following shall be added, namely :—

Addition to Schedule II, Act XI, 1882.

XI of 1882.

No.	Names of Articles.	Per	Tariff valuation.	Rate of Duty.
5	Petroleum, including also the liquids commonly known by the names of rock-oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petrolinè, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal-schist, shale, peat or any other bituminous substance or from any products of petroleum	...	Ad valorem	5 per cent.

VIII of 1878. And whereas the provisos to section 37 of the Sea Customs Act, 1878, do not apply to goods to which a rate of duty is not already applicable; It is further enacted as follows:—

2. The rate of duty applicable to petroleum Commencement of of which the bill-of-entry effect of the addition to is delivered, within the the schedule. meaning of section 37 of the Sea Customs Act, 1878, to the Customs-collector under section 86 of that Act after the passing of this Act shall be the rate of duty specified in the second schedule to the Indian Tariff Act, 1882, as amended by this Act.

XI of 1882.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to impose an *ad valorem* customs-duty of five per centum on petroleum, of which thirty-two millions of gallons, of the value of over one hundred and twenty-five lakhs of rupees, were imported into British India during the year 1886-87.

The 27th January, 1888.

J. WESTLAND.

S. HARVEY JAMES,

Secretary to the Government of India



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CALCUTTA, SATURDAY, FEBRUARY 18, 1888.

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PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to consolidate and amend the Law relating to the Protection of Inventions and Designs was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th February, 1888:—

The undersigned, Members of the Select Committee to which the Bill to consoli-

- From Registrar, High Court, Calcutta, No. 277, dated 4th February, 1887 [Paper No. 1].
- From H. H. Remfry, Esq., Solicitor, Calcutta, dated 10th March, 1887 [Paper No. 2].
- From Secretary to Chief Commissioner, Coorg, No. 619-97, dated 8th April, 1887 [Paper No. 3].
- Report of the Committee of Fellows of the Institute of Patent Agents [Paper No. 4].
- From Secretary to Government, Punjab, No. 523, dated 16th May, 1887, and enclosures [Papers No. 5].
- From Officiating Secretary for Berar to Resident, Hyderabad, No. 184 G., dated 13th May, 1887, and enclosures [Papers No. 6].
- From Messrs. Thomson & Mylne, Beheea, dated 14th May, 1887, and enclosures [Papers No. 7].
- From Officiating Chief Commissioner, Ajmere-Merwara, No. 575, dated 20th May, 1887 [Paper No. 8].
- From Messrs. Cantwell & Co., Patent Agents, Calcutta, dated 3rd June, 1887 [Paper No. 9].
- Office Memorandum by Home Department, No. 742, dated 8th June, 1887, and enclosures [Papers No. 10].
- From Officiating Chief Commissioner, Ajmere-Merwara, No. 657, dated 10th June, 1887, and enclosure [Papers No. 11].
- From Chief Secretary to Government, Madras, No. 1140, dated 1st June, 1887, and enclosures [Papers No. 12].
- From Secretary to Government, North-Western Provinces and Oudh, No. 596-III-993, dated 10th June, 1887, and enclosures [Papers No. 13].
- From Secretary to Chief Commissioner, Assam, No. 1128, dated 18th June, 1887, and enclosures [Papers No. 14].
- From Secretary to Chief Commissioner, Burma, No. 675-7 L., dated 25th June, 1887, and enclosure [Papers No. 15].
- From Secretary to Government, Bengal, No. 28 T.-G., dated 30th June, 1887, and enclosures [Papers No. 16].
- From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3280-165, dated 2nd July, 1887 [Paper No. 17].
- Office Memorandum by Home Department, No. 989, dated 5th August, 1887, and enclosures [Papers No. 18].
- From Acting Chief Secretary to Government, Bombay, No. 2510, dated 25th August, 1887, and enclosures [Papers No. 19].
- From Messrs. DePenning & DePenning, Calcutta, dated 5th December, 1887 [Paper No. 20].
- Office Memorandum from Revenue and Agricultural Department, to Home Department, No. 662-48-5 A., dated 18th August, 1887, and enclosures [Papers No. 21].
- Office Memorandum from Home Department, No. 1707, dated 30th December, 1887, and enclosures [Papers No. 22].
- Office Memorandum from Home Department, No. 204, dated 30th January, 1888, and enclosures [Papers No. 23].
- Memorandum by J. T. Woodroffe, Esq., Barrister-at-law, Calcutta, dated 25th January, 1888 [Paper No. 24].

date and amend the law relating to the Protection of Inventions and Designs was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. Section 5.—We have added a clause to the effect that models are only to be called for in exceptional cases.

3. Section 6.—We have provided that a fee for an inquiry and report under this section is

not to be paid by an applicant unless the inquiry and report are made by a person who is not in the service of the Government. In proposing this provision we have been guided by the opinions expressed in the papers which we have considered, and, in particular, by the Resolution of the Government of India in the Home Department, No. 10—1101, dated the 21st July, 1875.

4. *Section 9.*—In re-drafting this section respecting the form and contents of specifications we have had regard to the Rules of Practice in the United States Patent Office as revised last year.

5. *Section 11.*—We have required copies of specifications to be sent to the Chief Commissioner of Burma as well as to the Governments of Madras and Bombay.

6. *Section 15.*—We have expressly provided that the High Court may, if it sees fit, invite objections to the extension of an exclusive privilege.

7. *Section 20.*—We have provided that when an inventor has, in any country other than British India or the United Kingdom, acquired an exclusive privilege in respect of an invention, he must, if he desires to acquire such a privilege in British India, apply for leave to file a specification of the invention within one year from the date of his having acquired the exclusive privilege in the other country.

8. *Section 28.*—We have also provided that, if an exclusive privilege acquired in respect of an invention in British India has been acquired in any other country and is revoked or expires as regards that country, it is to cease as regards British India also.

9. *Section 38.*—We have proposed to extend the period within which, in case of fraud on an actual inventor, a suit may be instituted by him for the assertion of his title to an exclusive privilege in respect of his invention, and to require the Court in assessing damages in such a suit to have regard to the degree of diligence which the inventor has exerted in the prosecution of his claim.

10. *Section 44.*—This section follows section 36 of 46 & 47 Vic., cap. 57, and provides for the assignment of an exclusive privilege for any particular place.

11. *Sections 45 and 47.*—We have here amplified the provisions of the Bill respecting the performance of acts by agents.

12. *Sections 51 and 61 and Fifth Schedule.*—We have added to the Schedules a form of an application for an order for the registration of a design, and have provided for copies of drawings, photographs or tracings of designs being sent for record to Madras, Bombay and Rangoon.

13. *Second and Third Schedules.*—We have proposed to vary the form, though not the substance, of these Schedules.

14. *Fourth Schedule.*—We have proposed that an exclusive privilege be enjoyed on a payment of Rs. 40 for the first four years, of Rs. 50 annually for the next five years, and of Rs. 100 annually for every subsequent year of the continuance of the privilege.

15. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	Date.
Gazette of India	8th, 15th and 22nd January, 1887.
Fort Saint George Gazette	25th January, 1887.
Bombay Government Gazette	13th January, 1887.
Calcutta Gazette	12th January, 1887.
North-Western Provinces and Oudh Government Gazette	15th January, 1887.
Punjab Government Gazette	20th January, 1887.
Central Provinces Gazette	15th January, 1887.
Burma Gazette	29th January, 1887.
Assam Gazette	29th January, 1887.
Coorg District Gazette	1st February, 1887.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Maráthi	2nd June, 1887.
	Gujaráthi	2nd June, 1887.
	Kanarese	2nd June, 1887.
Bengal	Bengali	26th April, 1887.
	Hindi	14th June, 1887.
North-Western Provinces and Oudh	Urdu	30th July, 1887.
Assam	Bengali	14th May, 1887.

16. We do not consider that the Bill has been so amended as to require re-publication, and we recommend that it be passed as amended by us.

ANDREW R. SCOBLE.
C. U. AITCHISON.
C. A. ELLIOTT.
PEÁRI MOHAN MUKERJI.
ROBERT STEEL.

The 17th February, 1888.

No. II. THE INVENTIONS AND DESIGNS BILL, 1887.

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*The Inventions and Designs Bill.**(Part I.—Inventions.—Section 1-5.)***No. II.**

A Bill to Consolidate and amend the law relating to the Protection of Inventions and Designs.

WHEREAS it is expedient to consolidate and amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:—

1. (1) This Act may be called the Inventions and Designs Act, 1888.

Title, extent and commencement. (2) It shall extend to the whole of British India; and

(3) It shall come into force on the first day of July, 1888.

2. (1) The enactments described in the first schedule are hereby repealed to the extent specified in the third column thereof.

(2) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

3. The remainder of this Act is divided into Parts, as follows:—

PART I.—INVENTIONS.**PART II.—DESIGNS.****PART I.****INVENTIONS.**

4. In this Part, unless there is something repugnant in the subject or context,—

(1) "invention" includes an improvement:

(2) "inventor" does not include the importer into British India of a new invention unless he is the actual inventor:

(3) "applicant" means a person who has applied under this Part for leave to file a specification of an invention, whether he has filed the specification or not:

(4) "assign" includes a grantee of the exclusive privilege of making, selling or using an invention, or of authorising others so to do, during the term for which the privilege is to

continue or may be extended, or for any shorter term:

(5) "inventor", "actual inventor" and "applicant" include the executors, administrators or assigns of an inventor, actual inventor and applicant, as the case may be:

(6) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture:

(7) "write" includes print, lithograph, photograph, engrave, and every other mode in which words or figures can be expressed on paper or on any substance:

(8) "Secretary" means a Secretary to the Government of India appointed by the Governor General in Council to discharge the functions of the Secretary under this Act, and includes any under-secretary, assistant-secretary or other officer subordinate to the Government of India to the extent to which such officer may be authorised by general or special order of the Governor General in Council to discharge any of those functions:

(9) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure: and

(10) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure, 1882, in reference to proceedings against European British subjects.

5. (1) The inventor of a new manufacture, whether he is a British subject or not, may apply to the Governor General in Council for leave to file a specification thereof.

(2) The application must be in writing signed by the applicant and in the form or to the effect of the second schedule if the inventor has not obtained a patent in the United Kingdom, and in the form or to the effect of the third schedule if he has obtained a patent in the United Kingdom.

(3) It must state the name, occupation and address of the applicant, and, where a patent has been obtained in the United Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention, and of the particular novelty whereof it consists, and be supplemented by such further particulars relating to the invention, and by such drawings or photographs illustrative thereof, as the Governor General in Council may see fit to require from the applicant.

(4) If in any case it appears to the Governor General in Council that an application ought to be further supplemented by a model of anything alleged to constitute an invention, he may

*The Inventions and Designs Bill.**(Part I.—Inventions.—Sections 6-9.)*

require the applicant to furnish such a model neatly and substantially made of durable material and of dimensions not exceeding those, if any, specified in the requisition therefor.

6. (1) Upon an application under the last Order to file specification foregoing section the Governor General in Council may, after such inquiry as he thinks fit, make an order authorising the applicant to file a specification of the invention.

(2) Before making an order under sub-section (1), the Governor General in Council may direct that the application be referred for inquiry and report to any person whom he thinks fit.

(3) When such enquiry and report are made by a person who is not in the service of the Government, there shall be payable to that person by the applicant such fee as the Governor General in Council, after considering the report, may determine.

(4) When an application is to be referred to such a person, the applicant shall deposit, in such place and within such time as the Governor General in Council may by rule or otherwise prescribe, such sum as will, in the opinion of the Secretary, be sufficient to defray any fee which is likely to be determined under sub-section (3).

(5) If the sum is not deposited in the place and within the time prescribed, the application may be rejected.

(6) If the fee as determined by the Governor General in Council exceeds the sum so deposited, an order shall not be made under sub-section (1) until the applicant has paid the balance of the fee.

(7) If the sum deposited exceeds the fee so determined, the excess shall be refunded to the applicant.

7. (1) If two or more inventors apply on the same day for leave to file specifications of inventions which appear to the Governor General in Council to be identical or so similar as to be practically identical, the Governor General in Council may, in his discretion, authorise both or all the applicants, subject to the other provisions of this Part, to file specifications of their respective inventions.

(2) If they apply on different days for leave to file specifications of such inventions as aforesaid, the applicant who applied on the first of the different days shall be deemed to have a preferential claim to an order authorising the filing of his specification.

8. (1) If within six months from the date of an order under section 6, sub-section (1), or within such further time, not exceeding three months, as the Governor General in Council, in his discretion, may, on cause shown to his satisfaction and on payment of the fee prescribed in that behalf in the fourth schedule, see fit to allow, the applicant causes a specification of his invention to be filed in manner by this Part required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the applicant shall, subject to the other provisions of this Part, be entitled to the exclusive privilege of making, selling and using the invention in British India, and of authorising others so to do, for a term of fourteen years from the date of the filing of the specification.

(2) But an exclusive privilege in respect of an invention of a new manufacture shall, notwithstanding anything in sub-section (1), cease if the inventor fails to pay, within the time limited in that behalf by the fourth schedule, any fee prescribed in that schedule in respect of the continuance of the privilege.

(3) If, nevertheless, in any case, by accident, mistake or inadvertence, an inventor fails to pay any such fee within the time so limited, he may apply to the Governor General in Council for an enlargement of the time for making the payment.

(4) Thereupon the Governor General in Council may enlarge the time accordingly, on payment of the fee prescribed in that behalf in the fourth schedule, and subject to the following conditions, namely:—

(a) the time for making a payment shall not in any case be enlarged for more than three months; and,

(b) if any suit is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof and before the enlargement of that time, the Court disposing of the suit may, if it thinks fit, refuse to award or give any damages in respect of the infringement.

9. (1) A specification filed under this Part Form and contents must be in writing signed by the applicant, and must set forth the precise invention in respect of which the applicant claims to become entitled to an exclusive privilege.

(2) If the specification is of an invention which is an improvement only, it must by explicit language distinguish between what is old and what is claimed to be new.

*The Inventions and Designs Bill.**(Part I.—Inventions.—Sections 10-15)*

(3) Every specification must explain the principle of the invention set forth therein and the best mode in which the applicant has contemplated applying that principle, and must describe the manner of making and using the invention in such full, clear, concise and exact terms as to enable any person skilled in the art or science to which the invention appertains, or with which it is most closely connected, to make or use the same.

10. Every application for leave to file a specification, and every specification filed under this Part, must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office.

11. (1) At the time of delivering or sending the specification for the purpose of its being filed, the applicant shall cause to be delivered or sent therewith to the Secretary as many copies thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(2) One of these copies shall be retained by the Secretary, and one shall be sent to the Governor of Fort St. George in Council, one to the Governor of Bombay in Council, one to the Chief Commissioner of Burma, and the others, if any, to such authorities as the Governor General in Council may appoint in this behalf.

(3) The copies of the specification which are sent under sub-section (2) to the authorities mentioned or referred to in that sub-section shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities.

12. (1) A book, to be called the register of inventions, shall be kept in the office of the Secretary wherein shall be entered and recorded every application for leave to file a specification, every order made on any such application, every specification filed in pursuance thereof, and every subsequent proceeding relating to the invention described therein.

(2) Applications for leave to file a specification shall be numbered consecutively in the order in which they are delivered or received, and be dated as of the day of their delivery or receipt, and shall be entered in the register of inventions in the order of their respective numbers.

(3) A reference shall be made in that register, in the margin of the entry of each application, to every order on or in respect of the application, to the specification, if any, filed in pursuance thereof, and to every subsequent proceeding relating to the invention which forms the subject of the application.

13. (1) Another book, to be called the address-book, shall be kept in the office of the Secretary wherein any person filing a specification under this Part, or any person in whom an exclusive privilege acquired under this Part, or any share or interest therein, may become vested, may from time to time cause to be stated some place in British India where notice of any rule or proceeding relating to the exclusive privilege may be served on him.

(2) A reference to each entry in the address-book shall be made in the register of inventions in the margin of the entry in that register of the application for leave to file the specification.

14. (1) Every entry in the register of inventions or address-book, and every document entered and recorded in the register, shall, for the purposes of the law of evidence for the time being in force, be deemed to be a public document and shall be open to the inspection of any person at all reasonable times at the office of the Secretary.

(2) The books kept under section 11 and section 35 of Act No. XV of 1859 (*an Act for granting exclusive Privileges to Inventors*) shall be deemed to be parts of the register of inventions and address-book respectively.

15. (1) The inventor of a new manufacture may, at any time not more than one year and not less than six months before the time limited for the expiration of an exclusive privilege acquired under section 8, apply to the Governor General in Council for an extension of the privilege for a further term.

(2) When an application is made under sub-section (1), the Governor General in Council may, if he thinks fit, refer it to a High Court for report.

(3) The Court to which the application is referred shall, in making its report, have regard to the nature and merits of the invention in relation to the public, to the profits made by the inventor as such, and to all the circumstances of the case.

(4) The procedure on the reference shall be such as the Court thinks fit, and may include the issue of citations calling upon persons claiming to have any interest in the reference to appear before the Court on the day on which the reference is to be considered, or on any day to which the consideration thereof may be adjourned, and make with respect thereto any representation which they may see fit in relation to any of the matters to which the Court is required by the last foregoing sub-section to have regard in making its report.

(5) If the Governor General in Council is of opinion, or, where a reference has been made under sub-section (2), if the Court reports, that the inventor has been inadequately remunerated

*The Inventions and Designs Bill.**(Part I.—Inventions.—Sections 16-21.)*

by his exclusive privilege, the Governor General in Council may, on payment of the fee prescribed in that behalf in the fourth schedule, make an order extending the term of the privilege for a further term not exceeding seven or, in exceptional cases, fourteen years from the expiration of the first term of fourteen years.

(6) But an exclusive privilege of which the term has been extended under the last foregoing sub-section shall, notwithstanding anything in that sub-section, cease if the inventor fails to pay before the expiration of each year of such extended term the fee prescribed in the schedule aforesaid in respect of the continuance of the privilege.

16. An order under section 6, sub-section (1), authorizing the filing of a specification, or under section 15, sub-section (5), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor General in Council thinks expedient.

17. (1) Subject to any conditions imposed under the last foregoing section—

(a) with respect to the filing, by a person employed in the service of Her Majesty in India, of the specification of a manufacture invented by him in the course of his employment, or

(b) with respect to the extension, in favour of any person, of the term of an exclusive privilege,

an exclusive privilege acquired under this Part shall have to all intents the like effect as against Her Majesty as it has against a subject.

(2) But the officers or authorities administering any department of the service of Her Majesty may, by themselves, their agents, contractors or others, at any time after the delivery or receipt of the application for leave to file the specification of an invention, use the invention for the services of the Government on terms to be before or after the use thereof agreed on, with the approval of the Governor General in Council, between those officers or authorities and the inventor, or, in default of such agreement, on such terms as may be settled by the Governor General in Council.

18. (1) If, after the filing of the specification, the applicant has reason to believe that through mis-application for leave to file memorandum or amended specification. take or inadvertence he has erroneously made any mis-statement in his application or specification or included therein something which at the date of the delivery or receipt of his application was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, he may apply to the Governor General in Council for leave to file a memorandum point-

ing out the mis-statement or disclaiming any part of the alleged invention, or for leave to file an amended specification, as the case may be.

(2) The application must be in writing signed by the applicant, and must state how the error, defect or insufficiency occurred and that it was not fraudulently intended.

(3) Upon the application the Governor General in Council may make an order allowing the memorandum or amended specification to be filed.

(4) The provisions of section 6 with respect to applications, and of sections 9 and 11 with respect to specifications and copies thereof, shall apply, so far as they can be made applicable, to applications and to amended specifications, respectively, made and filed under this section.

19. An amended specification filed under the last foregoing section shall, except as to any suit or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed:

Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

20. A person shall not be entitled to an exclusive privilege under this Part—

(a) if the invention is of no utility, or
(b) if the invention, at the date of the delivery or receipt of the application for leave to file the specification thereof, was not a new invention within the meaning of this Part, or

(c) if the applicant is not the inventor thereof, or

(d) if the original or any amended specification does not fulfil the requirements of this Part, or

(e) if the original or any subsequent application relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement, or

(f) if the application for leave to file the specification of the invention was made under this Part after the expiration of one year from the date of the acquisition of an exclusive privilege in respect of the invention in any place beyond the limits of British India and the United Kingdom.

21. An invention shall be deemed a new invention within the meaning of this Part if it has not before the date of the delivery or receipt of the application for leave to file the

Novelty of invention dependent on public use or knowledge thereof before application to file specification.

*The Inventions and Designs Bill.**(Part I.—Inventions.—Sections 22-29.)*

specification thereof been publicly used in any part of British India or of the United Kingdom, or been made publicly known in any part of British India or of the United Kingdom by means of a written publication.

22. The public use or knowledge of an invention before the date of the delivery or receipt of the application for leave to file a specification thereof shall not be deemed a public use or knowledge within the meaning of this Part if the knowledge has been obtained surreptitiously or in fraud of the inventor or has been communicated to the public in fraud of the inventor or in breach of confidence:

Provided that the inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for leave to file a specification.

23. Use of an invention in public by the inventor thereof, or by his servant or agent, or by any other person by his license in writing, for a period not exceeding one year immediately preceding the date of the delivery or receipt of his application for leave to file a specification thereof, or knowledge of the invention resulting from such use thereof in public, shall not be deemed a public use or knowledge within the meaning of this Part.

24. If an inventor who has obtained a patent for his invention in the United Kingdom causes an application for leave to file a specification of the invention under this Part to be delivered or received by the Secretary within twelve months from the date of the actual sealing of the patent, the invention shall be deemed a new invention within the meaning of this Part if it was not publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have been publicly used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification.

25. If an inventor applies for leave to file a specification under this Part while his application for a patent is pending in the United Kingdom, and the interval between the date of his application for the patent and the date of the delivery or receipt of his application under this Part does not exceed twelve months, the invention shall not be deemed to have been publicly used, or made publicly known, within

the meaning of this Part, by reason only of the invention having been used, or a description thereof having been published, in any part of British India or of the United Kingdom during the interval.

26. If an inventor, being the exhibitor of his invention at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for leave to file a specification of the invention to be delivered to or received by the Secretary within six months from the date of the admission of the invention into that exhibition, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having at any time after admission into the exhibition been publicly used or made publicly known.

27. (1) An exclusive privilege acquired under this Part shall cease if the Governor General in Council declares the privilege, or the mode in which it is exercised, to be mischievous to the State, or generally prejudicial to the public.

(2) It shall also cease if a breach of any condition on which the applicant was authorised to file a specification, or on which the term of the exclusive privilege was extended, is on an application under this Part to a High Court proved to the satisfaction of that Court, and if the Governor General in Council thereupon declares the privilege to have ceased.

28. (1) An exclusive privilege acquired under this Part in respect of an invention for which a patent has been obtained in the United Kingdom shall cease on the revocation or expiration of the patent.

(2) Such a privilege in respect of an invention for which a patent has not been obtained in the United Kingdom shall cease on the revocation or expiration of any patent or exclusive privilege which has been obtained or acquired for or in respect of the invention in any other country.

29. (1) An inventor may institute a suit in the District Court against any person who, during the continuance of an exclusive privilege acquired by him under this Part in respect of an invention, makes, sells or uses the invention without his license, or counterfeits or imitates it.

(2) The suit shall not be defended upon the ground of any defect or insufficiency of the specification of the invention, or upon the ground that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a

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wilful or fraudulent mis-statement, or upon the ground that the invention is of no utility:

(3) Nor shall it be defended upon the ground that the plaintiff was not the inventor, unless the defendant shows that he himself is the actual inventor or has obtained from the actual inventor a right to make, sell or use the invention, or to counterfeit or imitate it, as the case may be:

(4) Nor shall it be defended upon the ground that the invention was not new, unless the defendant, or some person through whom he claims, has, before the date of the delivery or receipt of the application for leave to file the specification, publicly or actually used in some part of British India or of the United Kingdom the invention or that part of it with respect to which the exclusive privilege is alleged to have been infringed.

30. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention to be specified in the rule has not been acquired under this Part by reason of all or any of the objections following (to be specified in the rule), that is to say:—

- (a) that the invention is of no utility, or
- (b) that the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor thereof, or
- (d) that the original or any amended specification does not fulfil the requirements of this Part, or
- (e) that the applicant has knowingly or fraudulently included in the application for leave to file the specification or in the original or any amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or
- (f) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or
- (g) that some part of the invention, or the manner in which that part is to be made and used, as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent and is injurious to the public.

31. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive pri-

vilage in respect of any part of an invention to be specified in the rule has not been acquired under this Part, by reason of all or any of the objections following (to be specified in the rule), that is to say:—

- (a) that that part of the invention is wholly distinct from the other parts thereof and is of no utility, or
- (b) that that part of the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor of that part of the invention, or
- (d) that that part of the invention, or the manner in which it is to be made and used, is not sufficiently described in the original or any amended specification, and that this insufficiency is injurious to the public.

32. The High Court may, irrespective of any provisions of the Code of XIV of 1882. Security for costs of application under either of the two last foregoing sections. Civil Procedure in this behalf, require a person applying for a rule under either of the two last foregoing sections to give security for the payment of all costs incurred or likely to be incurred by any person appearing to show cause against the rule.

33. (1) Any person authorised by the Governor General in Council in this behalf may apply to a High Court for a rule to show cause why the question of the breach of any condition on which leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 27 may, in the judgment of the Governor General in Council, depend, should not be tried in the form of an issue directed by the Court.

(2) If the rule is made absolute, the Court, unless the breach or other matter of fact is admitted, may direct the issue to be tried and certify the result of the trial to the Governor General in Council.

34. (1) Notice of any rule obtained or proceeding taken under section 30, section 31 or section 33 shall be served on all persons appearing from the address-book to be proprietors of the exclusive privilege, or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address-book, by delivering the copy to any person resident at or in charge of the place or, if there

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is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the Court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

35. (1) The High Court may, if it thinks fit, direct an issue for the trial, before itself or any other Court, of any question of fact arising upon an application under section 30, section 31 or section 33, and the issue shall be tried accordingly.

(2) If the issue is directed to another Court, the finding shall be certified by that Court to the Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court, and the High Court may thereupon act upon the finding of the District Court, or dispose of the application upon the evidence recorded, or direct a new trial, as the justice of the case may require.

36. (1) If it appears to the High Court at the hearing of an application under section 30 or section 31 that, by reason of any of the objections specified in the rule, the exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall make an order accordingly, and thereupon the applicant shall, so long as the order continues in force, cease to be entitled to the exclusive privilege.

(2) If it appears to the High Court, at the hearing of any such application as last aforesaid, that the applicant has, in the description of his invention in the application for leave to file a specification thereof or in the original or any amended specification, erroneously included something which at the date of the delivery or receipt of the application for leave to file the specification was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect or insufficiency was not fraudulently intended, the Court may adjudge the exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect or insufficiency: or

(3) If it appears to the High Court that the error, defect or insufficiency can be amended without injury to the public, the Court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and may, upon such terms as it thinks reasonable, order the specification to be amended in any particular in which it is erroneous, defective or insufficient; and thereupon the applicant shall, within

a time to be limited by the Court for the purpose, file in the office of the Secretary a specification amended according to the order.

(4) The provisions of section 18 with respect to the distribution and disposal of copies of amended specifications, and of section 19 with respect to the effect of such specifications, shall apply, so far as they can be made applicable, to an amended specification filed under this section.

(5) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the application for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

37. (1) In a suit for the infringement of an exclusive privilege acquired under this Part the plaintiff shall deliver with his particulars of the breaches complained of in the suit, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention.

(2) In like manner, upon an application to a High Court under section 30, section 31 or section 33, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

(3) At the hearing of any such suit or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in proof of any breach of the exclusive privilege, or of any ground impeaching the validity of that privilege, or of any objection or ground affecting such a privilege, unless such breach or other matter as aforesaid has been stated in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the application for leave to file the specification thereof, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the Court in which the suit or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant respectively to amend the particulars delivered under this section upon such terms as it thinks fit.

38. If, in a suit instituted in the District Court at any time within fourteen years from the date of the filing of a specification of an invention under this Part, the actual inventor proves to the satisfaction of the Court that the applicant was not the actual inventor,

*The Inventions and Designs Bill.**(Part I.—Inventions.—Sections 39-43.)*

and that at the time of the application for leave to file the specification the applicant knew or had reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived the knowledge, the Court may make a decree declaring an exclusive privilege in respect of the invention to be vested, subject to the other provisions of this Part, in the actual inventor for a term of fourteen years from the date on which the specification was filed, and requiring the applicant to account for and pay over to the actual inventor the profits derived by him from the invention or so much of those profits as the Court, having regard to the degree of diligence exerted by the actual inventor in proceeding under this section and to all the other circumstances of the case, may see fit to require the applicant to pay.

39. A Court making a decree in a suit under section 29 or section 38, or an order on an application under section 30, section 31 or section 33, shall send a copy of the decree or order, as the case may be, to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

40. In the following cases, namely—

(a) when an exclusive privilege acquired under this Part has ceased under section 8 or section 15 by reason of a fee in respect of the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period, if any, within which an order might have been made for enlarging the time for the making of the payment has expired;

(b) when an exclusive privilege acquired under this Part has been declared by the Governor General in Council under section 27 to have ceased;

(c) when an exclusive privilege acquired under this Part has ceased under section 28 by reason of the revocation or expiration of a patent or exclusive privilege;

(d) when the whole or any part of an exclusive privilege acquired under this Part has ceased under section 36 in consequence of an order under that section;

(e) when an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 38;

(f) when an exclusive privilege acquired under this Part has ceased by reason of the expiration of the term for which it was acquired;

the Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions, and a reference to that entry to be made in the margin of the entry in that register of the application for leave to file the specification of the invention.

41. (1) If any person is aggrieved by an entry in the register of inventions or address-book, or by the omission of an entry therefrom, and a proceeding is not provided in the foregoing portion of this Part whereby the register or book may be rectified, he may apply to a High Court for the rectification of the register or book, and the Court may make such order on the application as it thinks fit.

(2) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

(3) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

42. A High Court to which an application has been made under section 30, section 31, section 33 or section 41 may stay proceedings on, or dismiss the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

43. If on the petition of any person interested it is proved to the Governor General in Council that, by reason of an inventor who has acquired an exclusive privilege under this Part failing to grant licenses on reasonable terms,—

(a) the exclusive privilege is not being worked in British India, or

(b) the reasonable requirements of the public with respect to the invention cannot be supplied, or

(c) any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Governor General in Council may order the inventor to grant, or may himself on behalf of the inventor grant, licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor General in Council, having regard to the nature of the invention and the circumstances of the case, may deem just.

*The Inventions and Designs Bill.**(Part I.—Inventions.—Sections 44-49.) (Part II.—Designs.—Sections 50-52.)*

44. Any person for the time being entitled to an exclusive privilege under this Part, or to any share or interest in such a privilege, in any local area may, subject to the conditions of his title thereto, assign the privilege or such share or interest, as the case may be, for any place in or part of that local area.

45. If an applicant is absent from British India, an application for leave to file a specification, or a specification, or an application for leave to file a memorandum or amended specification, may, instead of being signed by the applicant under section 5, section 9 or section 18, as the case may be, be signed on behalf of the applicant by an agent in British India authorised by him in writing in that behalf.

46. (1) An application under this Part for leave to file a specification, memorandum or amended specification must be verified by the person making the application.

(2) If that person is absent from British India, the application may be verified by the agent who signs the application on his behalf.

(3) The verification must be signed by the person making it, and must be to the effect that the facts stated in the application are true to his knowledge, except as to matters stated on information and belief, and that as to those matters he believes them to be true.

47. Subject to the provisions of the two last foregoing sections and of any other enactment for the time being in force, any act which is required or authorised by this Part to be done by any person may be done on his behalf by an agent in British India having authority in writing from that person so to do the act.

48. (1) There shall be paid in respect of the several proceedings specified in the fourth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council directs.

(4) A proceeding in respect of which a fee is payable under the fourth schedule shall be of no effect unless the fee has been paid.

49. (1) The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend either of the forms in the second and third schedules.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda and amended specifications, and for the distribution or sale of printed copies thereof.

PART II.

DESIGNS.

50. In this Part, unless there is something repugnant in the subject or context,—

Definitions.

(1) "design" means some peculiar shape, configuration or form given to an article, or arrangement of lines or the like used on or with an article, but not the article itself:

(2) "copyright" means the exclusive right to apply a design to an article:

(3) the author of any new and original design shall be considered the "proprietor" thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case that person shall be considered the "proprietor", and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to an article, either exclusively of any other person or otherwise, and also every person on whom the property in the design or the right to the application thereof shall devolve, shall be considered the "proprietor" of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise: and

(4) "Secretary", "District Court" and "High Court" have the same meanings as in Part I.

51. (1) Any person, whether a British subject or not, claiming to be the proprietor of any new and original design not previously published in British India may apply to the Governor General in Council for an order for the registration of the design.

(2) The application must be in writing in the form or to the effect of the fifth schedule, and must contain a statement of the nature of the design and be accompanied by as many copies of drawings, photographs or tracings thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(3) It must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof in the office of the Secretary shall be endorsed thereon and recorded in that office.

52. (1) Upon the application the Governor General in Council may, after such inquiry as he thinks fit, make an order authorizing the registration of the design.

*The Inventions and Designs Bill.**(Part II.—Designs.—Sections 53-61.)*

(2) When an order has been made under sub-section (1), the Secretary shall cause the design to be registered in a book to be kept by him for the purpose and to be called the register of designs.

(3) The date of registration shall be recorded in the register.

53. When a design is registered, the proprietor thereof shall, subject to the other provisions of this Part, have copyright in the design during five years from the date of registration.

54. (1) Before delivery on sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word "registered" either in full or in an abbreviated form.

(2) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

55. If the proprietor of a design exhibited at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for an order for the registration of the design to be delivered to or received by the Secretary within six months from the date of the admission of the design into that exhibition, the design shall not be deemed not to be a new and original design not previously published in British India within the meaning of section 51 by reason only of the design having been exhibited at the exhibition.

56. Any person in whom the copyright in a design has become vested may apply to the Secretary for the entry of his name in the register of designs as proprietor of the copyright, and the Secretary may, if he sees fit, cause the entry to be made.

57. (1) The registered proprietor of a design may institute a suit in the District Court for the recovery of any damages arising from the application by any person to any article of the design or of any fraudulent or obvious imitation thereof for the purpose of sale, or from the publication, sale or exposure for sale by any person of any article to which the design, or any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

(2) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary, who shall cause an

entry thereof to be made in the register of designs.

58. (1) When, from the expiration of the term of a copyright or from any other cause, the copyright in a design has ceased, the Secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

59. (1) A High Court may, on the application of any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit.

(2) An order under sub-section (1) may declare copyright in a design not to have been acquired.

(3) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of designs.

(4) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

60. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss, the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

61. The provisions of the following portions of Part I, namely:—

(a) section 11, with respect to copies of specifications,

(b) section 14, with respect to the register of inventions and the matters entered therein, and

(c) section 47, with respect to the performance by an agent of any act required or authorised by that Part to be done by a principal,

shall, so far as they can be made applicable, apply, respectively, to—

(a) copies of drawings, photographs or tracings accompanying an application for an order for the registration of a design in respect of which such an order has been made,

(b) the register of designs and the matters entered and documents referred to therein, and

(c) the performance by an agent of any act required or authorised by this Part to be done by a principal.

*The Inventions and Designs Bill.**(Part II.—Designs.—Sections 62-63. The First Schedule.—Enactments repealed.**The Second Schedule.—Application where Patent has not been obtained.**The Third Schedule.—Application where Patent has been obtained.)*

62. (1) There shall be paid in respect of the several proceedings specified in the sixth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council may direct.

(4) A proceeding in respect of which a fee is payable under the sixth schedule shall be of no effect unless the fee has been paid.

63. The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend the form in the fifth schedule.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
XV of 1859	For granting exclusive Privileges to Inventors.	So much as has been repealed.
XIII of 1872	Patterns and Designs Protection Act, 1872.	So much as has been repealed.
XVI of 1883	Protection of Inventions Act, 1883.	The whole.
I of 1879	Indian Stamp Act, 1879.	Article 48, Schedule I.

THE SECOND SCHEDULE.

APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant is in possession of an invention for (*state the title of the invention*); he is the inventor thereof (*or, as the case may be, the executor, administrator or assign of the inventor*); and, to the best of his information and belief, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorised to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

2. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

3. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

(Signature and verification.)

THE THIRD SCHEDULE.

APPLICATION WHERE PATENT HAS BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant (*or, as the case may be, A. B. of whom the applicant is the executor, administrator or assign*) has obtained a patent in the United Kingdom dated and sealed as of the day of , and actually sealed on the day of , for (*state the title of the invention*).

2. To the best of the information and belief of the applicant, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorised to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

3. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

4. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

*(Signature and verification.)**The Inventions and Designs Bill.**(The Fourth Schedule.—Fees (Inventions). The Fifth Schedule.—Application for Order for Registration of Design.)*

THE FOURTH SCHEDULE.

FEES (Inventions).

(See sections 8, 15 and 48.)

	Rs. a. p.
(1) in respect of an application for leave to file a specification (section 5)	10 0 0
(2) in respect of the filing of a specification (section 8)	30 0 0
(3) in respect of an extension of the time for filing a specification (section 8)	20 0 0
(4) in respect of the continuance of an exclusive privilege (section 8)—	
(a) after the filing of the specification and before the expiration of the fourth year from the date of the filing thereof	50 0 0
(b) after the expiration of the fourth year and before the expiration of the fifth year from that date	50 0 0
(c) after the expiration of the fifth year and before the expiration of the sixth year from that date	50 0 0
(d) after the expiration of the sixth year and before the expiration of the seventh year from that date	50 0 0
(e) after the expiration of the seventh year and before the expiration of the eighth year from that date	50 0 0
(f) after the expiration of the eighth year and before the expiration of the ninth year from that date	100 0 0
(g) after the expiration of the ninth year and before the expiration of the tenth year from that date	100 0 0
(h) after the expiration of the tenth year and before the expiration of the eleventh year from that date	100 0 0
(i) after the expiration of the eleventh year and before the expiration of the twelfth year from that date	100 0 0
(j) after the expiration of the twelfth year and before the expiration of the thirteenth year from that date	100 0 0
Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.	
(5) in respect of an enlargement of the time for payment of a fee under article (4) of this schedule (section 8)—	
(i) if the enlargement does not exceed one month	10 0 0
(ii) if the enlargement exceeds one month, but does not exceed two months	25 0 0
(iii) if the enlargement exceeds two months	50 0 0
(6) in respect of an application for an extension of an exclusive privilege for a further term (section 15)	50 0 0
(7) in respect of an order extending the term of an exclusive privilege (section 15)	100 0 0

THE FOURTH SCHEDULE—continued.

	Rs. a. p.
(8) in respect of the continuance of an exclusive privilege of which the term has been extended (section 15)	100 0 0
to be paid before the expiration of each year of the extended term:	
Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.	
(9) in respect of an application for leave to file a memorandum or amended specification (section 18)	20 0 0
(10) in respect of a petition to the Governor General in Council for a compulsory license (section 43)	50 0 0
(11) for the inspection of any book or other document which is open to inspection under Part I	1 0 0
(12) for copies—	
(a) when the number of words copied does not exceed four hundred	1 0 0
(b) for every hundred words in excess of four hundred	0 4 0
(c) of drawings or photographs	cost according to agreement.
(13) for certifying copies—	
for every hundred words	0 2 0

THE FIFTH SCHEDULE.

APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

(See sections 51 and 63.)

The application of (*here insert name, occupation and address*) for an order for the registration of a design under Part II of the Inventions and Designs Act, 1888.

1. The applicant claims to be the proprietor of the design of which the nature is hereinafter stated.

2. To the best of his information and belief, that design is within the meaning of Part II of the Inventions and Designs Act, 1888, a new and original design not previously published in British India.

3. copies of (*drawings*), (*photographs*), (*tracings*) of the design accompany this application.

4. The following is a statement of the nature of the design (*here describe its nature*).

5. The applicant therefore applies for an order for the registration of the design pursuant to Part II of the Inventions and Designs Act, 1888.

(Signature.)

*The Inventions and Designs Bill.**(The Sixth Schedule.—Fees (Designs).)*

THE SIXTH SCHEDULE.

FEES (Designs).

(See section 62.)

	Rs. a. p.
(1) in respect of an application for an order for the registration of a design (section 51)	10 0 0
(2) in respect of a mutation of names in the register of designs (section 56)	5 0 0
(3) for the inspection of any book or other document which is open to inspection under Part II	1 0 0

(4) for copies—	Rs. a. p.
(a) when the number of words copied does not exceed four hundred	1 0 0
(b) for every hundred words in excess of four hundred	0 4 0
(c) of drawings, photographs or tracings	cost according to agreement.
(5) for certifying copies—	
for every hundred words	0 2 0

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February, 1888 :—

No. 2 OF 1888.

A Bill to prohibit the making or issue by private persons of pieces of metal for use as money and the making of coins in resemblance or similitude of coins of Foreign States.

WHEREAS it is expedient to prohibit the making or issue by private persons of pieces of metal for use as money and the making of coins in resemblance or similitude of coins of foreign States; It is hereby enacted as follows :—

Title, extent and commencement. 1. (1) This Act may be called the Metal Tokens Act, 1888.

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

(3) It shall come into force at once.

2. In this Act "issue" means to initiate the circulation, for use as money, of any piece of metal manufactured in contravention of this Act or brought into British India by sea or by land in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878.

VIII of 1878.

[33 Vic., c. 10, s. 5.]

3. (1) No piece of copper or bronze, or of any other metal or mixed metal, which, whether stamped or unstamped, is intended or likely to be used as money, shall be made or issued except by the authority of the Governor General in Council.

(2) Any person who in contravention of sub-section (1) makes any such piece as is mentioned in that sub-section shall be punished,—

(a) if a previous conviction under this section is not proved against him, with imprisonment which may extend to three years, or with fine, or with both; or,

(b) if a previous conviction under this section is proved against him, with im-

prisonment which may extend to seven years, or with fine, or with both.

(3) Any person who in contravention of sub-section (1) issues any such piece as is mentioned in that sub-section shall be punished,—

(a) if a previous conviction under this section is not proved against him, with imprisonment which may extend to one year, or with fine, or with both; or,

(b) if a previous conviction under this section is proved against him, with imprisonment which may extend to seven years, or with fine, or with both.

(4) Any person convicted of an offence under sub-section (2) or sub-section (3) shall, in addition to any other punishment to which he may be sentenced, forfeit all such pieces as aforesaid which may have been found in his possession or under his control and all materials and implements so found which are capable of being used for the making of such pieces.

(5) Any officer in charge of a police-station who has reason to believe that any place within the limits of his station is being used for the making of such pieces may enter and search the place and seize and carry away any such pieces, and any materials and implements capable of being used for the making thereof, which he may find there.

(6) Where the offence of issuing such pieces in contravention of sub-section (1) is not a cognizable offence within the meaning of that expression as defined in the Code of Criminal Procedure, 1882, it shall not be taken cognizance of by any Presidency Magistrate without the previous sanction of a Commissioner of Police, or by any other Magistrate, except a District Magistrate, without the previous sanction of the District Magistrate.

(7) If in the trial of any offence under sub-section (2) or sub-section (3) the question arises whether any piece of metal or mixed metal was intended or likely to be used as money, the burden of proving that the piece was not intended or likely to be so used shall lie on the accused person.

4. If at any time the Governor General in Council sees fit, by notification under section 19 of the Sea Customs Act, 1878, to prohibit or restrict the bringing by sea or by land

[CL 24 & 25 Vic., c. 99, s. 12.]

into British India of any such pieces of metal as are mentioned in the last foregoing section, he may by the notification direct that any person contravening the prohibition or restriction shall be liable to the punishment to which he would be liable if he were convicted under this Act of making such pieces in British India, instead of to the penalty mentioned in section 167 of the Sea Customs Act, 1878, and that any of the provisions of the last foregoing section of this Act with respect to the offence of making such pieces or to the trial of such an offence shall apply, so far as they can be made applicable, to the offence of contravening the prohibition or restriction notified under section 19 of the Sea Customs Act, 1878, or to the trial of any such offence.

5. No piece of metal which is not coin as defined in the Indian Penal Code shall be received as money by or on behalf of any local authority or railway-administration. Prohibition of receipt by local authorities and railways as money of metal which is not coin. XLV of 1860.

6. If any person without lawful authority in this behalf makes any kind of coin resembling or apparently intended to resemble or pass for any coin, as defined in the Indian Penal Code, which is a legal tender, or is in actual use and circulation as money, in the territories of any foreign Prince or State, he shall be punished with imprisonment which may extend to seven years, or with fine, or with both. Prohibition of making pieces of metal in resemblance or similitude of foreign coin. [24 & 25 Vic., c. 99, s. 18.] XLV of 1860.

STATEMENT OF OBJECTS AND REASONS.

THE main object of this Bill is to prohibit the manufacture and issue, and restrict the circulation, of stamped or unstamped pieces of copper such as, during the recent depression in the value of that metal, private traders at Jugadri, Gaya, Ludhiana, Beawar and other places have been making and issuing in large quantities for use as money. The pieces circulate at much above their intrinsic value, and their circulation both deprives the taxpayers of this country of that profit on coinage of copper which belongs to every Government, and perpetuates the currency of an inconvenient form of coin.

The other object of the Bill is to suppress the manufacture in British India of coins resembling or apparently intended to resemble or pass for coins which are legal tender or in actual use and circulation in any foreign country.

The 17th February, 1888.

J. WESTLAND.

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February, 1888:—

NO. 3 OF 1888.

A Bill to Regulate Her Majesty's Indian Reserve Forces.

WHEREAS it is expedient to provide for the government, discipline and regulation of Her Majesty's Indian Reserve Forces; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Reserve Forces Act, 1888; Title and commencement.

(2) It shall come into force on such day as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf.

2. The Indian Reserve Forces shall consist of the Active Reserve and the Garrison Reserve. Division of Reserve Forces into Active and Garrison Reserves.

3. (1) A person belonging to the Active Reserve shall be liable to serve beyond the limits of British India as well as within those limits. Locality of service of Reserves.

(2) A person belonging to the Garrison Reserve shall not be liable without his consent to serve beyond the limits of British India.

4. The Governor General in Council may make rules and orders for the government, discipline and regulation of the Indian Reserve Forces. Power to make rules for regulation of Reserve Forces.

5. Subject to the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to such rules and orders as may be made under section 4, a person belonging to the Indian Reserve Forces shall, as an officer or soldier as the case may be, be subject to military law in the same manner

and to the same extent as a person belonging to Her Majesty's Indian Forces.

6. (1) If a person belonging to the Indian Reserve Forces—

(a) when required by or in pursuance of any rule or order under this Act to attend at any place fails without reasonable excuse to attend in accordance with such requirement, or

(b) fails without reasonable excuse to comply with any such rule or order, or

(c) fraudulently obtains any pay or other sum contrary to any such rule or order,

he shall be liable—

(i) on conviction by a Court-martial, to such punishment other than death, transportation or imprisonment for a term exceeding one year as such Court is by the Indian Articles of War empowered to award, or

(ii) on conviction by a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

(2) Where a person belonging to the Indian Reserve Forces is required by or in pursuance of any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

7. Nothing in this Act or in any rule or order thereunder shall make any person transferred to the Indian Reserve Forces before the commencement of this Act subject, without his consent, to any of the provisions of this Act. Effect of Act on persons already in the Reserves.

STATEMENT OF OBJECTS AND REASONS.

THE Governor General in Council having, with the sanction of the Secretary of State for India, decided on the formation of a Reserve Force for the Indian Army, the present Bill has been prepared to enable provision to be made for the government, discipline and regulation of that Force.

The Force is to consist of an Active Reserve and a Garrison Reserve, members of the former Reserve being liable to serve anywhere and of the latter in British India only. The Governor General in Council is to make rules and orders for all matters relating to the Force, and, subject to these rules and orders and, in the case of the Garrison Reserve, to the liability of the members thereof to serve in British India only, all persons belonging to the Force are to be liable to military law as if they were persons belonging to Her Majesty's Indian Forces. Provision is also made for the punishment, by Court-martial or by a Magistrate, of reservists who fail, without reasonable excuse, to attend at any place at which they may be ordered to attend, or who fail to comply with any rule or order under the Act, or who fraudulently obtain any pay or other sum contrary to any such rule or order.

The 17th February, 1888.

G. CHESNEY.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 25, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Law relating to Imprisonment for debt was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 24th February, 1888:—

the undersigned, Members of the Select Committee to which the Bill to amend the law relating to Imprisonment for Debt was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with copy of the Bill as amended by us annexed thereto.

From Mr. P. R. Desai, Pleader, District Court, Satara, dated 15th July, 1886 [Paper No. 1].

From Secretary to Chief Commissioner, Coorg, No. 1496—273, dated 16th August, 1886 [Paper No. 2].

From Secretary for Berar to Resident, Hyderabad, No. 331G., dated 15th September, 1886, and enclosures [Papers No. 3].

From Chief Secretary to Government, Madras, No. 2405, dated 4th September, 1886, and enclosures [Papers No. 4].

From Chief Commissioner, Ajmere-Merwara, No. 1104—690-II, dated 22nd September, 1886, and enclosures [Papers No. 5].

Endorsement by Chief Secretary to Government, Madras, No. 2528, dated 22nd September, 1886, and enclosures [Papers No. 6].

From Secretary to Chief Commissioner, Assam, No. 1727, dated 21st August, 1886, and enclosures [Paper No. 7].

From Acting Under Secretary to Government, Bombay, No. 5776, dated 8th October, 1886, and enclosures [Papers No. 8].

From Secretary to Chief Commissioner, Burma, No. 377—20L., dated 15th October, 1886, and enclosures [Papers No. 9].

From Under Secretary to Chief Commissioner, Central Provinces, No. 4991—296, dated 2nd November, 1886, and enclosures [Papers No. 10].

From Secretary to Chief Commissioner, Coorg, No. 1970—2736, dated 2nd November, 1886, and enclosures [Paper No. 11].

From Under Secretary to Government, Bombay, No. 8064, dated 16th November, 1886 [Paper No. 12].

From Chief Secretary to Government, Madras, No. 3008, dated 11th November, 1886, and enclosures [Papers No. 13].

From Officiating Junior Secretary to Chief Commissioner, Central Provinces, No. 982S., dated 23rd November, 1886, and enclosures [Papers No. 14].

From Chief Secretary to Government, Bengal, No. 3321, dated 19th November, 1886, and enclosures [Papers No. 15].

From Officiating Chief Secretary to Government, Bengal, No. 3753, dated 13th December, 1886, and enclosures [Papers No. 16].

From Officiating Chief Secretary to Government, Bengal, No. 3857, dated 17th December, 1886, and enclosure [Papers No. 17].

From Secretary, Mymensingh Landholders Association [Paper No. 18].

Translation of Memorial from Jawla Pershad, Moneylender and Zamindar and Inhabitant of Bandki and Hazratpur, Pargana Bandki, Zila Fatehpur, dated 25th October, 1886 [Paper No. 19].

From Secretary to Government, Punjab, No. 42, dated 13th January, 1887, and enclosures [Papers No. 20].

From Secretary, Bengal Chamber of Commerce, No. 91, dated the 31st January, 1888 [Paper No. 21].

at the pleasure of a decreeholder, and that the law with respect to the arrest and imprisonment of women in execution of decrees should be what in section 8 of the Married Women's Property Act, 1874, it is assumed to be.

3. Section 4 would give effect to the suggestion that, when a judgment-debtor who has been arrested is brought before the Court before being committed to prison, the Court should have the power to order his release if he is unable to pay the amount of the decree and the Court sees no reason to suppose that he has obstructed or will obstruct the decreeholder in the execution of the decree. The section is based on section 30 of the Presidency Small Cause Courts Act, 1882, and section 4 of the Debtors Bill, 1886.

4. Section 8 is an amplification of section 15 of the Civil Procedure Code Amendment Bill, 1886. It has been urged that, where a person in ill-health has been arrested, it should be in the discretion of the Court to refuse to commit him to prison, and that there should be no room for doubt that, where a person has been released from arrest or imprisonment on the ground of illness, he is liable to be re-arrested.

5. It is proposed to leave untouched the law respecting arrest before judgment. The use of that process is discretionary with the Courts, which can only use it where they are satisfied that there is an intention on the part of a defendant to evade their jurisdiction.

6. In two local Rent Acts reproducing the provisions of section 278 of the Code of 1859 with respect to the period of imprisonment in execution of decrees, section 10 of the revised Bill substitutes for those provisions the provisions of section 342 of the Code of 1882.

7. The publication ordered by the Council has been made as follows :—

In English.		Date.
<i>Gazette.</i>		
Gazette of India		12th, 10th and 26th June, 1886.
Fort Saint George Gazette		16th July, 1886.
Bombay Government Gazette		17th and 24th June, and 1st July, 1886.
Calcutta Gazette		23rd and 30th June, and 7th July, 1886.
North-Western Provinces and Oudh Government Gazette		16th and 23rd June, 1886.
Punjab Government Gazette		17th and 24th June, and 1st July, 1886.
Central Provinces Gazette		26th June, and 3rd and 10th July, 1886.
Burma Gazette		3rd, 10th and 17th July, 1886.
Coorg District Gazette		1st August, 1886.
In the Vernaculars.		Date.
<i>Province.</i>	<i>Language.</i>	
Madras	Tamil	17th September, 1886.
	Telugu	1st October, 1886.
	Hindustani	2nd November, 1886.
	Kanarese	15th October, 1886.
Bombay	Malayalam	8th October, 1886.
	Marathi	9th September, 1886.
	Gujarathi	9th September, 1886.
Bengal	Kanarese	16th September, 1886.
	Bengali	31st August, and 7th September, 1886.
	Hindi	31st August, and 7th and 14th September, 1886.
North-Western Provinces and Oudh	Urdu	9th September, 1886.
Punjab	Urdu	6th, 13th and 20th November, 1886.
Central Provinces	Marathi	11th, 18th and 25th November, 1886.
		29th September, and 5th and 12th October, 1886.

8. We consider that the Bill as amended by us should be re-published before it is further considered in Council.

ANDREW R. SCOBLE.
C. U. AITCHISON.
RANA SHANKAR BAKSH SINGH.
SYUD AMEER HOSSEIN.
PEARI MOHAN MUKERJI.*
J. W. QUINTON.
ROBERT STEEL.
DINSHAW MANOCKJEE PETIT.
F. M. HALLIDAY.

The 24th February, 1888.

* I think the Bill is one-sided in one particular. It leaves untouched the procedure for the recovery of revenue and rent in certain provinces and administrations but materially modifies it in others.

PEARI MOHAN MUKERJI.

No. II.

A Bill to amend the law relating to Imprisonment for Debt.

WHEREAS it is expedient to amend the law relating to imprisonment for debt; It is hereby enacted as follows :—

I. (1) This Act may be called the Debtors Act, 1888; and

(2) It shall come into force at once.

(3) The several portions thereof have the same local extent as the enactments to which they respectively relate.

XIV of 1882. 2. After section 245 of the Code of Civil Procedure the following sections shall be inserted, namely :—

"245A. Notwithstanding anything in the last foregoing section or in any other section of this Code, the Court shall not order the arrest or imprisonment of a woman in execution of a decree for money.

"245B. (1) Notwithstanding anything in section 245 or in any other section of this Code, when an application is for the execution of a decree for money by the arrest and imprisonment of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to jail in execution of the decree.

"(2) If appearance is not made in obedience to the notice, the Court shall, if the decreeholder so requires, issue a warrant for the arrest of the judgment-debtor."

3. In section 250 of the said Code, between the word "shall" and the word "issue", the following shall be inserted, namely :—

"subject to the provisions of sections 245A and 245B,".

4. After section 337 of the said Code the following shall be inserted, namely :—

"337A. (1) When a judgment-debtor appears before the Court in obedience to a notice issued under section 245B, or is brought before the Court after being arrested in execution of a decree for money, and it appears to the Court that the judgment-debtor is unable from poverty or other sufficient cause to pay the amount of the decree or, if that amount is payable by instalments, the amount of any instalment thereof, the Court may, upon such

terms, if any, as it thinks fit, make an order disallowing the application for his arrest and imprisonment, or directing his release, as the case may be.

"(2) Before making an order under sub-section (1), the Court may take into consideration [Debtors Bill, 1886, s. 4.] any allegation of the decreeholder touching any of the following matters, namely :—

(a) the decree being for a sum for which the judgment-debtor was bound as a trustee or as acting in any other fiduciary capacity to account;

(b) the transfer, concealment or removal by the judgment-debtor of any part of his property after the date of the institution of the suit in which the decree was made, or the commission by him after that date of any other act of bad faith in relation to his property, with the object or effect of obstructing or delaying the decreeholder in the execution of the decree;

(c) any undue or unreasonable preference given by the judgment-debtor to any of his other creditors;

(d) his refusal or neglect to pay the amount of the decree or some part thereof when he has or since the date of the decree has had the means of paying it;

(e) the likelihood of his absconding or leaving the jurisdiction of the Court with the object or effect mentioned in clause (b) of this sub-section.

"(3) While any of the matters mentioned in [Act XIV, 1882, s. 349.] sub-section (2) are being considered, the Court may in its discretion order the judgment-debtor to be imprisoned, or leave him in the custody of an officer of the Court, or release him on his furnishing sufficient security for his appearance on the requisition of the Court.

"(4) A judgment-debtor released under this [Cf. Act XIV, 1882, s. 341.] section may be re-arrested.

"(5) If the Court does not make such an order as is mentioned in sub-section (1), it shall cause the judgment-debtor to be arrested if he has not already been arrested and, subject to the other provisions of this Code, commit him to jail."

5. To section 380 of the said Code the following shall be added, namely :—

"On the application of any defendant in a suit for money in which the plaintiff is a woman the Court may at any stage of the suit make a like order if it is satisfied that such plaintiff does not possess any sufficient immoveable property within British India independent of the property in suit."

6. In section 640 of the said Code, after the words "from arrest in execution of civil process" the words "in any case in which the arrest of women is not prohibited by this Code" shall be added.

7. In section 642 of the said Code, for the words and figures "except as provided in sections 256 and 643" the following shall be substituted, namely :—

"except as provided in section 337A, sub-section (5), and sections 256 and 643,".

Addition of new section after section 652 of the Code.

8. After section 652 of the said Code the following shall be added, namely:—

"653. (1) At any time after a warrant of arrest has been issued under this Code, the Court may cancel it on the ground of the serious illness of the person against whom the warrant was issued.

"(2) When a judgment-debtor has been arrested under this Code the Court may release him if in its opinion he is not in a fit state of health to undergo imprisonment.

"(3) When a judgment-debtor has been committed to jail, he may be released therefrom—

(a) by the Local Government, on the ground of his suffering from any infectious or contagious disease, or

(b) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

"(4) A judgment-debtor released under this section may be re-arrested, but the period of his imprisonment shall not in the aggregate exceed that prescribed in section 342 or section 481, as the case may be."

[Civil Procedure Code Amendment Bill, 1886, s. 15.]

[Cf. Act XIV, 1882, s. 341.]

9. The last sixteen words of section 8 of the Married Women's Property Act, 1874, and the whole of section 31 of the Ajmere Courts Regulation, 1877, are hereby repealed.

III of 1874.

I of 1877.

10. (1) For the first fifty-five words of section 48 of the Act of the Governor of Madras Act VIII of 1865 and India Act XII of 1881, or of Fort St. George in Council, No. VIII of 1865, the following shall be substituted, namely:—

[Cf. Act XIV, 1882, s. 342.]

"No person shall be imprisoned as a defaulter for a longer period than six months whatever the amount of the arrears may be, nor for a longer period than six weeks if the arrears do not exceed fifty rupees."

(2) For the proviso to section 163 of the North-Western Provinces Rent Act, 1881, the following shall be substituted, namely:—

XII of 1881.

"Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed six weeks when the amount decreed (exclusive of costs) does not exceed fifty rupees, or six months in any other case."

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 17, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Code of Civil Procedure and the Indian Limitation Act, 1877, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th March, 1888:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend

the Code of Civil Procedure and the Indian Limitation Act, 1877, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report with copy of the Bill as amended by us annexed thereto.

From Mr. P. R. Desai, Pleader, District Court, Satara, dated 16th September, 1886 [Paper No. 1].
From Mr. Nanabhai Chanchibhai, Pleader, Karachi, dated 20th September, 1886 [Paper No. 2].
From Secretary to Chief Commissioner, Coorg, No. 1943—3976, dated 29th October, 1886, and enclosures [Papers No. 3].
From Honorary Secretary, British Indian Association, No. 1035, dated 15th November, 1886 [Paper No. 4].
From Superintendent, Kapurthala State, No. 527, dated 19th November, 1886, and enclosures [Papers No. 5].
From Acting Chief Secretary to Government, Madras, No. 2990, dated 6th November, 1886, and enclosures [Papers No. 6].
From Chief Commissioner, Ajmere-Merwara, No. 1305—690-II, dated 19th November, 1886, and enclosure [Papers No. 7].
From Secretary for Berar to Resident, Hyderabad, No. 438G., dated 24th November, 1886, and enclosures [Papers No. 8].
From Acting Chief Secretary to Government, Madras, No. 3138, dated 24th November, 1886, and enclosures [Papers No. 9].
From Babu Haridas Ghosh, Pleader, Hoshungabad, dated 10th December, 1886 [Paper No. 10].
Memorial of certain Cloth Merchants of Allahabad, dated 14th December, 1886 [Paper No. 11].
From Secretary to Chief Commissioner, Burma, No. 706—27L., dated 24th December, 1886, and enclosures [Papers No. 12].
From Officiating Secretary to Chief Commissioner, Central Provinces, No. 32—355, dated 4th January, 1887, and enclosures [Papers No. 13].
From Acting Under Secretary to Government, Bombay, No. 7627, dated 31st December, 1886, and enclosures [Papers No. 14].
From Secretary to Government, Punjab, No. 21, dated 10th January, 1887, and enclosures [Papers No. 15].
From Secretary to Chief Commissioner, Assam, No. 84, dated 18th January, 1887 [Paper No. 16].
From Officiating Chief Secretary to Government, Bengal, No. 408J., dated 24th January, 1887, and enclosures [Papers No. 17].
Memorandum by the Hon'ble Rana Sir Shankar Baksh Singh, Bahadur [Paper No. 18].
From Secretary to Government, Punjab, No. 252, dated 11th March, 1887, and enclosures [Papers No. 19].
From Secretary to Government, North-Western Provinces and Oudh, No. 265—VII, dated 31st March, 1887, and enclosures [Papers No. 20].
From Chief Secretary to Government, Bengal, No. 1488J., dated 28th March, 1887, and enclosure [Papers No. 21].
Memorandum by Mr. P. R. Desai, Pleader, District Court, Tanna, dated 17th May, 1887 [Paper No. 22].
Circular to all Local Governments and Administrations, No. 1585—96, dated 16th September, 1887.
From Secretary for Berar to Resident, Hyderabad, No. 488G., dated 29th November, 1887, and enclosures.
From Chief Secretary to Government, Madras, No. 2695, dated 25th November, 1887, and enclosures.
From Officiating Chief Secretary to Chief Commissioner, Burma, No. 267, dated 9th December, 1887, and enclosures.

2. We have omitted most of the sections of the Bill as introduced which had reference to insolvency, representation of minors and imprisonment for debt. The first and second of those matters will be more conveniently considered by the Select Committees on the Bankruptcy and Guardians and Wards Bills re-

From Chief Commissioner, Ajmere-Merwara, No. 1456, dated 7th December, 1887, and enclosure.

From Secretary to Chief Commissioner, Assam, No. 2970, dated 19th December, 1887, and enclosures.

From Acting Under Secretary to Government, Bombay, No. 7417, dated 24th December, 1887, and enclosures.

From Secretary for Berar to Resident, Hyderabad, No. 525G., dated 27th December, 1887.

From Officiating Secretary to Government, Punjab, No. 24, dated 10th January, 1888, and enclosures.

From Registrar, High Court, Calcutta, No. 305, dated 8th February, 1888.

From Chief Secretary to Government, Bengal, No. 459J., dated 7th February, 1888, and enclosures.

From Registrar, High Court, Calcutta, No. 352, dated 13th February, 1888, and enclosure.

Notes by Judicial Commissioner, Oudh, dated 11th February, 1888 [Paper No. 23].

From J. Deas, Esq., District Judge, Jaunpur, No. 6, dated 6th January, 1888.

From Chief Commissioner, Central Provinces, No. 891—31, dated 15th February, 1888, and enclosures.

Notes by P. V. Krishnaswami Ayar, First Grade Pleader, Madras.

Notes by Yellepedy Janaki Ramayya, District Judge, Coconada.

(1) *Section 3.*—The object of the section which it is proposed to insert after section 4 of the Code is to preserve the summary character of rent-litigation which, as the Government of the North-Western Provinces and Oudh has pointed out, the rulings cited in the margin of the proposed section may otherwise have the effect of destroying.

(2) *Section 5.*—The proposed addition to section 14 has reference to the conflicting rulings of the High Courts with respect to suits in British India on judgments of Foreign Courts, and is designed to remove one of the objections to such suits being maintainable.

(3) *Section 6.*—The need of such a section as it is proposed to insert after section 16 of the Code is said to be much felt where large areas are subject to fluvial action. The section was originally inserted in the Punjab Land-revenue Bill of 1886, but the Select Committee on that Bill was of opinion that the section is one which should be of general rather than local operation.

(4) *Section 9.*—The section which it is proposed to substitute for section 53 is, with slight modification, in a form which has been suggested by the Hon'ble Mr. Justice Straight.

(5) *Sections 10, 11, 15 and 16.*—These sections are added to the Bill for the purpose of accommodating the language of the Code more closely to the system of process-serving obtaining in some parts of British India.

(6) *Section 12.*—This section will admit of summonses being sent for service to Superintendents of foreign States, and to Courts established or continued by the authority of the Governor General in Council in foreign territory, as well as to British Residents and Agents.

(7) *Section 13.*—The criticisms on the form and substance of sections 141 and 142 of the Code are so numerous and appear to us to be so well founded that we have deemed it necessary to re-draft those sections instead of only amending the former of them.

(8) *Section 17.*—The enactment of this section is advocated by high authority in Bengal and other parts of India. The section follows sections 357 *et seq.* of the Code of Criminal Procedure, 1882, section 20 of the Burma Courts Act, 1875, sections 11 and 12 of the Central Provinces Laws Act, 1875, and section 19 of the Oudh Laws Act, 1876.

(9) *Sections 18 and 19.*—The amendment of section 191 in such a manner as to make it clear that the section does not require the re-hearing of a suit by a successor of a Judge who, having part heard the suit, has been prevented by death, transfer or other cause from concluding the trial thereof is considered by the Government of the North-Western Provinces and Oudh to be necessary in view of the administrative inconvenience, and the trouble and expense to suitors, which must result from the cases reported at I. L. R. 7 All. 857 and 8 All. 35. It is proposed also to apply the principle of section 191 of the Code to suits transferred from one Court to another, and to supplement the section by an addition to section 193.

(10) *Section 20.*—Such an amendment of section 209 as is here proposed has the support of Sir Meredyth Plowden and other Judges of the Chief Court of the Punjab.

(11) *Section 21.*—We have so amended section 216 of the Code as to make it applicable not only to such equitable cases of set-off as form the subject of the report at I. L. R. 7 All. 284 and the reports there cited, but also to any equitable right to set off a sum which is not a debt.

(12) *Section 22.*—As section 223 is now drawn, it is open to doubt in what cases decrees may be sent for execution to the Courts of Small Causes at Calcutta, Madras, Bombay and Rangoon. The ordinary jurisdiction of a Provincial Court of Small Causes extends under sub-section (2) of section 15 of Act IX of 1887 to suits of value not exceeding five hundred rupees, and its extraordinary jurisdiction under sub-section (3) of the same section to suits of value not exceeding one thousand rupees. The jurisdiction of a Presidency Court of Small Causes extends to suits of value not exceeding two thousand rupees; and it is proposed by section 47 of the Lower Burma Courts Bill, now pending before the Council of the Governor General, to take power to extend the whole or any part of the Presidency Small Cause Courts Act to the Court of Small Causes at Rangoon.

(13) *Section 23.*—The words "or continued" have been inserted in section 229 and other sections after the word "established" because there are Courts in Kattiawar which were established by the Governor of Bombay in Council.

spectively, and the third has recently been considered by the Select Committee on the Bill to amend the law relating to Imprisonment for Debt.

3. The following portions of the Bill, as amended by us, appear to call for remark:—

(14) *Section 24.*—Under this section it will be competent to Courts in British India to send their decrees for execution to those Courts out of British India which are authorised by section 229 of the Code to cause their decrees to be executed by British Indian Courts.

(15) *Section 25.*—The last paragraph of section 230 is spent and may now be removed from the Code.

(16) *Section 26.*—It is proposed to amend section 244 of the Code in order to remove doubts which have arisen as to how representatives are to be ascertained, and whether orders staying execution are orders under the section.

(17) *Section 27.*—The conflicting rulings of the Courts with respect to the construction to be placed on the last paragraph of section 258 render it necessary to amend that paragraph.

In section 66, sub-section (1), of the Bill we have proposed to extend from twenty to ninety days the period of limitation for an application by a judgment-debtor for the issue of a notice to a decreeholder to show cause why a payment or adjustment out of Court should not be recorded as certified.

(18) *Section 28.*—We have added a clause exempting from liability to sale in execution of a decree of a Civil Court any moveable property which any local law exempts from liability to sale in satisfaction of an arrear of land-revenue.

(19) *Section 29.*—This section is intended to remove a doubt as to attachment being a necessary preliminary to the sale of property in execution of a decree which orders the sale in pursuance of a contract specifically affecting the property.

(20) *Section 30.*—The addition which we have proposed to make to section 329 follows the interpretation which has been placed on that section by the Allahabad High Court (I. L. R. 5 All. 314) and by the executive authorities of the North-Western Provinces, the Central Provinces and Lower Burma.

(21) *Section 31.*—Sub-section (1) will remove the doubt as to the construction to be placed on the words "under arrest" in section 349.

Sub-sections (2) and (3) correct obvious errors in the Code.

Sub-section (4) has been inserted at the instance of the High Court at Fort William. The inconvenience of there being two different systems of insolvency law in force in the same place was pointed out by several Judges of that Court in their remarks on the Indian Bankruptcy Bill of 1886. In not excluding from the operation of Chapter XX of the Code the towns mentioned in section 66 of the Burma Courts Act, 1875, we have had regard to the opinion expressed by the Recorder of Rangoon in his letter No. 66—19, dated the 7th April, 1885, and by the Officiating Recorder in his letter No. 107—43, dated the 20th June, 1885, at the time when the Bill which became Act XIV of 1885 was under consideration, and to the fact that jurisdiction in insolvency is exercised under the Code in Rangoon by the First Judge of the Court of Small Causes established there.

(22) *Sections 32, 53 and 66.*—We have extended to six months the period of limitation for applications under sections 365, 366 and 368 of the Code and provided for such applications being admitted after that period in exceptional cases.

(23) We have omitted section 20 of the Bill as introduced. The addition which it was proposed by that section to make to section 396 of the Code would effect a change in the substantive law of the country which should not in our opinion be brought about in such a Bill as that on which we are reporting.

(24) *Sections 37, 38, 40 and 41.*—The object of these sections is to remove the difficulties which have recently attended litigation on behalf of the minor Rájá of Kapurthala, one of the ruling chiefs of the Punjab and a landholder in that Province and in Oudh.

(25) *Section 43.*—On the recommendation of the Government of the North-Western Provinces and Oudh, it is proposed that the Collector shall not be appointed a Receiver without his consent.

(26) *Section 47.*—Section 551 and connected sections have been re-cast in the manner suggested by Mr. R. J. Crosthwaite, the Judicial Commissioner of the Central Provinces. In regard to the amendment of the sections so as to provide for the dismissal of appeals for default under section 551, Mr. Crosthwaite writes as follows:—

"This amendment is necessary, because, as section 551 stands now, an appellant can, if his appeal is fixed for hearing under that section, refrain from appearing and then appeal from the decree of the first Appellate Court dismissing his appeal. The Court of second appeal will then have to consider the appeal and decide it, because the provisions of section 556 do not apply in the case of an appeal dealt with under section 551. When a first appeal is dismissed under section 556 for default, there is practically no second appeal, because the second Appellate Court must hold that, as the appellant did not appear in the Court of first appeal, that Court's decree dismissing the appeal was under section 556 correct; but when an appeal is fixed for hearing under section 551, and the appellant not appearing, his appeal is dismissed, section 556 does not apply; and an appellant can thus ignore the Court of first appeal and take his appeal to the High Court. Section 556 does not I think apply, because there can be no doubt that the words 'on the day so fixed' mean 'the day fixed under section 551 for hearing the appeal'. This state of the law is anomalous and, considering that a Court of second appeal is supposed to go by the findings of fact of the Court of first appeal, inconvenient. If an appellant does not appear on the day fixed for hearing, whether it be fixed under section 551 or section 552, his appeal should be dismissed; but he should have a right to apply for re-admission under section 558."

(27) *Section 48.*—We have endeavoured by this section to remove difficulties which the Courts have experienced in the admission of objections taken by way of cross-appeal.

(28) Sections 49, 50, 51 and 52.—The sections of the Code which these sections affect have in practice been found to limit unduly the discretion of Appellate Courts.

(29) Section 55, sub-section (2).—This sub-section has been suggested by the Judicial Commissioner of the Central Provinces with reference to the case reported at I. L. R. 11 Bom. 603.

(30) Section 56.—We propose that appeals from such orders as are appealable should lie in all cases to the ordinary appellate authority.

(31) Section 60.—This section is intended to give effect to the suggestion contained in the following extract from a letter received by the Government of India from the High Court at Fort William:—

“In this province it is often difficult to tell whether a suit should be instituted in the Small Cause Court or a Court possessing ordinary civil jurisdiction. Numerous cases have been brought to the cognizance of this Court in which great inconvenience, hardship and injustice have been caused in this way. A suit is brought in the first instance in the Small Cause Court, and that Court declares that it has no jurisdiction and dismisses the suit. The plaintiff then institutes the same suit in the Munsif's Court, which, upon trial, gives him a decree. The defendant thereupon appeals to the higher Courts, and it is held that the Munsif had no jurisdiction, and accordingly the suit is dismissed. The result is that the unfortunate suitor gets no relief anywhere. And this same result also follows when the Court of first instance holds that it has no jurisdiction, and also when the suit is in the first instance instituted in the Civil Court and the suitor subsequently goes to the Small Cause Court. The Judges think questions of jurisdiction and errors as to jurisdiction should be susceptible of being dealt with and cured by the High Court by transfer, affirmation of decree or otherwise; and they think that the order of the High Court as to jurisdiction should be final.”

(32) Section 61.—We have so modified the proposed addition to section 648 as to admit of orders being sent to the Courts of Small Causes at Calcutta, Madras, Bombay and Rangoon for the attachment of moveable property only.

(33) Section 64.—This section corrects a defect in the form under section 263 which has been noticed by Mr. Justice Brandt.

(34) Section 65.—By this section it is proposed to set at rest the question whether the registration of certificates of sale of property of value exceeding one hundred rupees is or is not compulsory. Whatever the law may have been before the passing of Act XII of 1879, the legislature could hardly have contemplated the registration of such certificates by auction-purchasers after the passing of that Act.

4. The publication ordered by the Council has been made as follows:—

In English.		Date.
<i>Gazette.</i>		
Gazette of India		4th, 11th and 18th September, 1886.
Fort Saint George Gazette		24th September, 1886.
Bombay Government Gazette		9th September, 1886.
Calcutta Gazette		15th, 22nd and 29th September, 1886.
North-Western Provinces and Oudh Government Gazette		11th, 18th and 25th September, 1886.
Punjab Government Gazette		9th, 16th and 23rd September, 1886.
Central Provinces Gazette		18th and 25th September, 1886.
Burma Gazette		25th September, and 2nd and 9th October, 1886.
Assam Gazette		25th September, and 2nd and 9th October, 1886.
Coorg District Gazette		1st October, 1886.
In the Vernaculars.		Date.
<i>Province.</i>	<i>Language.</i>	
Madras	Tamil	21st December, 1886.
	Telugu	25th January, 1887.
	Hindustani	25th January, 1887.
	Kanarese	11th January, 1887.
	Malayalam	8th January, 1887.
Bombay	Marathi	20th January, 1887.
	Gujarathi	27th January, 1887.
	Kanarese	20th January, 1887.
Bengal	Bengali	8th March, 1887.
	Hindi	25th January, 1887.
	Urdu	16th, 23rd and 30th December, 1886.
North-Western Provinces and Oudh	Urdu	11th, 18th and 25th December, 1886.
Punjab	Urdu	9th, 16th and 23rd December, 1886.
Central Provinces	Hindi	22nd and 29th December, 1887.
Burma	Burmese	25th December, 1886, and 1st and 8th January, 1887.
Coorg	Kanarese	1st February, 1887.

5. We do not think that the Bill has been so altered as to require re-publication, and we recommend that it be passed as amended by us.

ANDREW R. SCOBLE.
C. U. AITCHISON.
RANA SHANKAR BAKSH SINGH.
PEARI MOHAN MUKERJI.
G. H. P. EVANS.
J. W. QUINTON.

The 10th March, 1888.

No. II.

A Bill to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act, 1877.

XIV of 1882. WHEREAS it is expedient to amend the Code
III of 1877. of Civil Procedure, the Indian Registration Act,
XV of 1877. 1877, and the Indian Limitation Act, 1877; It is
hereby enacted as follows:—

1. (1) This Act may be called the Civil Procedure Code Amendment Act, 1888; and

(2) It shall come into force on the first day of July, 1888.

2. (1) In this Act, unless there is something repugnant in the subject or context, “section” means a section, “schedule” a schedule, and “Chapter” a Chapter, of the Code of Civil Procedure.

XIV of 1882.

(2) Any reference in any enactment heretofore passed or hereafter to be passed to any Act amended by this Act shall, so far as may be, be read as if made to that Act as so amended.

3. The following shall be inserted after section 4, namely:—

“4 A. (1) Where any Revenue Courts are governed by the provisions of the Code of Civil Procedure in those matters of procedure upon which any special enactment applicable to them is silent, the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare that any portions of those provisions shall not apply to those Courts, or shall only apply to them with such modifications as the Local Government, with the sanction aforesaid, may prescribe.

[I. L. R. 9 Cal. 295, and I. L. R. 5 All. 406.]

[Act XV, 1882, s. 23; and Act XVIII, 1884, s. 53.]

[New.]

“(2) ‘Revenue Court’ in sub-section (1) means a Court having jurisdiction under any local law to entertain suits relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits as being suits of a civil nature of which its cognizance is not barred by any enactment for the time being in force.”

[Cf. Act XV, 1882, Schedule I.]

4. The second paragraph of section 8 is hereby repealed.

5. To section 14 the following shall be added, namely:—

[I. L. R. 6 Bom. 292 and 5 Mad. 191.]

“Where a suit is instituted in British India or on the judgment of any foreign Court in Asia

or Africa except a Court* of Record established by Letters Patent of Her Majesty or any predecessor of Her Majesty or a Supreme Court of the Straits Settlements, a Court established by an Order of Her Majesty in Council, the Court in which the suit is instituted shall not be precluded from inquiry into the merits of the case in which the judgment was passed.”

6. The following shall be inserted after section 16, namely:—

“16A. (1) When it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more Courts any immovable property is situate, any one of those Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction:

“Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.

“(2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection if in its opinion there was, at the time of the institution of the suit, any reasonable ground for uncertainty as to the Court having jurisdiction with respect thereto.”

7. In section 17, after Explanation II, the following shall be inserted, namely:—

“EXPLANATION III.—In suits arising out of contract, the cause of action arises within the meaning of this section at any of the following places, namely:—

- the place where the contract was made;
- the place where the contract was to be performed or performance thereof completed;
- the place where in performance of the contract any money to which the suit relates was expressly or impliedly payable.”

8. In section 27 there shall be inserted after the words “the Court may” the words “at any stage of the suit”, and after the words “any other person or persons” the words “with his or their consent”.

[I. L. R. 6 Cal. 370. Cf. Rules under Judicature Acts. XVI. 2.]

[I. L. R. 9
Cal. 695, 6
Mad. 239, 5
Bom. 609, and
7 All. 79.]

Substitution of new
section for section 53.

9. For section 53 the following shall be substituted, namely:—

When a plaint may be rejected, returned for amendment or amended.

"53. The plaint may, at the discretion of the Court,—

- (a) at, or at any time before, the settlement of issues be rejected if it does not disclose a cause of action;
- (b) at, or at any time before, the settlement of issues be returned for amendment within a time to be fixed by the Court, and upon such terms as to the payment of costs occasioned by such amendment as the Court thinks fit, if it—
 - (i) is not signed and verified as hereinbefore required,
 - (ii) does not state correctly and without prolixity the several particulars hereinbefore required, or contains particulars other than those so required,
 - (iii) is wrongly framed by reason of nonjoinder or misjoinder of parties, or joins causes of action which ought not to be joined in the same suit, or
 - (iv) is not framed in accordance with the provisions of section 42;
- (c) at any time before judgment be amended by the Court upon such terms as to the payment of costs as the Court thinks fit:

[L. R. 14 In.
App. 111.]

"Provided that a plaint shall not be amended either by the party to whom it is returned for amendment, or by the Court, so as to convert a suit of one character into a suit of another and inconsistent character.

"When a plaint is amended under this section the amendment shall be attested by the signature of the Judge."

Substitution of new
section for section 72.

10. For section 72 the following shall be substituted, namely:—

"72. (1) If the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall ordinarily be delivered or sent to the proper officer to be served by him or one of his subordinates.

"(2) The proper officer may be an officer of another Court than that in which the suit is instituted, and, where he is such an officer, the summons may, subject to any rules which the High Court may make in this behalf, be sent to him by post or in such other manner as the Court may direct."

11. In section 82, for the first twenty words the following shall be substituted, namely:—

"When a summons is returned under section 80, the Court shall if the return under that section has not been verified by the affidavit of the serving-officer, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching his proceedings."

Substitution of new
section for section 90.

12. For section 90 the following shall be substituted, namely:—

"90. If there is a British Resident or Agent, or a Superintendent appointed by the British Government, or a Court established or continued by the authority of the Governor General in Council, in or for the territory in which the defendant resides, the summons may be sent to such Resident, Agent, Superintendent or Court, by post or otherwise, for the purpose of being served upon the defendant; and, if the Resident, Agent or Superintendent or the Judge of the Court returns the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be evidence of the service."

Substitution of new
sections for sections 141
and 142.

13. For sections 141 and 142 the following shall be substituted, namely:—

"141. (1) Subject to the provisions of the next following sub-section, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely:—

- (a) the number and title of the suit,
- (b) the name of the person producing the document,
- (c) the date on which it was produced, and
- (d) a statement of its having been so admitted,

and the endorsement shall be signed by the Judge.

"(2) If a document so admitted is an entry in a book, account or record and a copy thereof has been substituted for the original under the next following section, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed by the Judge.

"141A. (1) If a document admitted in evidence in the suit is an entry in a shop-book or other account in current use, the party on whose behalf the account is produced may furnish a copy of the entry.

"(2) If such a document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a

party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished—

- (i) where the record, book or account is produced on behalf of a party, then by that party, or
- (ii) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

"(3) When a copy of an entry is furnished under the foregoing provisions of this section, the Court shall, after causing the copy to be examined, compared and attested in manner mentioned in section 62, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

"142. When a document relied on as evidence Endorsements on documents rejected as inadmissible in evidence. Endorsements on documents rejected as inadmissible in evidence. there shall be endorsed thereon the particulars mentioned in clauses (a), (b) and (c) of section 141, sub-section (1), and a statement of its having been rejected, and the endorsement shall be signed by the Judge.

"142A. (1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under section 141A, shall form part of the record of the suit.

"(2) Documents not admitted in evidence shall not form part of the record and shall be returned to the parties respectively producing them."

14. In section 143, for the words and figures "sections 62, 141 and 142" there shall be substituted the following, namely:—

"section 62, section 141A, sub-section (3), or section 142A, sub-section (2)."

15. In section 159 the words "or sent" shall be inserted after the word "delivered".

16. In section 168, for the words "shall examine the serving-officer on oath" the following shall be substituted, namely:—"shall if the certificate of the serving-officer has not been verified by affidavit, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court."

17. The following shall be inserted after section 185, namely:—

[Act X, 1882,
ss. 357 et
seqg.: Act
XVII, 1875,
s. 20: Act
XX, 1875,
ss. 11 and 12:
s. d Act
XXIII, 1876,
s. 19.]

"185A. (1) The Local Government may, by notification in the official Gazette, direct, with respect to any Judge specified in the notification, or falling under a description set forth therein, that

evidence in cases in which an appeal is allowed shall, instead of being taken down in the manner prescribed in the foregoing sections, be taken down by him with his own hand in the English language.

"(2) Where a Judge is prevented by any sufficient reason from complying with a direction under sub-section (1), he shall record the reason and cause the evidence to be taken down in writing from his dictation in open Court.

"(3) Evidence taken down under sub-section (1) or sub-section (2) shall be in the form mentioned in section 182, and be read over and signed, and, as occasion may require, interpreted and corrected, as if it were evidence taken down under that section.

"(4) The Local Government may, by notification in the official Gazette, revoke or vary a direction notified under sub-section (1)."

Addition to section 18. For section 191 the following shall be substituted, namely:—

"191. (1) Where the Judge taking down any evidence, or causing any evidence taken down by another Judge, memorandum to be made, under this Chapter, is prevented by death, transfer or other cause from concluding the trial of the suit, any successor to such Judge may deal with such evidence or memorandum as if he himself had taken it down or caused it to be made, and proceed with the suit from the stage at which his predecessor left it.

"(2) The provisions of sub-section (1) shall apply, so far as they can be made applicable, to a suit transferred under section 25: [13 W.R.Civ. Rul. 398: 6 N.W.P.H.C. R. 80: and L. R. 7 All. 342.]

"Provided that a Court transferring a suit under that section may, if it thinks fit, direct that the Court to which the suit is transferred shall recall all or any of the witnesses who have been examined and take their evidence afresh."

19. To section 193 the following shall be added, namely:—

"A Court continuing a suit under section 191 may recall and re-examine a witness who has departed in accordance with section 173."

20. (1) In section 209, for the first thirteen words the words "When a decree is for the payment of money" shall be substituted. [L. R. 21 A. 209. Amendment of section 209. A. 78.]

(2) To the same section the following shall be added, namely:—

"Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie."

[I. L. R. 7
All. 284.]

21. (r) In section 216, for the first twenty-four words the following shall be substituted, namely:—

"If the defendant has been allowed a set-off against the claim of the plaintiff,".

(2) To the same section the following shall be added, namely:—

"The provisions of this section shall apply whether the set-off is admissible under section 111 or otherwise."

22. In section 223, for the words "in a case cognizable by a Court of Small Causes" the following shall be substituted, namely:—

"in a suit of which the value as set forth in the plaint did not exceed two thousand rupees and which, as regards its subject-matter, is not excepted by the law for the time being in force from the cognizance of either a Presidency or a Provincial Court of Small Causes".

23. In section 229, after the word "established" the words "or continued" shall be inserted.

24. After section 229 the following shall be inserted, namely:—

"229A. So much of the foregoing sections of this Chapter as empowers a Court to send a decree for execution to another Court shall be construed as empowering a Court in British India to send a decree for execution to any Court established or continued by the authority of the Governor General in Council in the territories of any Foreign Prince or State to which the Governor General in Council has, by notification in the Gazette of India, declared this section to apply."

25. The last paragraph of section 230 is hereby repealed.

26. (r) In section 244, for clause (c), the following shall be substituted, namely:—

[I. L. R. 7
Cal. 733, 8
Cal. 477 & 7
All. 73.]

(2) To the same section the following shall be added, namely:—

"If a question arises as to who is the representative of a party for the purposes of this section, the Court may either stay execution of the decree until the question has been determined by a separate suit or itself determine the question by an order under this section."

27. For the last paragraph of section 258 the following shall be substituted, namely:—

"Unless such a payment or adjustment has been certified as aforesaid, it shall not be recognized as a payment or adjustment of the decree by any Court executing the decree."

28. (r) In the first proviso to section 266, clause (a), the words "and bedding" shall be inserted after the word "apparel".

(2) In the same proviso, clause (b), after the word "cattle" the words "and seed-grain" shall be inserted. [Act XV, 1887, s. 70.]

(3) In the same proviso, for clause (h) the following shall be substituted, namely:—

"(h) the salary of a public officer or of any servant of a Railway Company or local authority to the extent of—

(i) the whole of the salary where the salary does not exceed twenty rupees monthly;

(ii) twenty rupees monthly where the salary exceeds twenty rupees and does not exceed forty rupees monthly; and

(iii) one moiety of the salary in any other case."

(4) To the same proviso, after clause (l), the following shall be added, namely:—

"(m) any allowance declared by any law passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council to be exempt from liability to attachment or sale in execution of a decree;

"(n) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which under any law* applicable to him is exempt from sale for the recovery of an arrear of such revenue." [Act XVII, 1887, s. 70.]

(5) In the Explanation to the same proviso, for the word and letter "and (j)" the letters and word "(j) and (m)" shall be substituted.

29. In section 289 the words "on the spot where the property is attached" are hereby repealed. [Cf. I. L. R. 14 Cal. 631.]

30. To section 320 the following shall be added, namely:—

"Rules under this section may confer upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector, including the powers of the Court under sections 294 and 312, and

[I. L. R. 9
Cal. 788, 10
Cal. 354, 5
Mad. 397, 6
Mad. 41, 8
Mad. 277, 6
Bom. 146, 10
Bom. 288, 11
Bom. 6, 3 All.
533, 3 All.
538, 5 All.
269, and 7
All. 124.]

[Act XV, 1887, s. 70.]

[I. L. R. 11
Cal. 451, 8
Mad. 503, and
12 Bom. 46.]

[I. L. R. 8
Bom. 196 &
7 Mad. 311.]

[I. L. R. 12
Cal. 590, 9
Mad. 1, and 7
All. 693; Punjab Record, Vol. XXI, Civil Judgments No. 81; Rules under Judicature Acts, L.]

may provide for orders passed by the Collector or any gazetted subordinate of the Collector, or orders passed on appeal with respect to such orders, being subject to appeal to and revision by superior Revenue-authorities as nearly as may be as the orders passed by the Court, or orders passed on appeal with respect to such orders, would be subject to appeal to and revision by appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Collector.

"A power conferred by the rules upon the Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exercisable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

"In executing a decree transferred to the Collector under this section, the Collector and his subordinates shall be deemed to be acting judicially within the meaning of Act No. XVIII of 1850 (*an Act for the protection of Judicial Officers*).

31. (r) In section 349, for the words "is under arrest" the words "is in custody under the foregoing provisions of this Code" shall be substituted.

(2) In section 354, between the word "and" and the words "shall operate" the words "every order under that section appointing a Receiver" shall be inserted.

(3) For the second paragraph of section 360 the following shall be substituted, namely:—
"A Court may entertain an application under section 344 by any person who has been arrested or imprisoned, or against whose property an order of attachment has been made, in execution of a decree for money passed by that Court."

(4) At the end of Chapter XX the following shall be inserted, namely:—

"360A. Nothing in this Chapter shall apply to any Court having jurisdiction within the limits of the town of Calcutta, Madras or Bombay."

32. (r) For sections 363 and 364 the following shall be substituted, namely:—

"363. If there are more plaintiffs than one, and any of them dies, and if the right to sue does not survive to the surviving plaintiff or plaintiffs alone but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may cause the legal representative, if any, of the deceased plaintiff to be made a party, and shall thereupon cause an entry to that effect to be made on the record and proceed with the suit."

(2) For section 365 the following shall be substituted, namely:—

"365. In case of the death of a sole plaintiff or sole surviving plaintiff, the legal representative of the deceased may, where the right to sue survives, apply to the Court to have his name entered on the record in place of the deceased plaintiff, and the Court shall thereupon enter his name and proceed with the suit."

(3) To section 368 the following shall be added, namely:— [I. L. R. 9 Bom. 56, and 7 All. 396.]

"The legal representative of a deceased defendant may apply to have himself made a defendant in place of the deceased defendant, and the provisions of this section, so far as they are applicable, shall apply to the application and to the proceedings and consequences ensuing thereon."

(4) After section 372 the following shall be added, namely:—

"372A. The provisions of section 5 of the Indian Limitation Act, 1877, applicable to appeals shall apply to applications under sections 365, 366, 368 and 371."

33. To section 381 the following shall be added, namely:— [I. L. R. 6 Bom. 482, and Act VIII 1859, s. 35.]

"or show good cause why such time should be extended, in which case the Court may extend it."

"Where a suit is dismissed on the ground of the Court that he was prevented by any sufficient cause from furnishing the security within the time allowed, the Court shall set aside the dismissal upon such terms as to security, costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit."

"The dismissal shall not be set aside unless the plaintiff has served the defendant with notice in writing of his application."

"The provisions of the Indian Limitation Act, 1877, with respect to an application under section 103, and of this Code with respect to an appeal from an order rejecting such an application, shall apply, so far as they can be made applicable, to an application under this section for an order to set aside the dismissal of a suit, and to an appeal from an order rejecting such an application, respectively."

34. In section 386, for the words "or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint" the following shall be substituted, namely:—

"or to any pleader or other person whom the

Court issuing the commission may, subject to any rules of the High Court in this behalf, think fit to appoint."

35. In section 419, after the words "Govern-
Amendment of sec- ment Pleader in any Court"
tion 419.

the words "or such other person as the Local Government may for any Court appoint in this behalf" shall be inserted.

36. In section 424, after the words "intend-
Amendment of section ing plaintiff" the words
424. "and the relief which he claims" shall be inserted.

37. (1) In section 432, after the words "Bri-
Amendment of section tish India" the following
432. shall be inserted, name-
ly:—

"or at the request of any person competent in the opinion of the Government to act on behalf of such Prince or Chief."

(2) To the same section the following shall be added, namely:—

"An appointment under this section may be made for the purpose of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the Prince or Chief.

"A person appointed under this section may authorise or appoint persons to make and do appearances, applications and acts in any such suit or suits as if he were himself a party to the suit or suits."

38. For section 433 the
"433. (1) Any such Prince or Chief, and any
Suit against Princes, ambassador or envoy of a
Chiefs, ambassadors Foreign State, may, with
and envoys, the consent of the Governor
General in Council, certified
by the signature of one of the Secretaries to the
Government of India (but not without such
consent), be sued in any competent Court.

(2) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the Prince, Chief, ambassador or envoy may be sued; but it shall not be given unless the Prince, Chief, ambassador or envoy—

(a) has instituted a suit in the Court against the person desiring to sue him, or
(b) by himself or another trades within the local limits of the jurisdiction of the Court, or

(c) is in possession of immoveable property situate within those limits and is to be sued with reference to such possession or for money charged on that property.

(3) No such Prince, Chief, ambassador or envoy shall be arrested under this Code, and,

except with the consent of the Governor General in Council certified as aforesaid, no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy.

"(4) The Governor General in Council may, by notification in the Gazette of India, authorise a Local Government and any Secretary to that Government to exercise, with respect to any Prince, Chief, ambassador or envoy named in the notification, the functions assigned by the foregoing sub-sections to the Governor General in Council and a Secretary to the Government of India, respectively.

"(5) A person may, as a tenant of immoveable property, sue, without such consent as is mentioned in this section, a Prince, Chief, ambassador or envoy from whom he holds or claims to hold the property."

Transposition and amendment of section 39. (1) Section 434 shall
434. become section 229B, and any reference made before the commencement of this Act in any notification or other document to section 434 shall be read as a reference to section 229B.

(2) In section 229B, the words "or continued" shall be inserted after the word "estab-
lished".

Insertion of new sec- 40. After section 433 the
tion 434. following section shall be inserted, namely:—

"434. A Sovereign Prince
Style of Princes and or ruling Chief may sue, and
Chiefs as parties to suits. shall be sued, in the name
of his State:

"Provided that in giving the consent referred to in section 433, the Governor General in Council or Local Government, as the case may be, may direct that any such Prince or Chief shall be sued in the name of an agent or in any other name."

Addition to section 41. To section 464 the
464. following shall be prefixed, namely:—

"Nothing in this Chapter applies to a So-
Princes and Chiefs vereign Prince or ruling
and wards of Court. Chief suing or being sued
in the name of his State
or being sued, by direction of the Governor
General in Council or a Local Government, in the name of an agent or in any other name, and".

42. In section 503, clause (d), the words "as
Amendment of sec- the Court thinks fit" shall
tion 503. be inserted after the words
"by way of remuneration".

43. In section 504, for the words "the Court
Amendment of sec- may appoint the Collector"
tion 504. the words "the Court may,
lector, appoint him" shall be substituted.

44. In section 539, for the words "having a
Amendment of sec- direct interest" the words
tion 539. "having an interest" shall
be substituted.

[I. L. R. 2 Cal. 272, 8 Bom. 644, & 4 All. 387.]
Addition to section 540. 45. To section 540 the following shall be added, namely:—

"An appeal may lie under this section from an original decree passed *ex parte*."

Addition to section 549. 46. To section 549 the following shall be added, namely:—

"If such security be furnished, any costs for which a surety may have rendered himself liable may be recovered from him in execution of the decree of the Appellate Court in the same manner as if he were the appellant."

[Punjab Record, Civil Judgment No. 76 of 1882.]
Substitution of new section for section 551. 47. (1) For section 551 the following shall be substituted, namely:—

"551. (1) The Appellate Court, if it thinks fit, may, after fixing a day for hearing the appellant or his pleader and hearing him accordingly if he appears on that day, dismiss the appeal without sending notice of the appeal to the Court against whose decree the appeal is made and without serving notice on the respondent or his pleader.

"(2) If on the day fixed under sub-section (1) or any other day to which the hearing may be adjourned the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

"(3) The dismissal of an appeal under this section shall be notified to the Court against whose decree the appeal is made."

(2) For the first paragraph of section 551 the following shall be substituted, namely:—

"Unless the Appellate Court dismisses the appeal under the last foregoing section, it shall fix a day for hearing the appeal."

(3) In section 558 the words and figures "section 551, sub-section (2)," shall be inserted before the word and figures "section 556".

48. (1) For the proviso to the first paragraph of section 561 the following shall be substituted, namely:—

"Provided he has filed the objection in the Appellate Court within one month from the date of the service on him or his pleader under section 553 of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may see fit to allow."

(2) To the same section the following shall be added, namely:—

"Unless the respondent files with the objection a written acknowledgment from the appellant or his pleader of having received a copy thereof, the Appellate Court shall cause such a copy to be served, as soon as may be after

the filing of the objection, on the appellant or his pleader, at the expense of the respondent.

"The provisions of Chapter XLIV shall, so far as they can be made applicable, apply to an objection under this section." [I. L. R. 1 Bom. 75 and 8 Mad. 214.]

49. (1) In section 562 the words "so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties" are hereby repealed.

(2) In the same section, for the word "investigate" the word "determine" shall be substituted.

50. Section 563 is hereby repealed.

51. In section 565, for the word "shall" the Amendment of word "may" shall be substituted.

52. (1) In section 566 the words "and the Amendment of sec- evidence upon the record is
tion 566. not sufficient to enable the Appellate Court to determine such issue or question" are hereby repealed.

(2) In the same section, between the words "the Appellate Court may," and the words "frame issues," the words "if necessary" shall be inserted.

53. (1) In section 582, for the words "the words [I. L. R. 7 All
Amendment of sec- 'plaintiff,' 'defendant' and
tion 582. 'suit' shall be held to include an appellant, a respondent and an appeal, respectively," the following shall be substituted, namely:—

"the word 'plaintiff' shall be held to include word 'defendant' and the word 'suit' an appellant."

(2) In the same section, the words and figures "including those of section 372A," shall be inserted after the words "The provisions herebefore contained".

54. To section 584 the following shall be added, [I. L. R. 2 Mad. 75.]
Addition to section 584. namely:—

"An appeal may lie under this section from an appellate decree passed *ex parte*."

55. (1) In section 588, clause (9), for the word [Gazette of India, 19th August, 1882, Part I, page 535.]
Amendment of sec- "or" the word "for" shall
tion 588. be substituted.

(2) In the same section, clause (16), for the words "the first paragraph of" the words "and orders under" shall be substituted.

56. The first paragraph of section 589, and the word "other" in the second paragraph of that section, are hereby repealed.

57. Section 599, and in section 601 the words "within thirty days from the date of the order", are hereby repealed.

[I. L. R. 2
All. 604 and
12 Cal. 402.]

58. After the second paragraph of section 610 Addition to section the following shall be inserted, namely:—

"In so far as the order awards costs to the respondent, it may be executed against a surety therefor, to the extent to which he has rendered himself liable, in the same manner as it may be executed against the appellant:

"Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety."

59. To section 626 the following proviso shall be added, namely:—

"and

[I. L. R. 10
Cal. 80 and 4
All. 278.]
"(c) an application made under section 624 to the Judge who delivered the judgment may, if that Judge has ordered notice to issue under proviso (a) to this section, be disposed of by his successor."

60. After section 646 the following shall be inserted, namely:—

"646A. (1) If at any time before judgment a Court in which a suit has been instituted doubts whether the suit is cognizable by a Court of Small Causes or is not so cognizable, it may submit the record to the High Court with a statement of its reasons for the doubt as to the nature of the suit.

"(2) On receiving the record and statement the High Court may order the Court either to proceed with the suit or to return the plaint for re-nounce of the suit.

"646B. (1) If it appears to a District Court that a Court subordinate thereto has, by reason of erroneously holding a suit to be cognizable by a Court of Small Causes or not to be so cognizable, failed to exercise a jurisdiction vested in it by law, or exercised a jurisdiction not so vested, the District Court may, and, if required by a party, shall, submit the record to the High Court with a statement of its reasons for considering the opinion of the subordinate Court with respect to the nature of the suit to be erroneous.

"(2) On receiving the record and statement, the High Court may pass such order in the case as it thinks fit.

"(3) With respect to any proceeding subsequent to decree in any case submitted to the High Court under this section, the High Court may make such order as in the circumstances appears to it to be just and proper.

"(4) A Court subordinate to a District Court shall comply with any requisition which the District Court may make for any record or information for the purposes of this section."

61. (1) For the third paragraph of section 648 Amendment of, and the following shall be substituted:—

"and the Court making an arrest under this section shall send the person arrested to the Court

by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or (where the case is one under Chapter XXXIV) for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him."

(2) To section 648 the following shall be added, namely:—

"Where a person to be arrested or moveable property to be attached under this section is within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal or at Madras or Bombay, or of the Court of the Recorder of Rangoon, the copy of the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the Court of Small Causes of Calcutta, Madras, Bombay or Rangoon, as the case may be, and that Court, on receipt of the copy and amount, shall proceed as if it were the District Court."

62. In section 650A, the words "or continued" shall be inserted after the word "established".

63. To section 652 the following shall be added, namely:—

"A High Court not established under the Statute 22 and 25, Victoria, chapter 104 (an Act in India) may, from time to time, with the previous sanction of the Local Government, make, with respect to any matter other than procedure, any rule which any High Court so established might under section 15 of that Statute make with respect to any such matter for any part of the territories under its jurisdiction which is not included within the limits of a presidency-town. Rules so made shall be published in the same manner, and shall thereupon have the same force, as rules made and published under this section for the regulation of matters connected with procedure."

64. In form No. 137 of the fourth schedule the words "bound by the decree" shall be inserted after the words "remove any person".

65. (1) After clause (n) of section 17 of the [I. L. R. 9
Indian Registration Act, Cal. 82, 7
Act, 1877. Mad. 418, 4
Bom. 155, 8
Indian Registration Act, Bom. 378, &
1886, the following clause shall be added, name-
ly:—
III of 1877.
VII of 1886.

"(o) a certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue officer." [Act. 10, 9
article 16.]

(2) In the second paragraph of section 50 of the same Act, for the word and letter "and (n)" the letters and word "(n) and (o)" shall be substituted.

III of 1877.

(3) The Indian Registration Act, 1877, shall be construed as if the amendments made in it by this section had been made therein by Act XII of 1879 (an Act to amend the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877):

Provided that nothing in this sub-section shall be deemed to affect a decree or order made by any Court before the commencement of this Act.

66. (1) No. 161 of the second schedule to the Indian Limitation Act, 1877, shall be transposed and become No. 173A, and the entry against it in the second column of that schedule shall be "Ditto", signifying ninety days.

(2) Nos. 171, 171A and 171B of the same schedule are hereby repealed.

(3) For No. 171C of the same schedule the following shall be substituted, namely:—

Description of Application.	Period of Limitation.	Time from which period begins to run.
171. Under section 371 of the Code of Civil Procedure, or under that section and section 582 of the same Code, for an order to set aside an order for abatement or dismissal.	Sixty days.	The date of the order for abatement or dismissal.
175A. Under section 365 of the Code of Civil Procedure by the legal representative of a deceased plaintiff, or under that section and section 582 of the same Code by the legal representative of a deceased plaintiff-appellant or defendant-appellant.	Six months	The date of the death of the deceased plaintiff or of the deceased plaintiff-appellant or defendant-appellant.
175B. Under section 366 of the Code of Civil Procedure by a defendant, or under that section and section 582 of the same Code by a plaintiff-respondent or defendant-respondent.	Ditto	The date of the death of the deceased plaintiff or of the deceased defendant-appellant or plaintiff-appellant.
175C. Under section 368 of the Code of Civil Procedure to have the legal representative of a deceased defendant made a defendant, or under that section and section 582 of the same Code to have the legal representative of a deceased plaintiff-respondent or defendant-respondent made a plaintiff-respondent or defendant-respondent.	Ditto	The date of the death of the deceased defendant or of the deceased plaintiff-respondent or defendant-respondent.

(4) After No. 175 of the same schedule the following shall be inserted, namely:— [Cases cited at s. 32 of this Bill.]

Secretary to the Government of India.

GOVERNMENT OF INDIA,

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th March, 1888:—

NO. 4 OF 1888.

A Bill to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India.

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India; It is hereby enacted as follows—

I. (1) This Act may be called the Measures of Length Act, 1888.

Title, extent and commencement. (2) It extends to the whole of British India; and

(3) It shall come into force on the first day of January, 1889.

[41 & 42 Vic., c. 49, s. 10.] 2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard.

[41 & 42 Vic., c. 49, s. 4.] 3. An accurate copy, approved as such by the Governor General in Council, of the imperial standard yard for determining the length of the imperial standard yard for the United Kingdom shall be kept in such place within the limits of the Town of Calcutta as the Governor General in Council may prescribe, and shall be the standard for determining the length of the standard yard.

4. One-third part of the standard yard shall be called a standard foot, and one thirty-sixth part of such a yard shall be called a standard inch. [41 & 42 Vic., c. 49, s. 11.]

5. Any measure having stamped thereon or affixed thereto a certificate in favour of accuracy of certified measures, under the authority of the Governor General in Council or of a Local Government, and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor General in Council or the Local Government, be deemed to be correct until its inaccuracy is proved.

6. A public servant having in pursuance of inspection of certified measures by the public, such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.

7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866, by the Commissioner of Police in the Town of Madras under section 44 of the Act of the Governor of Fort St. George in Council No. VIII of 1867, by the Presidency Magistrates in the Town of Bombay under section 17 of Act XLVIII of 1860 as amended by the Act of the Governor of Bombay in Council No. IV of 1882, and by the Magistrate under section 20 of Regulation XII of 1827 of the Bombay Code, such certified measures of the standard yard, standard foot and standard inch as are mentioned in section 5. Ben. Act IV of 1866.

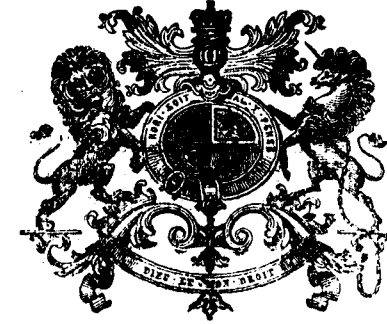
STATEMENT OF OBJECTS AND REASONS.

THIS Bill, declaring the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India, is preliminary to intended legislation on the lines of the Merchandise Marks Act, 1887 (50 & 51 Vic., c. 28).

The 16th March, 1888.

ANDREW R. SCOBLE.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 14, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th July, 1888:

NO. 5 OF 1888.

A Bill to remove doubts as to the legality of the levy of certain Tolls.

WHEREAS doubts have been raised as to the operation of the Acts of the Governor-General in Council, No. VIII. of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*) and No. XV. of 1864 (*an Act to amend Act VIII. of 1851*); It is hereby enacted as follows:—

1. Acts VIII. of 1851 and XV. of 1864 shall be deemed to be in force throughout the territories now administered by the Lieutenant-Governor of the Punjab, and, from the twenty-first day of August, 1857, and the twenty-fourth day of March, 1864, respectively, to have been in force in the territories for the time being administered as part of the Punjab.

2. (1) In any part of British India beyond the limits of the territories administered by the Governor of Fort St. George in Council and the Lieutenant-Governors of Bengal and the North-

Western Provinces, to or in which Acts VIII. of 1851 and XV. of 1864 may be or have been extended, or may be or have been declared to be in force, under the latter of those Acts or by this Act or by or under any other enactment, the Local Government shall be deemed to have and, where the Acts have been in force before the passing of this Act, to have had the same authority as if it had been included among the Local Governments specified in section 2 of Act VIII. of 1851.

(2) "Presidency", where that word occurs in section 8 of Act VIII. of 1851, shall be deemed to mean, and to have meant, the territories under the administration of a Local Government.

3. All tolls levied, or purporting to have been levied, under Acts VIII. of 1851 and XV. of 1864, or either of those Acts, before the passing of this Act, shall be deemed to have been lawfully levied.

4. Nothing in the foregoing sections shall affect any proceedings commenced in any Civil Court before the first day of July, 1888.

5. In section 2 of Act VIII. of 1851 the words "and the Governor of the Presidency of Bombay in Council" are hereby repealed, and the word "and" shall be inserted between the words "the Lieutenant-Governor of the North-Western Provinces of Bengal" and the words "the Governor of the Presidency of Fort St. George in Council".

STATEMENT OF OBJECTS AND REASONS.

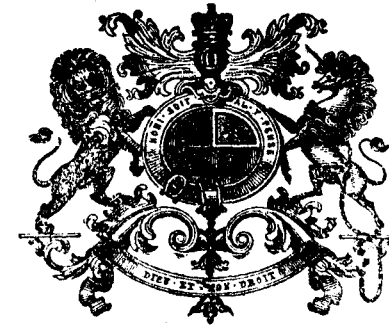
THE object of this Bill is to remove doubts as to the operation of Acts VIII. of 1851 and XV. of 1864 in the Punjab, and to validate the levy of tolls in that Province under those Acts.

The introduction of a Bill being expedient for those purposes, the opportunity has been taken to confer in express terms on the Lieutenant-Governor of the Punjab and the Chief Commissioners of Burma, the Central Provinces and Coorg, and on the Local Government of any other province in which the Acts may for the time being be in force, the authority which is conferred on the Governor of Fort St. George in Council and the Lieutenant-Governors of Bengal and the North-Western Provinces by section 2 of the Act of 1851, and to declare the word "Presidency" in section 8 of that Act to mean the territories under the administration of a Local Government.

G. R. ELSMIE.

The 11th July, 1888.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 28, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th July, 1888:

NO. 6 OF 1888.

A Bill to make an addition to the Indian Telegraph Act, 1885.

WHEREAS it is expedient to make an addition to the Indian Telegraph Act, 1885; It is hereby enacted as follows:—

I. The following section shall be added to that Act, namely:—

“34. (1) This Act, in its application to the presidency-towns, shall be read as if for the words ‘District Magistrate’ in section 16, sub-section (1),

and section 17, sub-sections (2) and (3), for the words ‘Magistrate of the first or second class’ in section 18, sub-section (1), and for the word ‘Magistrate’ in section 18, sub-section (2), there had been enacted the words ‘Commissioner of Police’, and for the words ‘District Judge’ in section 16, sub-sections (3), (4) and (5), the words ‘Chief Judge of the Court of Small Causes’.

(2) Section 16, in its application to the town of Rangoon, shall be read as if for the words ‘District Judge’, wherever they occur in that section, there had been enacted the words ‘Judge of the Court of Small Causes’.

(3) The fee in respect of an application to the Chief Judge of a Presidency Court of Small Causes under sub-section (3) of section 16 shall be the same as would be payable under the Court-fees Act, 1870, in respect of such an application to a District Judge beyond the limits of a presidency-town, and fees for summonses and other processes in proceedings before the Chief Judge under sub-section (3) or sub-section (4) of that section shall be payable according to the scale set forth in the fourth schedule to the Presidency Small Cause Courts Act, 1882.”

XV of 1882.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to add to the Indian Telegraph Act, 1885, a section which is required in order to remedy an oversight. In the absence of such a section certain portions of the Act which were intended to be operative in presidency-towns and Rangoon are inoperative there.

The 25th July, 1888.

C. A. ELLIOTT.

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th July, 1888:

NO. 7 OF 1888.

A Bill to regulate the payment of duty in respect of Salt where there has been an alteration of the rate of duty payable in respect thereof.

WHEREAS it is expedient to regulate the payment of duty in respect of salt where the duty payable in respect thereof has been either enhanced or reduced; It is hereby enacted as follows:—

Title and extent. 1. (1) This Act may be called the Salt-duty Act, 1888; and

(2) It shall extend to the whole of British India.

2. In this Act "manufacture", used with Definition. reference to salt, has the meaning assigned thereto by the Indian Salt Act, 1882.

3. Where the rate of duty payable in respect of salt is enhanced or reduced, the provisions of the following clauses shall apply:—

(1) the rate of duty payable in respect of salt manufactured otherwise than by or on behalf of the Government in any part of British India, or in respect of salt so manufactured beyond British India and imported by land into any part of British India, shall be the rate in force in that part under section 7 of the Indian Salt Act, 1882, on the day on which the duty in respect of the salt is paid to the Government:

(2) the rate of duty payable in respect of salt manufactured by or on behalf of the Government in any part of British India, or in respect of salt so manufactured beyond British India and imported

by land into any part of British India, shall be,—

(a) when the duty payable in respect of the salt has been paid to the Government before the time appointed for the enhancement or reduction of the rate of duty to take effect, then the rate in force in that part as aforesaid on the day on which the duty was so paid to a person having authority to receive it on behalf of the Government on that day, and

(b) in any other case, the rate in force in that part as aforesaid on the day on which the duty in respect of the salt is paid to the Government:

provided, with respect to article (a) of this clause, that, where the rate of duty is reduced, a person who has paid duty in respect of salt on any of the three days immediately preceding the time appointed for the reduction to take effect shall, in respect of so much of the salt as has not before that time been delivered at the place of manufacture either to him or a person authorised to hold the salt on his behalf or to a railway administration or other carrier for carriage to his order, be entitled to a refund of the difference between the duty which he has paid and the reduced duty;

(3) the rate of duty payable in respect of salt imported into any part of British India by sea shall be the rate in force in that part as aforesaid on the day on which entry thereof is made for home-consumption or, in the case of salt of which entry has been made for warehousing, the rate so in force in that part on the day on which the salt is cleared for home-consumption.

4. The provisos to section 37 of the Sea Exclusion of opera. Customs Act, 1878, shall VIII of 1878. tion of other enact. not apply to salt, and this Act shall take effect notwithstanding anything in that Act or in any other enactment for the time being in force.

STATEMENT OF OBJECTS AND REASONS.

By the operation of the proviso to section 37 of the Sea Customs Act, 1878, an enhancement of the salt-duty does not come into effect with respect to sea-borne salt for two or three months after it is proclaimed. As the effect upon prices is immediate, the result is that the consumer has to pay as much as if the salt bore the enhanced rate of duty, but the increase which he pays goes not to the Treasury but to the individuals who happen to be the owners of the salt which is at sea on its way to India. The first object of the present Bill is to claim for the Treasury this enhancement of the price which the fiscal action of the Government in enhancing the duty enables the holder to realize from the consumer.

Opportunity has been taken to define the operation of enhancements and reductions of duty with respect to salt manufactured in India. It is the object of the Government to give all possible facilities to the trade for the payment of duty and the purchase of salt. It is necessary to define, with reference to the procedure adopted for this purpose, the exact incidence of an enhancement or reduction of duty, so as to avoid claims and contentions which have arisen on past occasions of the alteration of the rate of duty.

The 25th July, 1888.

J. WESTLAND.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th July, 1888:

NO. 8 OF 1888.

A Bill to repeal certain enactments relating to Contagious Diseases.

WHEREAS it is expedient to repeal certain enactments relating to contagious diseases; It is hereby enacted as follows:—

1. The enactments specified in the schedule are repealed to the extent mentioned in the third column thereof.

THE SCHEDULE.
ENACTMENTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
XIV of 1868.	Indian Contagious Diseases Act, 1868.	So much as has not been repealed.
XXVI of 1868.	Municipal Lock-hospitals.	The whole.
<i>Act of the Governor of Fort St. George in Council.</i>		
IV of 1884	Madras District Municipalities Act, 1884.	The words "the application of the Indian Contagious Diseases Act" in section 113.

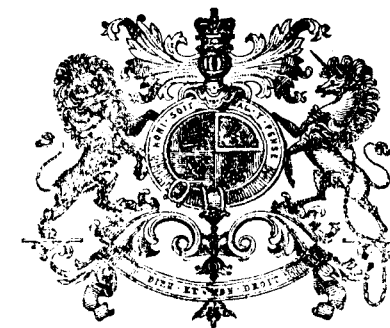
STATEMENT OF OBJECTS AND REASONS.

IN 1882 the Government of India, after enquiry into the working of the Indian Contagious Diseases Act, 1868, proposed to repeal it. The Secretary of State, however, considered that further experience was desirable before repealing the Act, but he left to the Government of India discretion to suspend its operation. The Act was accordingly withdrawn from operation in Calcutta. Further consideration of the question satisfied the Government of India that it ought also to be withdrawn in the towns of Madras and Bombay and two other towns in British India in which it had been maintained. Orders to this effect were issued on 19th May last. As there is no probability of the Act in its present form being revived, it is proposed to remove it and any subsidiary Acts dependent on it from the Statute-book.

The 25th July, 1888.

C. U. AITCHISON.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 25, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd August, 1888:

NO. 9 OF 1888.

A bill to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, and the Court-fees Act, 1870, and to make provision with respect to certain other matters.

X of 1865.
V of 1881.
VII of 1870.

WHEREAS it is expedient to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, and the Court-fees Act, 1870, and to make provision with respect to certain other matters; It is hereby enacted as follows:

1. (1) This Act may be called the Probate and Administration Act, 1888; and

(2) It shall come into force on the first day of January, 1889.

Indian Succession Act, 1865.

X of 1865.

2. For the last forty-two words of section 254 of the Indian Succession Act, 1865, the following shall be substituted, namely:

"he having undertaken to administer the same, and, on the requisition of this Court, to make a true inventory of the said property and credits and exhibit the same in this Court at or before the expiration of six months from the date of this grant, and also, on a like requisition, to render to this Court a true account of the said property and credits within one year from the same date."

3. For the last forty-five words of section 255 of the same Act the following shall be substituted, namely:

"he having undertaken to administer the same, and, on the requisition of this Court, to make a true inventory of the said property and credits and exhibit the same in this Court at or before the expiration of six months from the date of this grant, and also, on a like requisition, to render to this Court a true account of the said property and credits within one year from the same date."

4. For section 277 of the same Act the following shall be substituted, namely:

"277. (1) An executor or administrator shall, on the requisition of the Court which granted the probate or letters of administration, exhibit in that Court, within six months from the date of the grant, or within such further time as that Court may appoint in its requisition, an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and on a like requisition shall in like manner, within one year from the date aforesaid or within such further time as the Court may appoint in its requisition, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(2) Failure to comply with a requisition of the Court for an inventory or account under this section shall be deemed to be an offence under section 176 of the Indian Penal Code, and the submission of an intentionally false inventory or account shall be deemed to be an offence under section 193 of that Code.

"(3) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited."

XLV of 1860.

Probate and Administration Act, 1881.

V of 1881.

5. For the portion of section 76 of the Probate and Administration Act, 1881, beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date", the following shall be substituted, namely:

"he having undertaken to administer the same, and, on the requisition of this Court, to make a true inventory of the said property and credits and exhibit the same in this Court at or before the expiration of six months from the date of this grant, and also, on a like requisition, to render to this Court a true account of the said property and credits within one year from the same date."

6. For the portion of section 77 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date", the following shall be substituted, namely:

"he having undertaken to administer the same, and, on the requisition of this Court, to make a true inventory of the said property and credits and exhibit the same in this Court at or before the expiration of six months from the date of this grant, and also, on a like requisition, to render to this Court a true account of the said property and credits within one year from the same date."

Substitution of new section for section 90, Act V, 1881.

7. For section 90 of the same Act the following shall be substituted, namely:

"90. (1) An executor or administrator has, subject to the provisions of this section, power to dispose, as he thinks fit, of all or any of the property for the time being vested in him under section 4.

"(2) The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

"(3) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property for the time being vested in him under section 4, or

(b) lease any such property for a term exceeding five years.

"(4) A disposal of property by an executor or administrator in contravention of sub-section (2), or sub-section (3), as the case may be, is voidable at the instance of any other person interested in the property.

"(5) Before any probate or letters of administration is or are granted under this Act there shall be endorsed thereon a copy of sub-sections

(1), (2) and (4), or of sub-sections (1), (3) and (4), as the case may be.

"(6) A probate or letters of administration shall not be rendered invalid by reason of the endorsement required by the last foregoing sub-section not having been made thereon, nor shall the absence of such an endorsement authorise an executor or administrator to act otherwise than in accordance with the provisions of this section."

Substitution of new section for section 98, Act V, 1881.

8. For section 98 of the same Act the following shall be substituted, namely:

"98. (1) An executor or administrator shall, on the requisition of the Court which granted the probate or letters of administration, exhibit in that Court, within six months from the date of the grant, or within such further time as that Court may appoint in its requisition, an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and on a like requisition shall in like manner, within one year from the date aforesaid or within such further time as the Court may appoint in its requisition, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(2) Failure to comply with a requisition of the Court for a inventory or account under this section shall be deemed to be an offence under section 176 of the Indian Penal Code, and the submission of an intentionally false inventory or account shall be deemed to be an offence under section 193 of that Code.

"(3) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited."

Court-fees Act, 1870.

9. Article 16 (Administration-bond) of the second schedule to the Court-fees Act, 1870, is hereby repealed.

Miscellaneous.

10. (1) Notwithstanding anything in the Probate and Administration Act, 1881, an executor or administrator to whom a grant of probate or of letters of administration with

copy of the will annexed was made before the first day of April, 1881, under the Hindu Wills Act, 1870, or an executor or administrator to whom a grant of probate or of letters of administration has been made before the commencement of this Act, under the Probate and Administration Act, 1881, shall be deemed to have had and to have power to dispose, as he might or may think fit, of all or any of the property of the deceased which was or is for the time being vested in him.

(2) Nothing in sub-section (1) shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

II. (1) Any penalty or forfeiture under section 19G or section 19H of the Court-fees Act, 1870, may, on the certificate of the Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an arrear of land-revenue by any Collector in any part of British India.

(2) The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture.

12. The following portion of section 7, clause (3), of the Act of the Lieutenant-Governor of Bengal in Council No. VII of 1880, entitled the Public Demands' Recovery Act, 1880, namely:

"or in the following sections and portions of the following Act passed by the Governor General in Council, that is to say, in Act VII of 1870, 'the Court-fees Act,' sections 19G, 19H," hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

UNDER section 90 of the Probate and Administration Act, 1881, an executor or administrator has power, with the consent of the Court by which the grant of probate or of letters of administration was made, to dispose of the property of the deceased, either wholly or in part, in such manner as he thinks fit.

A proviso to the section enacts that the Court may, when granting probate or letters of administration, exempt the executor or administrator from the necessity of obtaining such consent as to the whole or any specified part of the assets of the deceased.

It has been represented to the Government of India that it is only recently that the restrictive effect of this section has been realised, and that Hindus have gone on taking out probates and letters of administration and acting under them as if they had the same effect as probates, and letters of administration with copy of the will annexed, had under the Hindu Wills Act, 1870, up to the first day of April, 1881. They now find that such of their transfers of property as they had not power to make under Hindu law are invalid. It appears also that for some years after Act V of 1881 had come into force no distinction was made in the Public Debt Office between the powers of European and those of Asiatic executors.

The confusion caused by the restricted form of probate and administration under the Act of 1881 is so serious as in the opinion of competent authorities to render retrospective as well as prospective legislation necessary.

In these circumstances it is proposed by section 7 of the Bill to substitute for section 90 of the Probate and Administration Act, 1881, a section conferring on an executor or administrator an absolute power of disposal over moveable property, but, as regards immoveable property, subjecting an executor ordinarily to such restrictions, if any, as are imposed on him by the will appointing him, and an administrator to restrictions similar to those imposed on a guardian by Acts XL of 1858 and XX of 1864. It is also proposed by section 10 of the Bill to confer on persons who have already taken out probate or letters of administration under Act V of 1881 the unrestricted powers, prospectively and retrospectively, which under the Hindu Wills Act used to be conferred, and under the Indian Succession Act are conferred, on executors and administrators.

It is further proposed by section 10 of the Bill to remove a doubt whether section 90 of the Act of 1881 is to be construed, with respect to transfers made after the first day of April, 1881, as applying to executors and administrators to whom probates, and letters of administration with copy of the will annexed, were granted under the Hindu Wills Act, 1870, before that day.

2. The other sections of the Bill are of secondary importance.

Sections 4 and 8 will enable Courts which are not Courts of Record, and cannot punish for such contempt as is involved in the omission to submit an inventory or account, to insist in proper cases, either in the interests of the revenue or at the instance of a person interested in the administration of an estate, on the submission of such documents as Acts X of 1865 and V of 1881 now require to be submitted in all cases, without, however, making any express provision for enforcing their submission.

Sections 2 and 3 are subsidiary to section 4, and sections 5 and 6 to section 8.

Section 9 is designed to remove a doubt which has existed since the enactment of article 2 of the first schedule to the Indian Stamp Act, 1879, with respect to the stamp to which an administration-bond under the Indian Succession Act, 1865, or the Probate and Administration Act, 1881, is liable.

Sections 11 and 12 are suggested by the Public Demands' Recovery Act (Bengal), VII of 1880.

The 17th August, 1888.

ANDREW R. SCOBLE.

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd August, 1888:

NO. 10 OF 1888.

THE SUCCESSION CERTIFICATE BILL.

CONTENTS.

SECTIONS.

1. Title, commencement, extent and application.
2. Repeal.
3. Definitions.
4. Restriction on recovery of debts from debtors of deceased persons.
5. Court having jurisdiction to grant certificate.
6. Application for certificate.
7. Procedure on application.
8. Contents of certificate.
9. Effect of certificate.
10. Requisition of bond from grantee of certificate.
11. Appointment of trustee in case of disputed succession.
12. Local extent of certificate.
13. Appeal.
14. Effect on certificate of a previous certificate or of previous probate or letters of administration.
15. Effect on certificate of subsequent probate or letters of administration.
16. Validation of payments made in good faith to holders of invalid certificates.
17. Extension of certificate.
18. Forms of certificate and extended certificate.
19. Amendment of certificate in respect of powers as to securities.
20. New articles substituted for articles 11 and 12, Schedule I, Act VII, 1870.
21. Mode of collecting court-fees on certificates.
22. Effect of certificate granted or extended by British representative in Foreign State.

23. Effect of decisions under this Act, and liability of holders of certificates thereunder.
24. Prohibition of exercise of certain powers by curators.
25. Effect of certain probates and letters.
26. Amendment of Court-fees Act, 1870, and Bombay Regulation VIII of 1827.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

A bill to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons.

WHEREAS it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons; It is hereby enacted as follows:

I. (1) This Act may be called the Succession Certificate Act, 1888.
Title, commencement, extent and application.

(2) It shall come into force on the first day of January, 1889; and

(3) It extends to the whole of British India, [Act XX of 1886, s. 6 (2).] inclusive of Upper Burma;

(4) But a certificate shall not be granted thereunder with respect to any debt or security of 1860, s. 23; and Act XXI of 1870, s. 2.] to which a right can be established by probate or letters of administration under the Indian Succession Act, 1865, or by probate of a will to which the Hindu Wills Act, 1870, applies, or by XXI of 1870, will annexed.

2. (1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(2) But nothing in this Act shall affect any certificate granted before the commencement of this Act under Act XXVII of 1860 or any enactment repealed by that Act or under the Regulation of the Bombay Code No. VIII of 1827.

(3) Any enactment except section 152 of the Probate and Administration Act, 1881, V of 1881, or any document, referring to any enactment repealed by this Act shall, so far as may be, be

The Succession Certificate Bill.

(Sections 3-10.)

construed to refer to this Act or to the corresponding portion thereof.

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

[Act I of 1868, s. 2 (12).]

[New.]

(1) "District Court" means a Court presided over by a District Judge; and

(2) "security" means—

- (a) any promissory note, debenture, stock or other security of the Government of India;
- (b) any bond, debenture or annuity charged by the Imperial Parliament on the revenues of India;
- (c) any stock or debenture of, or share in, a company or other incorporated institution;
- (d) any debenture or other security for money issued by, or on behalf of, a local authority;
- (e) any other security which the Governor General in Council may, by notification in the Gazette of India, declare to be a security for the purposes of this Act.

[Act XXVII of 1860, s. 2.]

4. (1) No debtor of any deceased person shall be compelled by any Court to pay his debt to any person claiming to be entitled to the effects of any deceased person or any part thereof except on the production of a probate or letters of administration or of a certificate granted under this Act and having that debt specified therein, or granted under Act XXVII of 1860 or an enactment repealed by that Act or under the Regulation of the Bombay Code No. VIII of 1827.

[New.]

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

[Act XXVII of 1860, s. 3.]

5. The District Court within the jurisdiction of which the deceased ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Act.

[Act V of 1881, s. 64.]

6. (1) Application for such a certificate must be made to the District Court by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely:

- (a) the time and place of the death of the deceased and his ordinary residence at the time of his death;
- (b) the family and other relatives of the deceased and their respective residences;
- (c) the right in which the petitioner claims;
- (d) the absence of any impediment under section 1, sub-section (4), to the grant of the certificate; and
- (e) the debts and securities in respect of which the certificate is applied for.

(2) If the petition contains any averment which the person verifying it knows or believes to be false, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

[Act V of 1881, s. 68.]

7. (1) If the District Court is satisfied that there is ground for entertaining the application, it shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

[Guardians and Wards Bill, s. 11.]

- (a) to be served on any person to whom, in the opinion of the Court, special notice of the application should be given, and
- (b) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Court, subject to any rules made by the High Court in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be convenient, shall proceed to determine the right to the certificate.

(2) The High Court may, on application made by petition and on cause shown to its satisfaction, suspend the granting of the certificate by the District Court, and may direct such further proceedings for the investigation of the right to the certificate as it thinks fit.

[Act XXVII of 1860, s. 6.]

8. When the District Court grants a certificate, it shall therein specify the debts and securities set forth in the application for the certificate and may thereby empower the person to whom the certificate is granted to receive interest or dividends on the securities specified therein or on any of them, or to negotiate the securities or any of them.

[Succession Certificate Bill, 1883, s. 3: and Act XXVII of 1860, s. 8.]

9. Subject to the provisions of this Act, the certificate of the District Court shall, with respect to the debts and securities specified therein, be conclusive of the representative title of the person to whom the certificate is granted, and shall, notwithstanding any contravention of section 1, sub-section (4), or other defect, afford full indemnity to all debtors of the deceased paying their debts to that person.

[Act XXVII of 1860, s. 4.]

10. (1) The District Court may require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give a bond to the Judge of the Court to ensure for the benefit of the Judge for the time being, with one or more surety or sureties, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

[Act XXVII of 1860, s. 5: and Act V of 1881, ss. 78 and 79.]

(2) The Court may, on application made by petition and on cause shown to its satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court thinks fit, assign the bond to some proper person, and that person shall thereupon be entitled to sue on the bond in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons

The Succession Certificate Bill.

(Sections 11-18.)

interested, such amount as may be recoverable thereunder.

[Act XXVII of 1860, ss. 9, 10 and 11.]

11. (1) Where there is a dispute among persons claiming as the representatives of a deceased person to be jointly entitled to be proprietors of any securities, the District Court, on the application of any of the claimants and on cause shown to its satisfaction, may, so far as regards the securities, grant a certificate under this Act to a person appointed by the Court to act as trustee under this section, and shall specify in the certificate the securities and the several persons appearing to such trustee to be the proprietors thereof and their respective shares therein.

(2) The trustee shall be entitled by virtue of such certificate to receive and give discharges for the interest or dividends on the securities, and shall account for and pay the interest or dividends to the several persons specified in the certificate to be thereunto entitled, according to the shares therein set forth, and may act for those persons in all other respects concerning the securities, and shall be entitled to receive such commission, not exceeding one per centum, on the sums received and paid by him, as the Court thinks fit.

(3) If any such dispute among persons claiming to be proprietors of any securities is not ended within two years from the date of the certificate granted under sub-section (1), the trustee may apportion the principal sum of the securities rateably among the parties appearing from the certificate to be proprietors thereof, and may apply for and receive new securities from the proper officer appointed to issue them in the respective names of the several parties certified to be entitled thereto.

(4) The receipt of the trustee for such new securities, by endorsement on the old securities or otherwise, shall be a legal discharge against the disputing parties claiming to be entitled to the several amounts for which the securities are issued.

(5) If the amount of the securities in dispute or any part thereof is not sufficient to admit of their rateable division according to the rules applicable to the issue of such securities, the trustee may sell and dispose of the disputed securities, or such part as may be necessary, and apportion the proceeds thereof among the parties certified to be entitled to receive the same.

(6) A certificate granted to a trustee appointed under this section shall supersede any previous certificate so far as the previous certificate relates to the securities specified in the certificate granted to the trustee.

[Act XXVII of 1860, s. 7.]

12. A certificate under this Act shall have effect throughout the whole of British India.

[Act XXVII of 1860, s. 6.]

13. (1) An appeal shall lie to the High Court from an order of a District Court granting or refusing, or, on review, revoking a certificate under this Act, and the High Court may, if it thinks fit, by its order on the appeal declare the person to whom the certificate should be granted and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

[Act XXVII of 1860, s. 6: 7 Bom. H. C. R., A. C., 71: 8 W. R., C. R., 276: 17 Act, and the High Court may, if it thinks fit, by W. R., C. R., 366: I. L. R. 1 Cal. 127, 6 Cal. 40, and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted. Judgment No. 103 of 1888.]

(2) Subject to the provisions of sub-section (1), and of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Act shall be final.

[I. L. R. 1 Cal. 101 and 1 All. 287.]

14. Save as provided by this Act, a certificate thereunder in respect of any debts or securities shall be invalid if such a certificate has been previously granted in respect of the debts or securities or if a grant of probate or letters of administration has been previously made in respect of the estate including them.

[Act XXVII of 1860, ss. 7 and 13.]

15. (1) A grant of probate or letters of administration under the Probate and Administration Act, 1881, in respect of an estate shall be deemed to supersede any certificate previously granted under this Act in respect of any debts or securities included in the estate.

[Act V of 1881, s. 152, and s. 2 (3) of this Bill.]

(2) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of the certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding.

16. Where a certificate under this Act has been superseded wholly or in part, or is invalid, by reason of the grant of a certificate to a trustee under section 11, or to a person named in an order of the High Court under section 13, or by reason of the certificate having been revoked, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made to, and dealings had with, the holder of the superseded or invalid certificate in ignorance of its supersession or invalidity shall be held good against claims under any other certificate or under the probate or letters of administration.

[Act XXVII of 1860, ss. 6, 11 and 14.]

17. (1) A District Court may from time to time, on the application of the holder of a certificate under this Act, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

[Act XXVII of 1860, ss. 21 and 22.]

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation of, any security to which the certificate has been extended may be conferred, and a bond for the purposes mentioned in section 10 may be required, in the same manner as upon the original grant of a certificate.

18. Certificates shall be granted and extended in the same manner as upon the original grant of a certificate.

[New.]

Forms of certificates shall be made, as nearly as circumstances admit, in the forms set forth in the second schedule.

The Succession Certificate Bill.

(Sections 19-23.)

19. Where a District Court has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring one or other of the powers mentioned in section 8, or by substituting for the power to receive interest or dividends a power to negotiate the security, as the case may be.

20. For Nos. 11 and 12 of the second schedule to the Court-fees Act, 1870, the following shall be substituted, namely:—

Number.		Proper fee.
"11. Probate of a will or letters of administration with or without will annexed.	If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees.	Two per centum on such amount or value: provided that when, after a certificate has been granted under the Succession Certificate Act, 1888, or any enactment repealed by that Act, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.
"12. Certificate under the Succession Certificate Act, 1888.	In any case.	Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 17 of the Act.

NOTE.—(1) The amount of a debt is its amount, including interest, on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained.

Number.	Proper fee.
(2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and, where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation of, the security, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained."	

21. (1) Every application for a certificate or for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable under article 12 of the first schedule to the Court-fees Act, 1870, in respect of the certificate or extension applied for.

(2) Every objection to the grant of a certificate must, when the objector claims, but has not made an application for, the grant of the certificate to himself, be accompanied by a like deposit.

(3) If the application or the claim is allowed, the sum deposited by the applicant or by the objector, as the case may be, shall be expended, under the direction of the Court, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(4) Any sum received under sub-section (1) or sub-section (2), and not expended under sub-section (3), shall be refunded to the person who deposited it.

22. Where a certificate in the form, as nearly as circumstances admit, of the second schedule has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, with respect to certificates under this Act, have the same effect in British India as a certificate granted or extended under this Act.

23. (1) No decision under this Act upon any question of right between any parties shall be held to bar the trial of the same question in any other suit or proceeding between the same parties, and nothing in this Act shall be construed to affect the liability of any person who may receive the

The Succession Certificate Bill.

(Sections 24-26. The First Schedule.—Enactments repealed.)
(The Second Schedule.—Forms of certificate and extended certificate.)

whole or any part of any debt or security to account therefor to the person lawfully entitled thereto:

[Act XXVII of 1860, s. 9.] (2) But a suit shall not lie against a trustee appointed under section 11 in respect of anything done by him in accordance with the provisions of that section.

[Act XXVII of 1860, s. 17.] 24. (1) Where a certificate has been granted under this Act or any enactment repealed by this Act, or a grant of probate or letters of administration has been made, a curator appointed under Act XIX of 1841 shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator:

(2) But persons who have paid debts or rents to a curator authorised by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

[Act XXVII of 1860, s. 18.] 25. Any probate or letters of administration granted before the first day of April, 1881, by any Supreme or High Court of

Judicature in any case in which the deceased person was not a British subject within the meaning of the charter of the Court and any assets belonging to him were at the time of his death within the local limits of the jurisdiction of the Court shall, for the purpose of the recovery of debts, the protection of securities included in the estate of the deceased, be deemed to have and to have had the effect which a grant of probate or letters of administration has under the Indian Succession Act, 1865:

Provided that nothing in this section shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

VII of 1870. 26. In the Court-fees Act, 1870, section 19, clause viii, the word "or" shall be inserted between the words "probate of a will" and the words "letters of administration": and in the Regulation of the Bombay Code No. VIII of 1827, section 11, the word and figures "section 10" shall be substituted for the words and figures "sections 9 and 10."

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
Acts of the Governor-General in Council.		
XXVII of 1860.	Collection of debts on successions.	So much as has not been repealed.

Number and year.	Subject or title.	Extent of repeal.
Acts of the Governor-General in Council—contd.		
VII of 1870	Court-fees Act, 1870.	In section 19, clause viii, the words "and certificate mentioned in the first schedule to this Act annexed, No. 12," and the words "or certificate."
XV of 1874	Laws Local Extent Act, 1874.	So much as relates to Act XXVII of 1860.
V of 1881.	Probate and Administration Act, 1881.	Sections 151 and 153.
Act of the Lieutenant-Governor of Bengal in Council.		
VII of 1880	Public De- mands' Recovery Act, 1880.	In section 7, clause (3), the words "and the note to paragraph 12 of Schedule I."
Regulation of the Bombay Code.		
VIII of 1827	Administration of Estates.	So much as has not been repealed, except sections 10 and 11 and Appendix C.

THE SECOND SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

(See section 18.)

In the Court of

To A. B.

Whereas you applied on the _____ day of _____ for a certificate under the Succession Certificate Act, 1888, in respect of the following debts and securities, namely:—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for certificate.	Description and date of instrument, if any, by which the debt is secured.

7. The other portions of the Bill which appear to call for remark are the following:—
Section 2.—With reference to the Probate and Administration Act, 1881, and certain remarks recorded on the Bill of 1883 by Mr. Cordeaux, District Judge of Poona, it is proposed to repeal the Regulation of the Bombay Code No. VIII of 1827. In the consideration of this proposal by the Select Committee the opinions of the Government and High Court of Bombay will of course carry great weight.

Section 3.—Proposals made by the Government of Bombay and the Hon'ble Mr. Conlan have suggested the definition of the word "security".

Sections 9 and 16.—These sections are designed for the protection of persons dealing in good faith with holders of certificates, even though the certificates have been superseded or are otherwise invalid.

Section 10.—This section follows an unanimous recommendation of the Hon'ble Judges of the High Court for the North-Western Provinces.

Section 11.—The retention of this section, which appears to be little used at present, will be for the consideration of the Select Committee to which the Bill is to be referred.

Section 12.—In proposing to make a certificate have effect throughout the whole of British India, the Bill is drawn in accordance with the advice of the Hon'ble Mr. Conlan, who has pointed out the grave inconvenience which sometimes arises from the limitation of the local operation of certificates under Act XXVII of 1860.

Section 13.—In this section it is proposed to specify the orders from which appeals are to lie, and to leave no room for doubt as to the authority of a Court to review its orders.

Section 21.—This section prescribes a practice which has been enforced in the North-Western Provinces for the last ten years.

Section 23.—The early part of the first sub-section was suggested by the Hon'ble Mr. Justice Field.

Section 25.—This section enlarges the effect of the grants of administration at which section 150 of the Probate and Administration Act, 1881, is aimed.

8. In view of the possible effect of section 4 of the Bill, the Governor General in Council desires that Local Governments and High Courts, and the officers who may be consulted by them, will, where any such enactment as the Bombay Civil Courts Act, 1869, section 16, the Oudh Civil Courts Act, 1879, sections 25 and 26, the Punjab Courts Act, 1884, section 29, or the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887, sections 23 and 24, is in force, consider its sufficiency, and, where no such enactment is in force, consider whether such an enactment will not be necessary or at least convenient.

The 18th August, 1888.

J. WESTLAND.

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd August, 1888:

NO. 11 OF 1888.

A bill to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows:

1. For the second schedule to the Code of Civil Procedure there shall be substituted the schedule in the first schedule to this Act.

2. (1) To section 23 of the Presidency Small Cause Courts Act, 1882, the following shall be added, namely:—"Subject to such control, the Court may modify or cancel any notification under this section as occasion may appear to it to require."

(2) For the second schedule to the same Act there shall be substituted the schedule in the second schedule to this Act.

(3) Any declaration which has been notified under the proviso to section 23 of the Presidency Small Cause Courts Act, 1882, before the day on which this Act is passed, and which was in force immediately before that day, shall, subject to the powers of the Court under that section, be construed, so far as may be, as referring to the schedule which has been substituted by the last foregoing sub-section for the second schedule to that Act.

3. To section 589 of the Code of Civil Procedure the following shall be added, namely:

"Provided that an appeal from an order specified in section 588, clause (17), shall lie—

(a) to the District Court where the order was passed by a Court subordinate to that Court, and

(b) to the High Court in any other case."

4. Act VIII of 1880 (*an Act to correct a clerical error in the Indian Limitation Act, 1877*) and XV of 1877, section 26 of the Provincial Small Cause Courts Act, 1887, are hereby repealed. IX of 1887.

THE FIRST SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE CODE OF CIVIL PROCEDURE.

(See section 5.)

CHAPTERS AND SECTIONS OF THIS CODE EXTENDING TO PROVINCIAL COURTS OF SMALL CAUSES.

PRELIMINARY: Sections 1, 2, 3 and 5.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11 and the last paragraph of section 14.

CHAPTER II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).

CHAPTER III.—Of Parties and their Appearances, Applications and Acts.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

CHAPTER V.—Of the Institution of Suits.

CHAPTER VI.—Of the Issue and Service of Summons, except section 77.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements, and Set-off.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER X.—Of Discovery and the Admission, &c., of Documents.

CHAPTER XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.

CHAPTER XVIII.—Of Costs, sections 220, 221 and 222.

CHAPTER XIX.—Of the Execution of Decrees, sections 223 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 283 (both inclusive), 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290 (so far as relates to moveable property), 291, 292, 293 (so far as relates to resales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).

CHAPTER XX.—Section 360, Power to invest certain Courts with Insolvency-jurisdiction.

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of requiring Security for Costs.

CHAPTER XXV.—Of Commissions, except section 396.

CHAPTER XXVI.—Suits by Paupers.

CHAPTER XXVII.—Suits by and against Government or Government Servants.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers.

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.

CHAPTER XXXI.—Suits by and against Minors and Persons of unsound Mind.

CHAPTER XXXII.—Suits by and against Military Men.

CHAPTER XXXIII.—Interpleader.

CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards Immoveable Property.

CHAPTER XXXVI.—Appointment of Receivers.

CHAPTER XXXVII.—Reference to Arbitration.

CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties.

CHAPTER XLVI.—Reference to and Revision by High Court.

CHAPTER XLVII.—Of Review of Judgment, sections 623, 626 and 630.

CHAPTER XLIX.—Miscellaneous.

THE SECOND SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE PRESIDENCY SMALL CAUSE COURTS ACT, 1882.

(See section 23.)

PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT.

PRELIMINARY : Section 2, Interpretation-clause.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.

CHAPTER II.—Of the Place of Suing, except sections 15 to 19 (both inclusive), Section 20, paragraph 4, sections 22, 23 and 24, and section 25, paragraphs 2 and 3.

CHAPTER III.—Of Parties and their Appearances, Applications and Acts, except section 37, clause (b), and the last paragraph.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

CHAPTER V.—Of the Institution of Suits, except section 53, clause (c), sub-clause (iv), section 55, section 57, clause (b), and sections 58 and 62.

CHAPTER VI.—Of the Issue and Service of Summons, except, in section 64, the words "and the copies or concise statements required by section 58 have been filed," and sections 65 and 66.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off, except sections 110, 112 and 113.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER X.—Sending for Records and Production, &c., of Documents, sections 137 (except paragraph 2), 138, 140 (except the proviso and the last six words), 141, 141A, 142, 142A, sub-section (1), 143 and 145.

CHAPTER XI.—Settlement of Issues, sections 150 and 151.

CHAPTER XII.—Disposal of the Suit at the first Hearing, except sections 154 and 155.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses, except sections 168, 169, 170 and 175.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 191 (both inclusive) and the second paragraph of section 193.

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 200, 201, 202, 204, 207 and 211 to 215 (both inclusive).

CHAPTER XVIII.—Of Costs.

CHAPTER XIX.—Of the Execution of Decrees, sections 229, 229A and 229B, section 230, first two clauses, sections 231 to 236 (both inclusive), 243 to 259 (both inclusive), 266 (so far as relates to the attachment of moveable property or decrees therefor), 267 to 272 (both inclusive),

273 (so far as relates to decrees for moveable property), 275 to 303 (both inclusive), 328 to 333 (both inclusive), 336 (except the last three clauses), and 337 to 343 (both inclusive).

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of requiring Security for Costs.

CHAPTER XXV.—Of Commissions, except section 396.

CHAPTER XXVII.—Suits by or against Government or Public Officers.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except section 433, sub-sections (1), (2), (4) and (5).

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.

CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.

CHAPTER XXXII.—Suits by and against Military Men.

CHAPTER XXXIII.—Interpleader.

CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards the attachment of immoveable property.

CHAPTER XXXV.—Interlocutory Orders, sections 498, 499, 500 and 502.

CHAPTER XXXVI.—Appointment of Receivers, section 503.

CHAPTER XXXVII.—Reference to Arbitration, except the provisions of section 522 as to appeals.

CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties, except so much of section 527, clause (b), as relates to immoveable property.

CHAPTER XLVI.—Of Reference to and Revision by High Court.

CHAPTER XLIX.—Miscellaneous.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to remove doubts which have been expressed as to the effect of the Debtors Act, VI of 1888, and the Civil Procedure Code Amendment Act, VII of 1888, on the procedure of Presidency and Provincial Courts of Small Causes, and as to the course of appeal from orders in insolvency-matters under sections 351, 352, 353 and 357 of the Code of Civil Procedure.

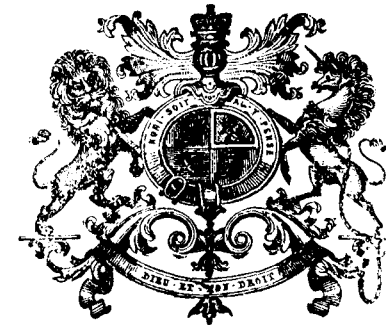
As section 653 of that Code (section 8, Act VI, 1888) does not apply to Presidency Courts of Small Causes, and the portions of the Code applicable to Provincial Courts of Small Causes have now to be ascertained by reference to two Acts (XIV of 1882 and IX of 1887), it is considered that the doubts which have been expressed as to the effect of the legislation of this year on the procedure of Courts of Small Causes should be removed by the substitution of new schedules for the second schedule to the Code of Civil Procedure and the second schedule to the Presidency Small Cause Courts Act, XV of 1882.

Act VIII of 1880 (*an Act to correct a clerical error in the Indian Limitation Act, 1877*) has been rendered obsolete by section 66 of the Civil Procedure Code Amendment Act, VII of 1888.

The 15th August, 1888.

ANDREW R. SCOBLE.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 8, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 5th September, 1888:

NO. 12 OF 1888.

A Bill to supplement the provisions of the Upper Burma Laws Act, 1886, with respect to the Shan States.

XX of 1886. WHEREAS it is expedient to supplement the provisions of the Upper Burma Laws Act, 1886, with respect to the Shan States in Upper Burma; It is hereby enacted as follows:—

1. This Act may be called the Shan States Act, 1888.

2. In this Act the expression "Shan State" means a territory for the time being notified under sub-section (3) of section 8 of the Upper Burma Laws Act, 1886, as a Shan State for the purposes of that section and sections 6 and 7 of that Act.

3. (1) Subject to the provisions of this Act and of any enactment for the time being in force in a Shan State under section 8, sub-section (1), of the Upper Burma Laws Act, 1886, and to such conditions as may have been or may be prescribed by the Local Government, with the approval of the Governor-General in Council, in any instrument recognizing a person as the chief of the State, the administration of civil and criminal justice and the collection of the revenue within the State shall be vested in the person for the time being recognised by the Local Government, with the approval of the Governor-General in Council, as the chief of the State.

(2) Subject as aforesaid, the law to be administered in a Shan State shall be the customary law of the State in so far as that law is in accordance with justice, equity and good conscience, and the punishments which may be awarded thereunder, or the practices which are permitted thereby, are in conformity with the spirit of the law in force in the rest of British India.

Participation of the Government in the administration of certain Shan States. 4. The Local Government may, with the previous sanction of the Governor-General in Council,—

- appoint officers to take part in the administration of civil and criminal justice and the collection of the revenue within a Shan State;
- define the powers and regulate the procedure of officers so appointed;
- direct by what authority any jurisdiction, power or duty incident to the operation of any enactment for the time being in force in the State under section 8, sub-section (1), of the Upper Burma Laws Act, 1886, is to be exercised or performed; and
- modify the customary law of the State in so far as, in the opinion of the Local Government, that law is not in accordance with justice, equity and good conscience, or authorises punishments, or permits practices, which are not in conformity with the spirit of the law in force in the rest of British India.

5. In extending an enactment to a Shan State under section 8, sub-section (1), of the Upper Burma Laws Act, 1886, the Local Government, with the previous sanction of the Governor-General in Council, may declare its extension to be subject to such restrictions and modifications as that Government thinks fit.

6. (1) Notwithstanding anything in section 8, sub-section (2), of the Upper Burma Laws Act, 1886, sections 3 and 5 of this Act shall come into force at once throughout the Shan States.

(2) Notwithstanding as aforesaid, section 4 of this Act shall come into force at once throughout the States known as the Myelat, but shall not come into force in any other Shan State until it is extended thereto by the Local Government with the previous sanction of the Governor General in Council.

STATEMENT OF OBJECTS AND REASONS.

THE Shan States, which formed part of the territories of Upper Burma formerly governed by King Thebaw, were annexed to the dominions of Her Majesty the Queen-Empress by the proclamation of the first day of January, 1886, and provision was made in the Upper Burma Laws Act, XX of 1886, for extending from time to time to all or any of them any enactments which might be in force in other parts of Upper Burma.

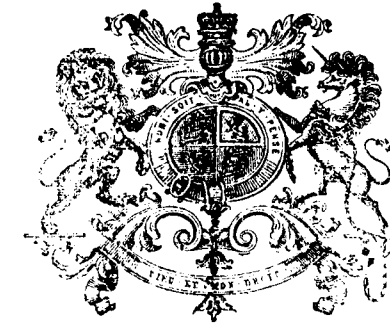
Enquiries instituted by the Chief Commissioner have shown that all the States, except the States known as the Myelat, were administered, under the control of the King of Burma, by their own Chiefs and under their own laws. In the Myelat the officials of the Burman Government took a direct part in the administration. The object of the present Bill is to provide for the continuance, under the superintendence and control of the Local Government, of the system of native administration which, on the annexation of Upper Burma, the British Government found in existence in the Shan States and has hitherto maintained.

ANDREW R. SCOBLE.

The 3rd September, 1888.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 22, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 20th September, 1888:

NO. 13 OF 1888.

A Bill to supplement certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889.

WHEREAS it is expedient to supplement by legislation in the Council of the Governor-General for making Laws and Regulations certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889; It is hereby enacted as follows:—

[Act XXII of 1870, and see 34 & 35 Vict., c. 34, s. 3.]

- I. The City of Bombay Municipal Act, 1888, and the Calcutta Municipal Consolidation Act, 1889, shall, so far as regards—
 - (a) the jurisdiction thereby conferred upon Appellate Benches of Municipal Authorities and upon Presidency and other Magistrates and Courts of Small Causes or any Judge of such a Court, and
 - (b) the decisions, orders and other proceedings of those Benches, Magistrates and Courts or of any such Judge,

be as valid as if they had been passed by the Governor-General of India in Council at a meeting for the purpose of making Laws and Regulations.

2. (1) If before or on the hearing of an appeal under section 217 of the City of Bombay Municipal Act, 1888, any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits, arises; on which the Chief Judge of the Court of Small Causes of Bombay entertains reasonable doubt, the Chief Judge may, either of his own motion or on the application of either or any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point, for the decision of the High Court of Judicature at Bombay.

(2) When a reference is made to the High Court under sub-section (1), the provisions of sections 618 to 621, both inclusive, of the Code of Civil Procedure shall, so far as they can be made applicable, apply to the Chief Judge of the Court of Small Causes and to the High Court, respectively.

(3) (1) An appeal shall lie to the High Court of Judicature at Bombay from a decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, when the amount of the claim in respect of which the decision is passed exceeds two thousand rupees.

(2) The provisions of the Code of Civil Procedure with respect to appeals from original decrees shall, so far as they can be made applicable, apply to appeals under sub-section (1), and orders passed therein by the High Court may, on application to the Chief Judge of the Court of Small Causes, be executed by him as if they were decrees made by himself.

XIV of 1882, s. 617.]
XIV of 1882, s. 597.]

(3) A decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, shall, if an appeal does not lie therefrom under sub-section (1), be final.

4. (1) An appeal shall lie to the High Court of Judicature at Bombay from an order passed by a Presidency Magistrate under section 515 of the City of Bombay Municipal Act, 1888.

(2) The High Court may from time to time make rules for regulating the admission of appeals under sub-section (1) and the procedure to be followed in the adjudication thereof.

(3) When an appeal has been preferred to the High Court under this section, the Municipal Commissioner for the City of Bombay shall defer action upon the order of the Presidency Magistrate until the appeal has been disposed of.

(4) But, when the appeal has been disposed of, he shall forthwith give effect to the order

passed therein by the High Court, or, if the order of the Presidency Magistrate has not been disturbed by the High Court, then to his order.

(5) When disposing of an appeal under this section the High Court may direct by whom the costs of the appeal are to be paid, and whether in whole or in what part or proportion. [Act XIV of 1882, s. 219.]

(6) Costs so directed to be paid may, on application to a Presidency Magistrate, be recovered by him, in accordance with the direction of the High Court, as if they were a fine imposed by himself. [Act X, 1882, s. 148.]

5. An appeal to the High Court of Judicature at Bombay under either of the two last foregoing sections shall, for the purposes of No. 156 of the second schedule to the Indian Limitation Act, 1877, be deemed to be an appeal under the Code of Civil Procedure in a case not provided for by No. 151 and No. 153 of that schedule. [Act XV of 1877, s. 148.]

STATEMENT OF OBJECTS AND REASONS.

THE object of the first section of the accompanying Bill is to remove all room for doubt as to the validity of those clauses of the Calcutta Municipal Consolidation Act, 1889, and the City of Bombay Municipal Act, 1888, which, as creating in Presidency towns tribunals having authority to make final orders, might be held to be in derogation of the jurisdiction of the High Courts of Judicature at Fort William and at Bombay respectively.

The other sections of the Bill invest the High Court at Bombay, as a Court of Reference and Appeal, with certain jurisdiction which can certainly be conferred by the Governor-General in Council, but the conferment of which by the Governor of Bombay in Council might possibly be called in question.

The 20th September, 1888.

ANDREW R. SCOBLE.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

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SIMLA, SATURDAY, OCTOBER 6, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 2nd October, 1888:

NO. 14 OF 1888.

A Bill to repeal certain enactments relating to the purchase of regimental necessaries from soldiers.

WHEREAS it is expedient to repeal the enactments specified in the schedule to this Act; It is hereby enacted as follows:—

Repeal. I. The enactments specified in the schedule are hereby repealed.

SCHEDULE.

Number and year.	Subject or title.	Extent of repeal.
<i>Act of the Governor General in Council.</i>		
VII of 1867	Purchase of regimental necessaries from soldiers.	So much as has not been repealed.
<i>Regulation of the Madras Code.</i>		
XIV of 1832	Purchase of regimental necessaries from soldiers.	So much as has not been repealed.

STATEMENT OF OBJECTS AND REASONS.

THE primary object of this Bill is to repeal Act VII of 1867 (*an Act to reduce the pecuniary penalty for purchasing from soldiers arms, ammunition, clothes and other articles*), and so to enable the Governor-General in Council, under the provisions of the Army Act, 1881, to authorise the imposition of substantial fines on persons purchasing regimental necessaries from soldiers. The experience of the past twenty-one years has proved the fines which may be imposed under Act VII of 1867 not to be deterrent. Unlawful traffic in soldiers' kits has been steadily increasing.

The secondary object of the Bill is to repeal an obsolete Regulation of the Madras Code (I. L. R. 10 Mad. 108).

The 2nd October, 1888.

G. CHESNEY.

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 2nd October, 1888, and was referred to a Select Committee:

No. 15 OF 1888.

A Bill to amend the Punjab Courts Act, 1884.

WHEREAS it is expedient to amend the Punjab Courts Act, 1884; It is hereby enacted as follows:—

1. (1) This Act may be called the Punjab Courts Act, 1888.

(2) It has the same local extent as the Punjab Courts Act, 1884; and,

(3) Except in so far as it amends section 43 of that Act, it shall come into force on the first day of November, 1888.

(4) In so far as it amends that section, it shall come into force on the first day of April, 1889.

2. For section 3 of the Punjab Courts Act, 1884, the following shall be substituted, namely:—

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

"(1) 'small cause' means a suit of the nature cognizable by a Court of Small Causes under the Provincial Small Cause Courts Act, 1887:

"(2) 'land-suit' means a suit relating to land as defined in section 4, clause (1), of the Punjab Tenancy Act, 1887, or to any right or interest in such land:

"(3) 'unclassified suit' means a suit which is neither a small cause nor a land-suit: and

"(4) 'value,' used with reference to a suit, means the amount or value of the subject-matter of the suit."

3. The proviso to section 8, sub-section (1), of the Punjab Courts Act, 1884, is hereby repealed.

4. For clause (b) of section 14, sub-section (1), of the Punjab Courts Act, 1884, the following shall be substituted, namely:—

"(b) declaring what persons shall be permitted to practise as petition-writers in the Courts of the Punjab, regulating the conduct of persons so practising, and determining the authority by which breaches of rules under this clause shall be tried;".

5. For Chapter IV of the Punjab Courts Act, 1884, the following shall be substituted, namely:—

"CHAPTER IV.

"APPELLATE JURISDICTION IN CIVIL CASES.

"39. Save as otherwise provided by any enactment for the time being in force, appeals from decrees of Courts exercising original jurisdiction shall lie as follows, namely:—

(a) to the District Judge from a decree of a Munsif in a small cause of value not exceeding five hundred rupees or in an unclassified suit of value not exceeding one hundred rupees;

(b) to the Chief Court from a decree of a Subordinate Judge or District Judge in any original suit of value exceeding five thousand rupees or from a decree of a Divisional Court in any original suit; and

(c) to the Divisional Court from a decree passed in an original suit by a Munsif, Subordinate Judge or District Judge and not hereinbefore provided for.

"40. (1) A further appeal shall lie to the Chief Court in any of the following cases from an appellate decree of a Divisional Court on any ground which would be a good ground of appeal if the decree had been passed in an original suit, namely:—

(a) if the value of the suit is one thousand rupees or upwards, or the decree involves directly some claim to, or question respecting, property of like value;

- (b) in a land-suit if the Divisional Court consists of a single Judge and the decree varies or reverses, otherwise than as to costs, the decree of the Court below;
- (c) in a land-suit if, in a Divisional Court consisting of more than one Judge, the appeal is heard by two or more Judges and there is not a majority of those Judges concurring in the decree of the Divisional Court confirming, varying or reversing, otherwise than as to costs, the decision of the Court below;
- (d) if on the application of any party a Judge of the Divisional Court certifies that there is a question of law or custom or of general interest involved, and that the case is, in his opinion, of sufficient importance to justify a further appeal:

Provided that—

- (i) an application under clause (d) of this sub-section shall not be received after the expiration of thirty days from the date on which the decree of the Divisional Court is passed, unless the applicant satisfies the Judge that he had sufficient cause for not presenting it within that period; and
- (ii) a further appeal shall not lie in any small cause of value not exceeding one thousand rupees or in any unclassified suit of value not exceeding one hundred rupees.

(2) When an application under clause (d) of sub-section (1) has been refused, and an application for revision is presented to the Chief Court under section 622 of the Code of Civil Procedure as amended by this Act, the Chief Court may certify that a question of law or custom or of general interest is involved, and that the case is, in its opinion, of sufficient importance to justify a further appeal, and the Chief Court may thereupon deal with the application for revision as if it were a further appeal.

XIV of 1882. "41. Subject to the provisions of the last foregoing section and of sections 595 and 622 of the Code of Civil Procedure, an appellate decree of a District Judge or Divisional Court otherwise final, an appellate decree of a District Judge or Divisional Court shall be final.

"42. (1) The Local Government may confer on a Subordinate Judge the powers of a District Judge for the purpose of hearing appeals from the Courts of Munsifs in any local area, and withdraw those powers.

(2) A Subordinate Judge shall, for purposes connected with the exercise of powers so conferred, be deemed to be a District Judge.

"43. (1) The period of limitation for an appeal under section 39 or section 40 shall run from the date of the decree appealed against, and shall be as follows, that is to say:—

- (a) when the appeal lies to the District Judge—thirty days;
- (b) when the appeal lies to the Divisional Court or the Chief Court—sixty days.

(2) In computing these periods of thirty and sixty days, and in all respects not herein specified, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877: XV of 1877.

Provided that, in computing the period of sixty days for an appeal under clause (d) of section 40, sub-section (1), the time during which the application under that clause has been pending shall be excluded.

"44. For the purposes of section 617 of the Code of Civil Procedure, XIV of 1882. every appeal to a Divisional Court under this Chapter shall, except when the value of the suit exceeds one thousand rupees, be deemed to be an appeal in which the decree is final."

Addition of sections to Act XVIII of 1884. 6. The following sections shall be added to the Punjab Courts Act, 1884, XVIII of 1884. namely:—

"75. (1) When the business pending before any Divisional Court consisting of one Judge, or before the Court of any District Judge, requires the aid of an Additional Judge for its speedy disposal, the Local Government may, upon the recommendation of the Chief Court and with the previous sanction of the Governor-General in Council, appoint to the Court an Additional Divisional Judge or an Additional District Judge, as the case may be.

(2) An Additional Judge so appointed shall discharge any of the functions of a Divisional Judge or District Judge, as the case may be, which the Divisional Judge or District Judge may assign to him, and shall, as regards the discharge of those functions, be deemed, for the purposes of this Act, to be a Divisional Judge or District Judge.

(3) Where an Additional Divisional Judge is appointed to a Divisional Court under sub-section (1), the Court shall not be deemed for the purposes of this Act to be a Divisional Court consisting of more than one Judge.

"76. Subject to the provisions of any enactment for the time being in force, the Chief Court may, of its own motion or on the application of a party, withdraw any proceeding which is pending in any Court subordinate to it and for the withdrawal of which provision is not made in sections 25 and 647 of the Code of Civil Procedure or in section 526 of the Code of Criminal Procedure, 1882, and may either itself dispose of the proceeding or transfer it for disposal to any other subordinate Court."

7. (1) Section 8 of the Punjab Courts Act, 1884, shall apply as amended by section 3 of this Act to proceedings pending at the commencement of this Act. XVIII of 1884.

(2) Subject to the other provisions of this Act, appeals from decrees passed and not appealed from before the commencement of this Act shall lie and be disposed of as if the Punjab Courts Act, 1884, had on the third day of October, 1884, been passed as amended by this Act.

STATEMENT OF OBJECTS AND REASONS.

The main objects of this Bill are (a) to enable the Chief Court to deal more expeditiously with its accumulated arrears of appellate business and to dispose in future of cases within a reasonable time after they are instituted, and (b) to relieve Divisional Courts of some appellate business which may, it is considered, be safely entrusted to District Judges. In regard to the Chief Court it is proposed to increase the powers of Judges sitting singly and to restrict the right of appeal in certain civil cases in which a greater freedom of appeal is at present allowed than in other parts of the Empire.

The other objects of the Bill are to reduce the periods of limitation for appeals, and to enable the Chief Court to treat an application for revision as a further appeal where an application to a Divisional Court for a certificate that a case is a fit one for further appeal appears to the Chief Court to have been improperly refused.

Section 6 of the Bill will remove difficulties which the Punjab Government and Chief Court have experienced in administering the existing law.

The 2nd October, 1888.

G. R. ELSMIE.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

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SIMLA, SATURDAY, OCTOBER 13, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Punjab Courts Act, 1884, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 12th October, 1888 :

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Punjab Courts Act, 1884, was referred, have considered the Bill and beg to submit this our Report.

2. We are of opinion that the section prescribing the periods of limitation for appeals may come into force on the first day of January, 1889, and that the rest of the Act should not come into force before the middle of November, 1888.

3. As regards the periods of limitation for appeals we are of opinion that they should be assimilated to those prescribed in section 81 of the Punjab Tenancy Act, 1887, and in section 14 of the Punjab Land-revenue Act, 1887.

4. We are also of opinion that a special period of limitation should be prescribed for applications to the Chief Court for the revision of orders refusing applications for a certificate that a case is a fit one for further appeal.

5. We have altered the Bill accordingly, and made a few other alterations which do not call for remark. We may add that the alterations are approved by Sir Meredyth Plowden, the Senior Judge of the Chief Court, and by the Punjab Government.

6. The publication ordered by the Council has been made as follows :—

In English.

<i>Gazette.</i>		<i>Date.</i>
Gazette of India	...	... 6th October, 1888.
Punjab Government Gazette	...	... 10th October, 1888.

7. The Bill has not, in our judgment, been so altered as to require republication, and we recommend that it be passed as amended by us.

G. R. ELSMIE.

ANDREW R. SCOBLE.

C. U. AITCHISON.

J. WESTLAND.

The 12th October, 1888.

No. II.

A Bill to amend the Punjab Courts Act, 1884.

WHEREAS it is expedient to amend the Punjab Courts Act, 1884: It is hereby enacted as follows:

Title, extent and commencement. I. (1) This Act may be called the Punjab Courts Act, 1888.

(2) It has the same local extent as the Punjab Courts Act, 1884; and,

(3) Except in so far as it amends section 43 of that Act, it shall come into force on the sixteenth day of November, 1888.

(4) In so far as it amends that section, it shall come into force on the first day of January, 1889.

Substitution of new section for section 3, Act XVIII, 1884. 2. For section 3 of the Punjab Courts Act, 1884, the following shall be substituted, namely:

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

"(1) 'small cause' means a suit of the nature cognizable by a Court of Small Causes under the Provincial Small Cause Courts Act, 1887;

"(2) 'land-suit' means a suit relating to land as defined in section 4, clause (1), of the Punjab Tenancy Act, 1887, or to any right or interest in such land;

"(3) 'unclassified suit' means a suit which is neither a small cause nor a land-suit; and

"(4) 'value,' used with reference to a suit, means the amount or value of the subject-matter of the suit."

Repeal of proviso to section 8, sub-section (1), Act XVIII, 1884. 3. The proviso to section 8, sub-section (1), of the Punjab Courts Act, 1884, is hereby repealed.

Amendment of section 14, sub-section (1), clause (b), Act XVIII, 1884. 4. For clause (b) of section 14, sub-section (1), of the Punjab Courts Act, 1884, the following shall be substituted, namely:

"(b) declaring what persons shall be permitted to practise as petition-writers in the Courts of the Punjab, regulating the conduct of business by persons so practising, and determining the authority by which breaches of rules under this clause shall be tried."

Substitution of new Chapter for Chapter IV, Act XVIII, 1884. 5. For Chapter IV of the Punjab Courts Act, 1884, the following shall be substituted, namely:

"CHAPTER IV.

"APPELLATE JURISDICTION IN CIVIL CASES.

Appeals from original decrees. "39. Save as otherwise provided by any enactment for the time being in force, appeals from decrees of Courts

exercising original jurisdiction shall lie as follows, namely:

(a) to the District Judge from a decree of a Munsif in a small cause of value not exceeding five hundred rupees or in an unclassified suit of value not exceeding one hundred rupees;

(b) to the Chief Court from a decree of a Subordinate Judge or District Judge in any original suit of value exceeding five thousand rupees or from a decree of a Divisional Court in any original suit; and

(c) to the Divisional Court from a decree passed in an original suit by a Munsif, Subordinate Judge or District Judge and not hereinbefore provided for.

Appeals from appellate decrees of Divisional Courts. "40. (1) A further appeal shall lie to the Chief Court in any of the following cases from an appellate decree of a Divisional Court on any ground which would be a good ground of appeal if the decree had been passed in an original suit, namely:

(a) if the value of the suit is one thousand rupees or upwards, or the decree involves directly some claim to, or question respecting, property of like value;

(b) in a land-suit if the Divisional Court consists of a single Judge and the decree varies or reverses, otherwise than as to costs, the decree of the Court below;

(c) in a land-suit if, in a Divisional Court consisting of more than one Judge, the appeal is heard by two or more Judges and there is not a majority of those Judges concurring in the decree of the Divisional Court confirming, varying or reversing, otherwise than as to costs, the decision of the Court below;

(d) if on the application of any party a Judge of the Divisional Court certifies that there is a question of law or custom involved, and that the case is, in his opinion, of sufficient importance to justify a further appeal:

Provided that—

(i) an application under clause (d) of this sub-section shall not be received after the expiration of thirty days from the date on which the decree of the Divisional Court is passed, unless the applicant satisfies the Judge that he had sufficient cause for not presenting it within that period; and

(ii) a further appeal shall not lie in any small cause of value not exceeding one thousand rupees or in any unclassified suit of value not exceeding one hundred rupees.

(2) When an application under clause (d) of sub-section (1) has been refused, an application for revision may, within thirty days from the date of the refusal, be presented to the Chief Court, and if the Chief Court is of opinion that a question of law or custom or of general interest is involved, and that the case is of sufficient importance to justify a further appeal, the Chief Court may deal with the application for revision as if it were a further appeal.

Appellate decrees of District Judge or Divisional Court otherwise final. "41. Subject to the provisions of the last foregoing section and of sections 595 and 622 of the Code of Civil Procedure, an appellate decree of a District Judge or Divisional Court shall be final.

Power to confer appellate jurisdiction on Subordinate Judge. "42. (1) The Local Government may confer on a Subordinate Judge the powers of a District Judge for the purpose of hearing appeals from the Courts of Munsifs in any local area, and may withdraw those powers.

(2) A Subordinate Judge shall, for purposes connected with the exercise of powers so conferred, be deemed to be a District Judge.

Period of limitation. "43. (1) The period of limitation for an appeal under section 39 or section 40 shall run from the date of the decree appealed against, and shall be as follows, that is to say:

(a) when the appeal lies to the District Judge—thirty days;

(b) when the appeal lies to the Divisional Court—sixty days;

(c) when the appeal lies to the Chief Court—ninety days.

(2) In computing these periods of thirty, sixty and ninety days, and in all respects not herein specified, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877:

Provided that, in computing the period of ninety days for an appeal under clause (d) of section 40, sub-section (1), the time during which the application under that clause has been pending shall be excluded.

References to Chief Court under section 617 of Code of Civil Procedure. "44. For the purposes of section 617 of the Code of Civil Procedure, every appeal to a Divisional Court under this Chapter shall, except when the value of the suit exceeds one thousand rupees, be deemed to be an appeal in which the decree is final."

Addition of sections to Act XVIII, 1884. 6. The following sections shall be added to the Punjab Courts Act, 1884, namely:

Appointment of Additional Divisional Judge. "75. (1) When the business pending before any Divisional Court consisting of one Judge, or before the Court of any District Judge, requires the aid of an Additional Judge for its speedy disposal, the Local Government may appoint to the Court an Additional Divisional Judge or an Additional District Judge, as the case may be.

(2) An Additional Judge so appointed shall discharge any of the functions of a Divisional Judge or District Judge, as the case may be, which the Divisional Judge or District Judge may assign to him, and shall, as regards the discharge of those functions and subject to the provisions of the next following sub-section, be deemed, for the purposes of this Act, to be a Divisional Judge or District Judge.

(3) Where an Additional Divisional Judge is appointed to a Divisional Court under sub-section (1), the Court shall not be deemed for the purposes of this Act to be a Divisional Court consisting of more than one Judge.

Transfer of proceedings. "76. Subject to the provisions of any enactment for the time being in force, the Chief Court may, of its own motion or on the application of a party, withdraw any proceeding which is pending in any Court subordinate to it and for the withdrawal of which provision is not made in sections 25 and 647 of the Code of Civil Procedure or in section 526 of the Code of Criminal Procedure, 1882, and may either itself dispose of the proceeding or transfer it for disposal to any other subordinate Court."

Effect of this Act on decrees already made. 7. (1) Section 8 of the Punjab Courts Act, 1884, shall apply as amended by section 3 of this Act to proceedings pending at the commencement of this Act.

(2) Subject to the other provisions of this Act, appeals from decrees passed and not appealed from before the commencement of this Act shall lie and be disposed of as if the Punjab Courts Act, 1884, had on the third day of October, 1884, been passed as amended by this Act.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 12th October, 1888:

NO. 16 OF 1888.

A Bill to make further provision for the Administration of the Estate of His late Majesty the King of Oudh.

WHEREAS Act XIX of 1887 (*an Act to provide for the Administration of the Estate of His late Majesty the King of Oudh*) enacts that the Governor-General in Council shall have exclusive authority to act in the administration of the property of whatever nature left by His late Majesty the King of Oudh in regard to the settlement and satisfaction of claims against the estate of His late Majesty, and may make distribution of the remaining property or the proceeds thereof in such manner as he deems fit among the family and dependents of His late Majesty;

and whereas it is expedient to provide for the mode in which property may be transferred, and suits and other proceedings may be instituted, in the course of the administration of the estate of His late Majesty;

It is hereby enacted as follows:—

I. Subject to the control of the Governor-General in Council, the

Transfers of property by and to the Agent to the Governor-General in Council, and institution of legal proceedings by him.

person for the time being holding the office of Agent to the Governor-General in Council for the Affairs of the late King of Oudh

and for the Purposes of Act XIX of 1887 may—

(a) in his own name and by his name of office dispose of any moveable or immoveable property of His late Majesty the King of Oudh in as full and effectual a manner as His Majesty could have disposed of it in his lifetime;

(b) by his name of office take a conveyance of any moveable or immoveable property in which His late Majesty had a beneficial interest; and

(c) by his name of office institute any suit or other proceeding in any Civil, Criminal or Revenue Court in connection with the possession of any moveable or immoveable property belonging to the estate of His late Majesty or the dispossession of any person of any such property, or the recovery of rents, debts or other moneys due to the estate, or otherwise in connection with the administration of the estate.

2. On the departure from British India, or the death, resignation or removal, of an Agent to the Governor-General for the Affairs and Purposes aforesaid, the following consequences shall ensue, namely:

(a) any moveable or immoveable property vested in him as such Agent shall become vested in his successor in office, and

(b) a suit or other proceeding instituted by his name of office may be continued by his successor in office in the same manner as if the departure or the death, resignation or removal had not occurred.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to remove any doubts which may exist as to the extent of the powers which have been conferred on the Governor-General in Council by Act XIX of 1887.

As much immoveable property belonging to the estate of the late King of Oudh has to be disposed of, it is desirable that there should be no room for question as to the nature of the title which the Governor-General in Council, as administrator of the estate of His late Majesty, may, by his Agent, transfer.

The 12th October, 1888.

ANDREW R. SCOBLE.

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 12th October, 1888 :—

NO. 17 OF 1888.

THE CANTONMENTS BILL.

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A Bill to consolidate and amend the law relating to Cantonments.

WHEREAS it is expedient to consolidate and amend the law relating to cantonments; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Cantonments Act, 1889.

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

(3) It shall come into force on such day as the Governor-General in Council, by notification in the Gazette of India, appoints in this behalf.

2. (1) On and from that day the enactments specified in the first schedule are repealed to the ex-

Repeal.

*The Cantonments Bill.**(Chapter II.—Cantonment Magistrate, Court of Small Causes and Police.—Sections 3-8.)*

(2) Any enactment or document referring to any enactment repealed by this Act, or to any enactment repealed by any enactment repealed by this Act, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

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

(1) "officer" means—

[New.]
44 & 45 Vict.,
c. 58.
(a) a person who, being an officer within the meaning of the Army Act, 1881, is commissioned and in pay as an officer doing military duty with Her Majesty's regular forces as defined in that Act or as an officer doing such duty in any arm, branch or part of those forces, and

(b) a person doing military duty as a warrant-officer with those forces or with any arm, branch or part thereof, whether he is or is not an officer within the meaning of the Army Act, 1881:

[L. L. R. 3
All. 214.] (2) "soldier" means a person who is a soldier of Her Majesty's regular forces within the meaning of the Army Act, 1881, and is not an officer within the meaning of this Act:

[New: Mad.
H. C. R. Ap.
15: I. L. R.
15 Cal. 452.] (3) "spirituous liquor" means any fermented liquor, any alcoholic liquid obtained by distillation, and the sap of any kind of palm-tree, and includes any other liquid consisting of or containing alcohol which the Local Government may, by notification in the official Gazette, declare to be a spirituous liquor for the purposes of this Act:

[New.] (4) "intoxicating drug" means opium, ganja, bhang, charas and every preparation and admixture thereof, and includes any other intoxicating substance or liquid which the Local Government may, by notification in the official Gazette, declare to be an intoxicating drug for the purposes of this Act; and

[New.] (5) "owner" includes the person who is receiving the rent of any building, whether on his own account or as an agent or trustee, or who would so receive the rent if the building were let to a tenant.

CHAPTER II.

CANTONMENT MAGISTRATE, COURT OF SMALL CAUSES AND POLICE.

Cantonment Magistrate.

[Act III, 1880, s. 3; Mad. Act I, 1866, ss. 3, 4; and Bom. Act III, 1867, ss. 4 and 5.]
X of 1882.
(1) Every cantonment beyond the limits of a presidency-town shall, for the purposes of the Code of Criminal Procedure, 1882, be deemed to be a subdivision of the district in which it is situated, and there shall be placed in charge thereof, as Subdivisional Magistrate, a Magistrate of the first or second class who shall be called the Cantonment Magistrate.

(2) Every Cantonment Magistrate holding office in a cantonment at the commencement of this Act shall be deemed to have been appointed under section 12 of the Code of Criminal

Procedure, 1882, and to have been placed in charge of the cantonment under section 13 of that Code.

Cantonment Court of Small Causes.

5. (1) The Local Government shall appoint [Act III, 1880, s. 5; and Mad. Act I, 1866, s. 7.] the Cantonment Magistrate to be the Judge of any Court of Small Causes which may be established within a cantonment under the Provincial Small Cause Courts Act, 1887.

IX of 1887.

(2) The Local Government shall, in its order appointing the Cantonment Magistrate to be the Judge of such a Court, declare, and may by notification in the official Gazette vary, within a limit of five hundred rupees, the value of the suits which are to be cognizable by him under the Provincial Small Cause Courts Act, 1887.

(3) The provisions of section 15, sub-section (3), of that Act shall not apply to a Court of Small Causes of which a Cantonment Magistrate is the Judge.

6. Every Cantonment Magistrate presiding [Act III, 1880, s. 7; and Mad. Act I, 1866, s. 8.] over a Court of Small Causes in a cantonment at the commencement of this Act shall be deemed to have been appointed under section 6 of the Provincial Small Cause Courts Act, 1887, and, in the absence of any order of the Local Government to the contrary, to have jurisdiction with respect to all suits which are cognizable by a Court of Small Causes under that Act and of which the value does not exceed five hundred rupees.

IX of 1887.

7. Notwithstanding any reduction of the value [New.] of the suits which are to be cognizable by a Cantonment Magistrate as Judge of a Court of Small Causes, the Cantonment Magistrate may, as such Judge, dispose of any suit which was within the pecuniary limits of the jurisdiction of the Judge presiding in the Court at the time of the institution of the suit, and may entertain and dispose of any proceeding after decree in any such suit.

Cantonment Police.

8. (1) The police-force employed in a cantonment beyond the limits [Act III, 1880, ss. 9 and 10; Mad. Act I, 1866, ss. 12 and 13; and Bom. Act III, 1867, s. 7.] of a presidency-town shall, for the purposes of Act XXIV of 1859 (for the better regulation of the Police within the territories subject to the Presidency of Fort St. George), Act V of 1861 (for the Regulation of Police) or the Bombay District Police Act, 1867, as the case may be, be deemed to be part of the general police-establishment under the superintendence of the Local Government in whose territories the cantonment is situated.

(2) Section 48 of Act XXIV of 1859, section 34 of Act V of 1861 and section 31 of the Bombay District Police Act, 1867, may be extended by the Local Government to any cantonment within the territories to which those enactments respectively apply.

*The Cantonments Bill.**(Chapter III.—Spirituous Liquors and Intoxicating Drugs.—Sections 9-12.
Chapter IV.—Taxation, Cantonment Fund and Cantonment Authority.—Sections 13-15.)*

CHAPTER III.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

[Act III, 1880, s. 14; Mad. Act I, 1866, s. 30; Bom. Act III, 1867, s. 21; and Act XVIII, 1853, s. 4.] 9. If within a cantonment, or within such limits around a cantonment as the Local Government may by notification in the official Gazette prescribe in this behalf, any person not subject to military law or any person subject to military law otherwise than as an officer or soldier knowingly barter, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor or intoxicating drug to or for the use of any European soldier, or to or for the use of any European or Eurasian being a follower or a soldier's wife, without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer to grant such permission, he shall be punished with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with whipping.

[Act III, 1880, s. 16; Mad. Act I, 1866, s. 32; Bom. Act III, 1867, s. 23; and Act XVIII, 1853, ss. 3 and 4.] 10. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf, any person subject to military law otherwise than as an officer or soldier, or the wife of any such person or of a soldier, has in his or her possession except on behalf of the Government or for the private use of an officer more than one quart of any spirituous liquor other than fermented malt-liquor without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer to grant such permission, he or she shall be punished in the case of a first offence against this section with fine which may extend to fifty rupees, and in the case of a subsequent offence against this section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months.

[Act III, 1880, s. 17; Mad. Act I, 1866, s. 33; Bom. Act III, 1867, s. 24; and Act XVIII, 1853, s. 5.] 11. (1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence against either of the two last foregoing sections, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed, and any vessels or coverings in which the liquor or drug is contained.

[Act III, 1880, s. 15; Mad. Act I, 1866, s. 31; Bom. Act III, 1867, s. 22; and Act XVIII, 1853, s. 2.] (2) Where a person accused of an offence against section 9 has been previously convicted of an offence against that section, an officer in charge of a police-station may, with the written permission of a Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment or within the limits prescribed under section 9, which at the time of the alleged commission of the subsequent offence belonged to or was in the possession of the person.

(3) The Court convicting a person of an offence against section 9 or section 10 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).

(4) Subject to the provisions of Chapter XI, III of the Code of Criminal Procedure, 1882, anything seized under sub-section (1) or sub-section (2) and not confiscated under sub-section (3) shall be restored to the person from whom it was taken.

12. The foregoing provisions of this Chapter shall not apply to the sale of articles sold or supplied for medicinal purposes by medical practitioners, chemists or druggists.

CHAPTER IV.

TAXATION, CANTONMENT FUND AND CANTONMENT AUTHORITY.

Taxation.

13. (1) With the previous sanction of the General power of error General in Council, [Act III, 1880, s. 21.] the Local Government, by notification in the official Gazette, may impose in a cantonment any tax which is specified in any enactment in force at the date of the notification as a tax imposable in any municipality within the territories administered by such Government, and may abolish any tax so imposed.

(2) When any tax is leviable in a cantonment in pursuance of a notification under sub-section (1), the Local Government may, with the like sanction and by a like notification, apply or adapt to the cantonment the provisions of any enactment or rules in force at the date of the notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

14. (1) The Local Government may, by notification in the official Gazette, extend the provisions of Act XX of 1856 (to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bāzars in the Presidency of Fort William in Bengal) to any cantonment in any part of British India in which that Act is in force, and the Cantonment Magistrate may exercise all the powers of the Magistrate under that Act, subject only to the control of the District Magistrate and the Local Government.

(2) The Local Government may order that a cantonment to which the provisions of Act XX of 1856 have been extended shall be divided into any number of cantonment divisions, and may determine the nature of the tax to be levied in each such division according to section 10 of that Act.

15. While a tax assessed according to the circumstances, and the property to be protected, of the persons liable thereto, or according to the annual value of houses and grounds, is levied in a cantonment under Act XX of 1856, a tax on persons

The Cantonments Bill.

(Chapter IV.—Taxation, Cantonment Fund and Cantonment Authority.—
Sections 16-21. Chapter V.—Immoveable Property in Cantonment.—Section 22.)

practising any profession or art or carrying on any trade or calling, or a tax on buildings and lands, as the case may be, shall not be imposed in the cantonment under section 13 of this Act.

[Act III, 1880, s. 24.]

16. (1) Notwithstanding anything in any enactment for the time being in force, the Governor General in Council may, by notification in the Gazette of India, prohibit the levy of the whole or any part of any tax imposed in a cantonment, or exempt any person by name or in virtue of his office, or any class of persons, or any property or any class of property, from the operation of any such tax, and may, by a like notification, rescind any such prohibition or exemption.

[C. R. No. 3145 of 1880 and U.O. Reg. No. 25 of 1884.]

(2) Where the area subject to the authority of a municipal committee as defined in section 2 of the Municipal Taxation Act, 1881, includes the whole or part of a cantonment, nothing in section 4 or section 5 of that Act or in any other like enactment for the time being in force shall apply to so much of that area as is comprised in the cantonment.

Cantonment Fund and Cantonment Authority.

[New: U. O. Reg. No. 3492 of 1882.]

17. (1) There shall be formed for each cantonment a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely:—

X of 1882.

(a) subject to deductions under section 545 of the Code of Criminal Procedure, 1882, or under any other enactment for the time being in force or any order of the Local Government, all fines recovered in cases in which prosecutions in respect of offences committed within the cantonment are instituted under this Act or any rule thereunder or any enactment applied by any such rule or under section 48 of Act XXIV of 1859, section 34 of Act V of 1861, or section 31 of the Bombay District Police Act, 1867, or under Chapter XIII or Chapter XIV of the Indian Penal Code or section 156 of the Army Act, 1881, or under the Cattle-trespass Act, 1871; and,

Bom. Act VII of 1867, XLV of 1860 44 & 45 Vict, c. 58, 1 of 1871.

(b) the proceeds of taxes levied in the cantonment under section 13 or section 14.

(2) Notwithstanding anything in any enactment as to the purposes to which the proceeds of a tax are to be appropriated, the cantonment fund shall be applicable, subject to the rules under this Act, to the maintenance of the police-force employed in the cantonment and to the other purposes of this Act within the cantonment and, with the general or special sanction of the Local Government, to like purposes, within or without British India, beyond the limits of the cantonment in cases in which, in the opinion of the Local Government, the application of the fund beyond those limits is for the benefit of the inhabitants of the cantonment or of any military force ordinarily cantoned therein or of any detachment of any such force.

[Act XV, 1883, s. 48.]

18. (1) Where, in or near a cantonment, there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the cantonment fund shall be kept in the treasury, sub-treasury or bank.

(2) Where there is no such treasury, sub-treasury or bank, the cantonment 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 District Magistrate may in each case think sufficient.

19. The cantonment fund shall be vested in Her Majesty, and subject to the provisions of this Act and of the rules thereunder and to the control of the Local Government, the management of the fund shall be entrusted to the cantonment authority.

20. (1) The expression "cantonment authority" as used in this Act or in any enactment in force at the commencement of this Act means a cantonment committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment.

(2) The Local Government shall determine, with respect to every cantonment in which troops are for the time being cantoned, whether or not a cantonment committee is to be constituted as the cantonment authority.

21. The cantonment authority shall be deemed to be a local authority as defined in the Local Authorities Loan Act, 1871, the Indian Telegraph Act, 1885, and the General Clauses Act, 1887, and the cantonment fund to be "public revenues" within the meaning of the proviso to section 6 of the Land Acquisition Act, 1870, and any property acquired at the cost of the cantonment fund shall vest in Her Majesty.

[New: U. O. Reg. No. 3505 of 1882.]

Position of cantonment authority and cantonment fund in relation to other Acts. XI of 1879, XIII of 1885, 1 of 1887, X of 1870.

CHAPTER V.

IMMOVEABLE PROPERTY IN CANTONMENTS.

22. Subject to the other provisions of this Chapter and to the rules thereunder, the following provisions shall apply to land included within the limits of a cantonment, namely:—

(a) the land shall be presumed, until the contrary is proved, to have been granted by the Government, and to have been and to be held, subject to the conditions, rules, regulations and orders which, at the time when the grant was made, were applicable to the cantonment; and

(b) the several conditions, rules, regulations and orders set forth in Section XVII (Cantonments) of the second volume (Discipline) of the Army Regulations, India, which were published by the Government of India in the Military Department in the year 1887, and of which extracts are reprinted in the second schedule to this Act, shall, until the contrary is proved, be presumed to be the conditions, rules, regulations and orders which were applicable to the cantonment at the time when the land was granted and subject to which the land has been and is held.

*The Cantonments Bill.**Chapter V.—Immoveable Property in Cantonments.—Section 23.)*

[New: cf. Army Regulations.]

23. (1) If the commanding officer of a cantonment certifies in writing, with the previous sanction of the general officer commanding the district where he is not himself such general officer, that an officer doing military duty within the cantonment ought to reside within the limits thereof, and either that a house suitable, in the opinion of the commanding officer, for the residence of the officer is vacant within those limits or that, such a house not being vacant within those limits, there is within those limits a house occupied by a person not subject to military law which, in the opinion of the commanding officer, is suitable for the residence of the officer and, with reference to the place where the duty of the officer lies, is more conveniently situated than any other house suitable for his residence and so occupied, the Cantonment Magistrate shall, on the presentation of the certificate of the commanding officer and on the written application of the officer, serve—

(a) where the house specified in the certificate is vacant, on the owner of the house, or

(b) where the house specified in the certificate is occupied by a person not subject to military law, on that person and on the owner of the house,

a notice requiring the house to be placed at the disposal of the officer within seven days from the date of the service of the notice where the house is vacant, or within thirty days from that date where the house is occupied.

(2) The officer shall, in his application to the Cantonment Magistrate under the last foregoing sub-section, state the amount of the monthly rent which, with the approval of the cantonment authority, he offers to pay for the house and the Cantonment Magistrate shall cause that amount to be stated in the notice served on the owner of the house under that sub-section.

(3) At any time within fifteen days from the date of the service of the notice under sub-section (1), the owner of the house may apply to the commanding officer of the cantonment to convene a committee of arbitration to determine the amount of the monthly rent to be paid, and the commanding officer shall thereupon convene such a committee, consisting of—

(a) the District Magistrate or a Magistrate of the first class appointed by him in this behalf,

(b) a person to be nominated by the officer for whose occupation the house is required, and

(c) a person to be nominated by the owner of the house or, in default of his nominating a person within one week from the date of his being called upon to make a nomination, a person to be nominated by the commanding officer of the cantonment.

(4) The District Magistrate or the Magistrate appointed by him to act in his stead shall be president of the committee.

(5) The decision of the committee shall be determined by the majority of the votes of the members present at a meeting of which notice

of the time and place therefor has been served on each of the members of the committee, and the president shall have a second or casting vote in the event of there being an equality of votes with respect to the monthly rent to be paid.

(6) If the owner is aggrieved by the decision of the committee, he may appeal from it, within one month from the date thereof, to the Local Government, and the decision of the Local Government on the appeal shall be conclusive.

(7) If within the time limited by sub-section (3) the owner does not apply to the commanding officer of the cantonment to convene a committee of arbitration under that sub-section, he shall be deemed to have accepted the monthly rent referred to in sub-section (2).

(8) Where the house was vacant, the officer for whose occupation it is required shall be entitled to obtain possession thereof, to the exclusion of any other person, on the expiration of seven days from the date of the service of the notice on the owner under sub-section (1), but, if he so obtains possession of the house and a committee of arbitration is convened under sub-section (3), he shall, for the term for which he may occupy the house, be bound by the decision of the committee or, if that decision is appealed from, by the decision of the Local Government on the appeal.

(9) Where the house was occupied, the officer for whose occupation it is required shall be entitled to obtain possession thereof, to the exclusion of any other person,—

(a) on the expiration of thirty days from the date of the service of the notice on the owner under sub-section (1) if a committee of arbitration has not been applied for under sub-section (3) or, having been so applied for, has announced its decision on or before the expiration of that period, or

(b) on the announcement of the decision of the committee if a committee of arbitration has been applied for under sub-section (3) and has not announced its decision on or before the expiration of thirty days from the date of the service of the notice on the owner under sub-section (1).

(10) Where the officer obtains possession on the announcement of the decision of the committee and an appeal is preferred to the Local Government, he shall, for the term for which he may occupy the house, be bound by the decision of the Local Government on the appeal.

(11) When the officer is entitled to obtain possession of the house, the Cantonment Magistrate shall, on the written application of the officer, enforce the surrender of the house to him.

(12) The owner of a house shall not be liable to pay compensation to any person for anything done in compliance with a notice served on him under sub-section (1).

(13) A house shall not be specified in a certificate under sub-section (1) if it is occupied as a bank, or is appropriated by the Government to the use of a public officer, or is owned by or

*The Cantonments Bill.**(Chapter V.—Immoveable Property in Cantonments.—Sections 24-26.)*

is under the control of a railway administration, or is occupied as a hotel or shop and has been so occupied continuously during the three years immediately preceding the time when the occasion for making the certificate arises.

(14) For the purposes of this section the word "house" includes the land and buildings appurtenant to the house, and, if a question arises whether any land or building is appurtenant to the house, it shall be decided by the Cantonment Magistrate, and, subject to revision by the Local Government, his decision shall be conclusive.

[New: cf. Army Regulations.] 24. (1) Subject to the terms of any agreement between the owner of a house and an officer occupying it, and to the provisions of this section, a lease of a house in a cantonment to an officer shall be deemed to be a lease from month to month terminable without notice in the case of the transfer of the officer from the cantonment in the course of his service, or by fifteen days' notice to the owner in any other case.

(2) A notice under sub-section (1) must be in writing signed by or on behalf of the officer, and the Cantonment Magistrate shall, if the officer so desires, cause it to be served on the owner free of charge.

(3) An officer shall be liable for the whole of the monthly rent of a house in a cantonment for any month, beginning with the first day of the month and ending with the last day thereof, during which he occupies the house for fifteen days or any longer period, and for half the monthly rent for any such month during which he occupies the house for a shorter period than fifteen days.

(4) Sub-sections (8) and (10) of the last foregoing section, with respect to the liability of officers for rent, shall be read subject to the foregoing provisions of this section.

[New: cf. Army Regulations.] 25. (1) If an officer, being a tenant of a house in a cantonment, is unable to induce the owner of the house to execute any repairs which such officer considers necessary, he may apply to the commanding officer of the cantonment to convene a committee of arbitration to decide whether any and, if so, what repairs are necessary, and the commanding officer may, after such inquiry as he thinks fit, convene such a committee, consisting of—

- (a) a person to be nominated by the officer occupying the house;
- (b) a person to be nominated by the owner of the house or, in default of his nominating a person within one week from the date of his being called upon to make a nomination, a person to be nominated by the commanding officer of the cantonment; and
- (c) a third person to be appointed by the persons nominated under clauses (a) and (b) of this sub-section or, in default of those persons appointing a person within one week from the date of their being called upon to make the appointment, a third person appointed by the commanding officer of the cantonment.

(2) The person appointed under clause (c) of the last foregoing sub-section shall be president of the committee.

(3) The decision of the committee shall be determined by the majority of the votes of the members present at a meeting of which notice of the time and place therefor has been served on each of the members of the committee, and the president shall have a second or casting vote in the event of there being an equality of votes with respect to the repairs, if any, which may be necessary.

(4) The decision of the committee shall be conclusive, and within twelve months from the date thereof the commanding officer of the cantonment shall not, without the sanction of the officer immediately superior to him, convene another committee of arbitration for the purpose of considering whether the house requires repairs.

(5) If the committee decides that repairs are necessary, it shall define their extent, and, if the owner of the house fails to commence them immediately and carry them out in such manner and with such expedition as, in the opinion of the Cantonment Magistrate, is reasonable, the tenant may cause them to be executed at rates not exceeding those paid in the cantonment by the Government, and may deduct the cost thereof from any rent due from him, then or afterwards, in respect of the house.

(6) If from any cause the tenant cannot recover, in manner mentioned in the last foregoing sub-section, the cost incurred by him in the execution of any repairs under that sub-section, he may institute a suit against the owner of the house for the cost or any balance thereof remaining unrecovered.

26. (1) Where a building is so dilapidated as, in the opinion of the commanding authority, to be unfit for the purpose for which it was constructed or has been used, that authority may, with the previous sanction of the Local Government, cause a notice to be served on the owner of the building, calling upon him either to make it fit for one or other of those purposes within a time to be specified in the notice, or to comply with whichever of the following requisitions the cantonment authority, with such sanction as aforesaid, may see fit to make, namely:—

- (a) where the land on which the building is situated was granted by the Government, to remove the materials of the building and of any building appurtenant thereto and surrender such land granted by the Government as is occupied by or appurtenant to any such building;
- (b) whether the land was or was not granted by the Government, to remove the materials of the building.

(2) If the owner is aggrieved by the notice, he may apply to the commanding officer of the cantonment to convene a committee of arbitration to decide whether the building is unfit for the purpose for which it was constructed or has been used, and the commanding officer shall

*The Cantonments Bill.**(Chapter V.—Immoveable Property in Cantonments.—Sections 27-28.
Chapter VI.—Rules and Supplemental Provisions.—Section 29.)*

thereupon convene such a committee, consisting of—

- (a) a person to be nominated by the cantonment authority;
- (b) a person to be nominated by the owner or, in default of his nominating a person within one week from the date of his being called upon to make a nomination, a person to be nominated by the commanding officer of the cantonment; and
- (c) a third person to be appointed by the persons nominated under clauses (a) and (b) of this sub-section or, in default of those persons appointing a person within one week from the date of their being called upon to make the appointment, a third person appointed by the commanding officer of the cantonment.

(3) The person appointed under clause (c) of the last foregoing sub-section shall be president of the committee.

(4) The decision of the committee shall be determined by the majority of the votes of the members present at a meeting of which notice of the time and place therefor has been served on each of the members of the committee, and the president shall have a second or casting vote in the event of there being an equality of votes with respect to the condition of the building.

(5) If the committee decides that the building is unfit for the purpose for which it was constructed or has been used, the cantonment authority shall cause to be served on the owner a further notice appointing a time, not earlier than that fixed in the notice served under sub-section (1), by which, in default of the building being made fit for one or other of those purposes to the satisfaction of the cantonment authority, the materials and the land, if any, mentioned in the notice served under that sub-section are to be respectively removed and surrendered.

(6) In either of the following cases, namely:—

- (a) if the owner does not apply to the commanding officer of the cantonment to convene a committee of arbitration under sub-section (2) and does not comply, to the satisfaction of the cantonment authority, with the notice served under sub-section (1),
- (b) if the owner applies for such a committee and the committee decides that the building is unfit for the purpose for which it was constructed or has been used, and the owner does not comply, to the satisfaction of the cantonment authority, with the further notice served under sub-section (5),

the Cantonment Magistrate shall, on the application of the commanding officer of the cantonment, cause the materials to be sold by public auction and, where the owner was required to surrender any land, enforce the surrender thereof to the Government.

(7) After deducting the expenses of the sale of the materials, the Cantonment Magistrate shall notify, by notice posted in his office, the balance of the sale-proceeds payable to the late owner.

(8) If a question arises whether any building or land is appurtenant to a building within the meaning of this section, it shall be decided by the Cantonment Magistrate, and, subject to revision by the Local Government, his decision shall be conclusive.

27. A person to be nominated or appointed a member of a committee of arbitration under the foregoing sections of this Chapter must be a person whose services are immediately available for the purposes of the committee, and the nomination or appointment of a person whose services are not so available shall be deemed within the intentment of those sections to constitute a failure to make a nomination or appointment, as the case may be.

28. (1) For section 9 of the Indian Registration Act, 1877, the following shall be substituted, namely:—
[Act III, 1877, s. 9; and Mad. Act I, 1866, s. 11.]
"Notwithstanding anything in the foregoing sections, every cantonment shall be a sub-district, and the Cantonment Magistrate the Sub-Registrar thereof."

(2) Section 54, paragraphs two and three, and sections 59, 107 and 123 of the Transfer of Property Act, 1882, shall, on and from the commencement of this Act, extend to every cantonment in British India.

CHAPTER VI.

RULES AND SUPPLEMENTAL PROVISIONS.

29. The Governor General in Council may make rules consistent with this Act to provide for all matters respecting which rules may be made, or any of the following matters, namely:—
[Act III, 1880, ss. 25 & 27; Mad. Act I, 1866, ss. 17 & 19; and Bom. Act III, 1867, ss. 9 & 11.]
[U. O. Reg. No. 593 of 1884.]

- (1) the manner in which, and the authority to which, application for permission to occupy land in a cantonment is to be made;
- (2) the conditions which, whether expressed or not, are to be held to be annexed to every such permission given in pursuance of such an application;
- (3) the manner in which any such condition, or any condition annexed to a grant made of land in a cantonment before the commencement of this Act, is to be enforced, and the powers which the Cantonment Magistrate may, on the application of the cantonment authority, exercise for the purpose of enforcing the condition;
- (4) the settlement of disputes with respect to the boundaries of land in a cantonment and the exclusion of the jurisdiction of Civil Courts with respect to such disputes;
- (5) the constitution and procedure of committees of arbitration, their authority to require the production of documents and attendance of witnesses, and the relations of the Cantonment Magistrate and the commanding officer of a cantonment to such committees;

*The Cantonments Bill.**(Chapter VI.—Rules and Supplemental Provisions.—Section 29.)*

- (6) the constitution of cantonment committees, the functions to be discharged by them, the conduct of and the control to be exercised over their proceedings, and the division of duties among the members of such committees;
- (7) the functions to be discharged by the commanding officer of a cantonment where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened;
- (8) the duties of the Cantonment Magistrate or of any Special Magistrate having jurisdiction in a cantonment, and his position in relation to the commanding officer of the cantonment;
- (9) the purposes to which the cantonment fund may, after defraying the cost of the police-force employed in the cantonment, be applied;
- (10) the authority on which money may be paid from the cantonment fund;
- (11) the investment of any balance of that fund;
- (12) the execution of contracts by, or on behalf of, the cantonment authority;
- (13) the accounts to be kept by the cantonment authority, and the manner in which those accounts are to be audited and published;
- (14) the application, to a cantonment which is not included in a municipality, of any enactment for the time being in force in any municipality in British India, subject to such restrictions and modifications, if any, as the circumstances of the cantonment may appear to the Governor General in Council to require;
- (15) the definition and abatement of nuisances for which sufficient provision has not, in the opinion of the Governor General in Council, been made under the last foregoing clause;
- (16) the requisitions which may be made on persons having the control of sewers, drains or other things creating, or likely to create, nuisances, and the mode of enforcing such requisitions;
- (17) the prevention of the overcrowding of buildings and places in a cantonment;
- (18) the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary walls, hedges and other fences;
- (19) the regulation of the practice of agriculture and irrigation in a cantonment, the keeping in proper order of lands appurtenant to buildings, and the felling, lopping and trimming of trees on such lands;
- (20) the regulation of encamping-grounds, pounds, sarais, markets and slaughter-houses, and of traffic on roads;
- (21) the use and management of burial and burning grounds;
- (22) the supervision and the regulation of the use of public wells, tanks, rivers, streams, springs or other sources from which water is or may be made available for public use;
- (23) the parts of a cantonment in which persons practising any profession or carrying on any trade or calling may be required to reside for the purpose of practising the profession or carrying on the trade or calling, and the conditions, if any, to be observed by such persons;
- (24) the removal and exclusion from a cantonment of persons suffering or suspected to be suffering from any infectious or contagious disorder, and the appointment and regulation of hospitals or other places within or without the cantonment for the reception and treatment of persons suffering from any disease;
- (25) the removal and exclusion from a cantonment, or the destruction, of animals suffering or suspected to be suffering from any infectious or contagious disease;
- (26) the suppression of mendicancy and of loitering or importuning for the purpose of prostitution, and the removal and exclusion from a cantonment of disorderly persons, of persons who have been convicted of any offence against Chapter XVII of the Indian Penal Code or section 156 of the Army Act, 1881, or have been ordered under the Code of Criminal Procedure, 1882, to execute a bond for their good behaviour, and of persons whom the commanding officer deems it expedient to exclude from the cantonment;
- (27) the prevention of cruelty to animals;
- (28) the prevention and extinction of fires;
- (29) the registration of births and deaths;
- (30) the appointment by house-owners who are absent from cantonments of persons residing within cantonments to act as their agents for all or any of the purposes of this Act or any rule thereunder or any enactment applied by any such rule;
- (31) the powers of inspection, entry and search which may be exercised in carrying out any of the purposes referred to in the last foregoing clause, and the cases in which breaches of rules under this section are to be cognizable offences;
- (32) the mode in which summonses, notices, requisitions and other documents are to be served on the persons to whom they are addressed;
- (33) the cases, authorities and conditions in, to and on which orders passed under this Act or any rule thereunder or any enactment applied by any such rule may be appealed from; and
- (34) generally, the carrying out of the purposes of this Act.

*The Cantonments Bill.**(Chapter VI.—Rules and Supplemental Provisions.—Sections 30-35.)*

[New: Act I, 1887, s. 6.]

30. (1) The power to make rules under the last foregoing section is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette of India and in such other manner as the Governor General in Council prescribes.

[Act III, 1880, s. 25; Mad. Act I, 1866, s. 17; and Bom. Act III, 1867, s. 9.]

(2) A rule under the last foregoing section may be general for all cantonments in British India or for all cantonments not expressly excepted from its operation, or may be special for the whole or any part of any one or more than one cantonment, as the Governor General in Council directs.

[Act III, 1880, s. 26; Mad. Act I, 1866, s. 187; and Bom. Act III, 1867, s. 10.]

(3) A copy of the rules for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Magistrate and of every Special Magistrate for the time being having jurisdiction in the cantonment.

[Pros., Leg. Dept., Nos. 92 to 95, July, 1871.]

(4) In making any rule under clause (14) or any of the following clauses of the last foregoing section, the Governor General in Council may direct that a breach of it shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to eight days, and, when the breach is a continuing breach, with fine which, in addition to such fine or imprisonment as aforesaid, may extend to five rupees for every day after the first during which the breach continues.

[Act III, 1880, ss. 31 and 32; Mad. Act I, 1866, ss. 26 and 27; and Bom. Act III, 1867, ss. 17 and 18.]

31. The Local Government may, by notification in the official Gazette, extend to any area beyond the cantonment and in the vicinity thereof all or any of the rules in force in the cantonment under clause (14) or any of the following clauses of section 29, and all or any of the directions in force therein under subsection (4) of the last foregoing section, and the rules and directions specified in the notification shall, so long as the notification remains uncanceled, apply to that area as if the area were included in the cantonment.

[Act III, 1880, s. 28; Mad. Act I, 1866, s. 20; and Bom. Act III, 1867, s. 12.]

32. Subject to the provisions of Chapter XXXII of the Code of Criminal Procedure, 1882, the judgment of a Magistrate trying a breach of a rule under section 29 or of any enactment applied by a rule under that section shall be final.

[Act XIII, 1884, s. 157.]

33. A Judge or Magistrate shall not be deemed within the meaning of section 555 of the Code of Criminal Procedure, 1882, to be a party to, or personally interested in, any prosecution for an offence against this Act or any rule thereunder or any enactment applied by any such rule because he is a member of the cantonment committee or, where there is no such committee, is the commanding officer of the cantonment, or because he has ordered or approved the prosecution.

[New.]

34. Where a cantonment is situated within the limits of a presidency-town, the functions assigned to any authority by this Act or any rule thereunder or any enactment applied by any such rule shall, subject to the

provisions of any enactment for the time being in force, be discharged by such authority as the Local Government may appoint in this behalf.

35. The Governor General in Council may, by notification in the Gazette of India, exclude from the operation of the whole or any part of this Act the whole or any part of any cantonment.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
Act XVIII of 1853.	Sale of spirits in cantonments.	The whole, so far as it has not been repealed.
Act IV of 1854.	Sentences of superintendents of bázars.	The whole, so far as it has not been repealed.
Act XLV of 1860.	Indian Penal Code.	The words "or before a Military Court of Request" in <i>Explanation 1</i> to section 193.
Act V of 1869.	Indian Articles of War.	Part III, clause (c), and for the last twenty-five words of Part I, clause (f), the following shall be substituted, namely:—"and officers in charge of the police in cantonments are defined and controlled."
Act VII of 1870.	Court-fees Act, 1870.	Section 19, clause iv, and in Schedule II, article 1, clause (a), the words "or to a Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859".
Act XV of 1874.	Laws Local Extent Act, 1874.	So much of the second schedule as relates to Madras Regulation XIV of 1832: so much of the third schedule as relates to sections 18, 19, 20, 45, 46 and 47 of Bombay Regulation

*The Cantonments Bill.**(The First Schedule.—Enactments repealed.)*

Number and year.	Subject or title.	Extent of repeal.	Number and year.	Subject or title.	Extent of repeal.
		XXII of 1827; and so much of the fourth and fifth schedules as relates to Bengal Regulation XX of 1810.		<i>Act of the Governor of Bombay in Council.</i>	
Act XX of 1875.	Central Provinces Laws Act, 1875.	So much as relates to Bengal Regulation XX of 1810.	Act III of 1867.	Bombay Cantonment Act of 1867.	So much as has not been repealed.
Act XVIII of 1876.	Oudh Laws Act, 1876.	So much as relates to Bengal Regulation XX of 1810.		<i>Act of the Lieutenant-Governor of Bengal in Council.</i>	
Act XIV of 1879.	Hackney-carriage Act, 1879.	Section 4, from and inclusive of the words "and the Governor General in Council may" down to and inclusive of the words "in which British troops are cantoned".	Act VII of 1878.	Bengal Excise Act, 1878.	The proviso to section 81.
Act III of 1880.	Cantonments Act, 1880.	So much as has not been repealed.		<i>Regulation under the Statute 33 Victoria, Chapter 3.</i>	
Act XXII of 1881.	Excise Act, 1881.	The proviso to section 53.	III of 1877.	Muzere Laws Regulation, 1877.	Section 39 and so much as relates to Bengal Regulation XX of 1810: [Reg. N. 317 of 1878.]
Act X of 1882.	Code of Criminal Procedure, 1882.	Clause (b) of section 1.			
Act XIV of 1882.	Code of Civil Procedure.	Section 6, clause (a), the words "an officer or" in section 468, and the whole of section 469.			

[L. R. 10
Mad. 108.]*Regulation of the Bengal Code.*

Regulation XX of 1810.	Military barracks.	So much as has not been repealed.
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Regulation of the Bombay Code.

Regulation XXII of 1827.	Military authority.	So much as has not been repealed, except sections 40, 41, 42 and 43.
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Acts of the Governor of Fort St. George in Council.

Act IV of 1863.	Madras Cantonments.	The whole, so far as it has not been repealed.
Act I of 1866.	Madras Cantonments.	So much as has not been repealed.

THE SECOND SCHEDULE.

EXTRACTS FROM SECTION XVII (CANTONMENTS), VOLUME II (DISCIPLINE), ARMY REGULATIONS, INDIA.

(See section 22.)

DISCIPLINE.

SECTION XVII.—CANTONMENTS.

I.—General Rules. | II.—Grant of Land.

* * * * *

I.—General Rules.

(BENGAL AND BOMBAY.)

1919. The rules and regulations laid down by Government for the administration of military cantonments are to be strictly carried out in the cantonment to which they are applicable. A copy of all such rules and regulations in English and in the vernacular language chiefly in use is to be hung up in some conspicuous part of the office of the Cantonment Magistrate, or in such place as the Local Government or the Commanding Officer may direct.

* * * * *

1921. The limits of all military cantonments are to be defined by pillars of masonry, erected at each angle of the boundary line, and which are to be replaced whenever they have been destroyed or are not forthcoming.

1922. The boundaries of sadr, station and regimental bázars, and of any villages within the limits of cantonments, are also to be defined by pillars of masonry; and all houses, walls or enclosures improperly built beyond the authorized boundaries are to be

*The Cantonments Bill.**(The Second Schedule.—Extracts from Section XVII (Cantonments), Volume II (Discipline). Army Regulations, India.)*

thrown down and the ruins and fences removed at the expense of the proprietor or persons by whom they were erected.

1923. No deviation from the fixed limits of a cantonment is permitted without the sanction of Government, to be applied for through the Quartermaster General's department; no alteration of the limits of lines, bázárs or compounds can be made without the authority of the Commander-in-chief.

1924. In Bengal, when from any cause any portion of land which has been taken up for military purposes is found to be no longer required for such, a report to that effect is to be made by the Commanding Officer to the Quartermaster General in order that it may be made over to the civil authorities.

* * * *

1927. Officers commanding stations have authority to direct that numbers be affixed to houses or compounds in cantonments, the expense being borne by the owner or by the cantonment fund, and not by Government, save for buildings actually used for public purposes or the property of Government. Residents may also be directed to affix their names and designations on their houses, compound walls or gateways.

1928. Residents in military cantonments are prohibited from making excavations on any ground within the boundaries, except those made by permission to furnish materials for building, which are to be filled up again, when no longer required, at the expense of the individual concerned.

* * * *

1935. All matters connected with cantonment lands and boundaries will be conducted, under the orders of the Commanding Officer, by the officer of the Quartermaster General's department at the station, or, in his absence, by the Cantonment Magistrate or the Staff Officer of the station, assisted, if necessary, by the Executive Engineer. Questions requiring the decision of higher authority are to be referred to head-quarters through the Quartermaster General (paragraph 2505, section XXII).

Rent or Sale of Private Buildings.

1936. A military cantonment is, as its designation implies, a locality set apart primarily for military and medical officers, chaplains, soldiers, subordinates attached to the troops, and the officers and subordinates of all departments connected with the housing and supplies of the troops, for whom houses situated within such limits are by priority of right available. Regimental officers are required ordinarily to live near the barracks or lines of their respective corps.

1937. Civil and political officers of Government and officials belonging to the Public Works Department and railways are permitted to reside within the limits of mili-

tary cantonments whenever the public interest may require that they should so reside, or whenever special grounds may exist for granting the indulgence, such as the want of other available shelter, or the necessity of ensuring their personal safety; but these exceptions are not ordinarily to interfere with the priority of right possessed by military officers or others on duty at the station to the houses within its boundaries.

1938. In the event of a house in cantonment occupied by a non-military resident being required for an officer, a formal notice should be served on the occupant requiring him to vacate by a certain date, and warning him that, in the event of his declining or failing to comply, legal proceedings will be taken to enforce compliance. Should the notice (which should be personally served if possible) fail of effect, intimation of the same should be forwarded to the Local Government in order that the necessary steps may be taken in the matter. Commanding Officers should not, however, have recourse to this measure except under the most unavoidable circumstances, when houses are legally claimable and absolutely necessary for the accommodation of officers whose services are actually required in the station, and for whom shelter is not available within a fairly reasonable distance of their duty. In the case of officials mentioned in paragraph 1937, applications for their removal are to be made to the Commander-in-chief through the Quartermaster General for submission to Government.

Ejection not to be resorted to except under most unavoidable circumstances.

1939. The owner of any house in a military cantonment not occupied by a person belonging to the army on duty at the station, or by a person directed or authorised by Government to reside therein (paragraph 1937), may be required to rent the same to any military officer belonging to the station who may require it to reside in if the officer commanding the station is satisfied that there is no other suitable house available with due regard to the rank of the claimant and to the duties he may have to perform. In every such case, however, if the owner may have formerly intimated to the officer who has so obtained the house his desire to sell rather than to let it and the offer has not been accepted, the officer may at any time be required to vacate it within a week of his receiving notice through the Staff Officer of the station that the house has, with the consent of the Commanding Officer of the station, been sold to another military officer on duty at the station who requires it for his own residence. The rent to be paid in such cases, or the price to be paid for the house when the claimant accedes to the owner's desire that he shall purchase it, is to be fixed, in the event of the parties disagreeing as to the amount, by a committee of arbitration to be assembled by order of the Officer Commanding the division or district, after he has fully satisfied himself as to the necessity for the same, and that the application for the committee is not opposed to the orders of Government (paragraph 1947).

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1940. In all cases of dispute the owner should be called upon, previous ther he will rent or sell. to the assembly of the committee of arbitration, to elect whether he will rent or sell his house: should he elect to rent the house, the committee cannot compel him to sell it.

1941. Houses situated within the limits of military cantonments that may be declared to be for hire can only, according to these Regulations and customs, be let by the month.

1942. A tenant who has once taken possession of a house, or who is occupying it, cannot appeal for any reduction of rent which he may have agreed to pay, nor can a committee be assembled to arbitrate on this point.

1943. Committees of arbitration are to be composed of a civil officer (the principal one, if practicable, at or in the vicinity of the station), the Commanding Officer of the cantonment, and any other individual (who need not belong to either the civil or military services) whom the proprietor of the house may please to nominate. When the Commanding Officer of the station is an interested party, the next senior officer is to be nominated one of the committee in his stead.

1944. When a house is transferred from one officer to another on the occasion of a relief and a difference arises as to terms, the price or rent is to be fixed by a committee constituted as above, with an additional member to be nominated by the intending occupant or purchaser.

1945. In the case referred to in paragraph 1939 the decision of the committee of arbitration is to be conclusive, unless it be reversed by Government, for whose orders the proceedings are to be submitted through the regular channel whenever the proprietor of the premises is dissatisfied with the award; but in the case referred to in paragraph 1944 there is no appeal from the decision of the committee, which is to be final.

1946. Due notice must in every instance be given to proprietors of premises, or to their agents, by the Commanding Officer of the cantonment, of the intention to hold a committee thereon; and, in the event of the owner or agent neglecting to nominate a member of such committee after having received the notice,—which, if the owner or agent be a non-resident in the cantonment or its vicinity, is to be taken to mean an official notification dated one month prior to the day on which the committee is to assemble,—the Commanding Officer will, under the orders of the Officer Commanding the division or district, nominate a member of the committee to represent such proprietor, and the committee will thereupon proceed to arbitration.

1947. When an officer to whom a house in cantonments has been specially allotted under these Regulations may choose, on going away on leave or on temporary duty, to give it up, he has no right to claim the special allotment of a house on his return, under the provisions of paragraph 1939, should a suitable one not be at the time available for rent. In the event of any special circumstances rendering a departure from this rule necessary, the case should be referred to the Quartermaster General for the decision of the Commander-in-chief.

1948. In the event of the tenant of a house considering that the house requires repairs, and of his being unable to induce the owner to execute them, he should call on his landlord to join with him in appointing a committee of arbitration to decide the question. If the cantonment rules are in force, the committee will be composed of one civilian, the Officer Commanding the station and two officers or European residents, to be appointed, one by the landlord and the other by the occupant; otherwise the landlord should be called on to name an arbitrator to act with one to be named by the occupant, who are together to appoint a third in case of difference. In either case the landlord should be informed that, unless within a named time he either executes the necessary repairs or joins in the reference, the occupant will have the repairs done on the landlord's account and risk at the Public Works Departmental rates, and that the costs will be set off against the rent.

1949. In stations where there are no cantonment committees, Commanding Officers are to obtain the sanction of Government through the Commander-in-chief previous to convening committees of arbitration for the valuation of ruined buildings which, for sanitary or other purposes, it may be considered advisable to demolish and remove.

1950. In cases where buildings in cantonments are required for public purposes, the officer of the Public Works Department in executive charge will, under the authority of the Officer Commanding the division or district, settle for the valuation and purchase of the same according to the rules of the Public Works Department, and recourse is only to be had to committees of arbitration in the event of any disagreement, and on the application of the Executive Engineer or of the proprietor of the premises.

1951. Whenever it may be necessary to rent buildings for the use of the troops, the officer of the Public Works Department on the spot is in all cases to arrange for the hiring of such buildings and to obtain sanction for the arrangements in communication with, and assisted by, the local military authorities; and Officers Commanding stations are to bear in mind that they are bound to direct the officer of the Public Works Department to make all necessary provision for

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accommodating the troops in any emergency, whenever this is possible, rather than to act themselves, and thus accept a grave pecuniary responsibility in the event of their action being disapproved of. When, however, the local military authorities have been obliged to act themselves, owing to the absence of the Executive Engineer from the station, it is the duty of such officer on his return to suggest to them any modification of the arrangements which his knowledge and experience might suggest as better for the soldier or more for the interest of Government, and also to submit the arrangements for sanction as if originally made by himself.

1952. Officers Commanding stations are required, in cases of disputes relative to houses or lands in cantonments, before taking action thereon, to submit the same with their opinion for the consideration and approval of the General Officer in local command, who will transmit them to the Quartermaster General if he is unable to decide them himself.

1953. On no account is any church, chapel, mosque, &c., not to be occupied by other building devoted to religious use to be occupied as a dwelling-house or for any other purpose without the full and free consent of the persons interested in it and the sanction of the principal civil or political authority on the spot.

(BOMBAY.)

1954. The limits of cantonments or bázárs shall be marked by the local Magistrate or Political Agent and Commanding Officer in conjunction; in marking out the limits of new cantonments private property is not to be included therein.

1955. When the local Magistrate and Commanding Officer shall, in conjunction, have marked the limits, a report and plan thereof are to be signed by both these officers and submitted through the Quartermaster General for the approval of Government and for publication. When approved in General Orders, the limits are then to be marked by pillars or in some other equally permanent manner.

1956. A plan of every cantonment so marked and signed will be kept in the Quartermaster General's office, where it will be duly registered, and a copy thereof, with a register of enclosures, will be furnished by the Divisional or District Assistant Quartermaster General to each Brigadier or Station Commanding Officer, who is to report to divisional headquarters all changes in boundaries or occupations as they occur. All such changes are to be reported by the Divisional Assistant to the Quartermaster General, to enable him to correct the registers and standard plans in his office.

1957. Whenever an alteration may be required in any part of the limits of a cantonment which have been regularly marked out and published, the Magistrate and Commanding Officer are to draw up and sign a report and plan of the entire limits, as proposed after alteration, and a new description will then be published in

General Orders, which will be considered to supersede and cancel the previous plans and register.

1958. When an extension of cantonment limits or the acquisition of ground for other military purposes is proposed the General Officer commanding the division concerned will prepare (in communication with the civil authorities) a sketch plan exhibiting the ground asked for, together with a description of the same. This plan and description, accompanied by a detail of the reasons for which the acquisition of the land is urged, and a statement of the probable cost of obtaining possession, will be submitted for the information of His Excellency the Commander-in-chief, who, should the object to be attained by the proposed acquisition warrant the proceeding, will forward the same for the sanction of Government.

1959. The preservation of cleanliness is of the first importance, and to this end the encroachment of huts or shops, temporary or otherwise, beyond the space already marked out for that purpose, or extending enclosures or courtyards, without the sanction of Government, is to be particularly prevented; any person erecting such buildings without this necessary sanction will be liable to have them demolished and to be required to remove the materials at his own cost.

1960. All persons residing within military cantonments are required to keep all drains and water-channels in and about their premises free from obstruction; to remove all causes of malaria; to keep their hedges, inner and outer, cut to the height of four feet from the level of the road, and not more than two feet in breadth, and branches of trees lopped off to the height of six feet from the ground.

1961. Civil officers residing or having their offices in a military cantonment shall conform to the general cantonment rules in regard to cleanliness, order and safety from fire in houses and grounds as laid down for all other residents.

1962. Unoccupied houses and grounds in cantonments must be kept in a proper state of order and repair by the owners. Whenever, after due warning, such houses or grounds are left unrepaired to such extent as to be prejudicial to health or to the appearance of the cantonment, application will be made to Government to direct the former to be sold and cleared away and the latter resumed: the proceeds of sale, after paying for the expenses of clearing, to be paid to the owner.

1963. No thatched or grass or mat out-houses are to be built in the officers' lines in cantonments.

1964. The regimental and departmental lines, and all unoccupied ground in military cantonments, are to be guarded from the

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intrusion of persons unconnected with the corps or departments for whom the lines are intended.

1955. A registry is to be made and kept of the inhabitants of every Registry of inhabitants. *sadr* and regimental *bázár* above referred to, as a means of preventing unauthorised intrusion, and also with a view to facilitate statistical inquiries (*vide* Division VI).

1956. Trees standing in the compounds of houses within cantonment limits are not private property. When for sanitary or other reasons it is desirable to lop or cut down any such trees, the timber is to be considered the property of the house-owner. Owners or occupants are prohibited from cutting down or lopping any trees within the compounds without the consent of the cantonment committee.

1957. The use of private lands for military purposes should be obtained through the Quarter-master General.

1958. On the 1st of January of each year, periodical reports, in duplicate, on Bombay Form No. 211, are to be submitted, showing for each cantonment whether any buildings, houses, &c., have been newly erected during the period, whether any have been pulled down, and what property has changed hands. These documents should be signed by the Officer Commanding the cantonment and the Cantonment Magistrate or Staff Officer in charge of the register, who will be held responsible that the details are full and complete in every particular.

(MADRAS.)

1959. Cantonments occupied by troops of the Madras presidency are under rules as follows:—

Secunderabad	} Under rules laid down in Bengal Act III of 1880, formerly Bengal Act XXII of 1864.
Kamptee	
Raipur	
Cuttack	
Rangoon	
Tonghoo	
Thyetmyo	
Moulmein	

Belgaum—Under rules laid down in Bombay Act III of 1867, held to be rules under Bengal Act III of 1880.

St. Thos.' Mount	} Under rules laid down in Madras Act I of 1866.
Poonamallee	
Wellington	
Palaveram	
Cannanore	
Bellary	} Chapters V and VI only of the above applicable.

Trichinopoly—Chapter VI only of the above applicable.

The above Acts have not been made applicable to the cantonments not entered.

1970. The rules contained in these Acts have reference particularly to subjects connected with public health, safety, decency, &c. In addition, the following military rules are laid down for guidance.

1971. A military cantonment is, as its designation implies, a locality the military limits of which have been defined under the authority of Government, and which is set apart primarily for military and medical officers, chaplains, soldiers, European and East Indian subordinates and their families; for whom houses situated within such limits are by priority of right available. This rule, however, is not to interfere with gentlemen of the covenanted civil service, as regards the houses usually occupied by them in military cantonments.

1972. Regimental officers are required to live as near their lines or barracks as is practicable. A certain number of houses for each regiment will, therefore, be set apart in each cantonment by local Commanding Officers, and every opportunity should be taken advantage of to adjust the present inconvenient distribution of officers in cantonments so as to bring all stations under the above arrangement in course of time. Staff officers may be allowed to live in any part of a cantonment.

1973. Other claims for house accommodation noted in the margin* for gentlemen and others will be considered and adjusted by the Officer Commanding the station, with due respect to their rank and position, and with regard to the availability of houses in the cantonment for their use. But these gentlemen cannot retain any house that may be absolutely required for an officer of the military force at the station.

1974. Houses within the limits of a cantonment, built on ground the property of Government, whether held on lease or not, are liable to be occupied as above, under the control of the Officer Commanding the station. Houses built on land not the property of Government, or held on freehold tenure or occupied as shops, are exempt from this liability.

1975. In the case of necessity arising, requiring the removal of a non-military tenant to make way for an officer, not less than one month's notice in writing must be given to the owner as well as the tenant of the house that the house in question is required. No summary ejectment is ever to be permitted, and the greatest consideration should be shown to the occupant whose removal on public grounds is rendered necessary. The Officer Commanding the cantonment may, however, extend the period of such notice when circumstances will admit of it, and other quarters should be provided for the person if removed as above, whenever practicable.

1976. The limits of every military cantonment are to be clearly defined, boundary stones or pillars being erected where there are no well-marked natural boundaries. A plan of each cantonment, on a scale sufficiently large to show every building in it, is to be kept in the office of the Quar-

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Quartermaster General and that of the Divisional Quartermaster General or Station Staff Officer.

1977. The boundaries of sadar, station and regimental bázars, and of any villages within the limits of cantonments, are also to be defined by pillars of masonry; and all buildings erected beyond the proper boundaries or assigned limits are to be thrown down, and the ruins removed at the expense of the proprietor.

1978. No deviation from the fixed limits of a cantonment, or from those of the lines, bázars or enclosures surrounding Government buildings is permitted without the sanction of Government, to be applied for through the Quartermaster General's department.

1979. When from any cause any portion of the area of an existing cantonment is found to be no longer required for military purposes, a report to that effect is to be made by the Commanding Officer to the Quartermaster General, in order that it may be made over to the civil authorities.

1980. A register of houses occupied and vacant, showing the rent of each, is to be kept in the station staff office, alterations being made in it from time to time, and no house is to be taken by any non-military officer unless with the concurrence of the Officer Commanding the station, whose duty it will be to see that such occupancy of the house will not interfere with public convenience.

1981. In order that the number of dwelling-houses in a cantonment available for civil and military officers, and officers of public departments, missionaries and others, may not be unduly diminished, no house, built on Government land or land leased from Government, or assigned to Government, for its own use, hitherto occupied as above, shall be converted into a shop, or otherwise rendered unsuitable as a residence, except under the sanction of the Officer Commanding the station; but any houses occupied as shops will not be liable to be registered as dwelling-houses, unless the owners wish it, or His Excellency the Commander-in-chief may consider it absolutely necessary.

1982. At stations such as Secunderabad, where the ground is foreign territory but assigned by the *Nizam's* Government to Her Majesty's Government for military purposes, the above rules, as regards the rental of houses and allotment of officers in the cantonment, are to have equal effect. Bangalore is specially exempted from the operation of these rules. Kamptee and Cuttack are under the Bengal Cantonment Rules.

1983. In ordinary cases the decision of the Station Commanding Officer should be considered final, but appeals may be heard and decided by the Officer Commanding the division or district, and, if necessary, they may be submitted for the

orders of the Commander-in-chief, those submitted by gentlemen of the civil service being forwarded with the observations of His Excellency for final disposal by Government.

* * * *

1986. Officers Commanding stations have authority to direct that Houses to be numbered. numbers shall be affixed to houses or compounds in cantonments; the expense being borne by the owner or by the cantonment fund, and not by Government, save for buildings actually used for public purposes or the property of Government. Residents may also be directed to affix their names and designations on their houses, compound walls or gateways.

1987. Residents in military cantonments are prohibited from making Excavations in cantonments. excavations on any ground within the boundaries except those made by permission to furnish materials for building, which are to be filled up again when no longer required at the expense of the individuals concerned.

* * * *

1993. All matters connected with cantonment Officers to perform lands and boundaries will be duties connected with conducted, under the orders of the Commanding Officer, by the officer of the Quartermaster General's department at the station, or, in his absence, by the Cantonment Magistrate or the Staff Officer of the station, assisted, if necessary, by the Executive Engineer. Questions requiring the decision of higher authority are to be referred to headquarters through the Quartermaster General.

II.—Grants of Land.

(BENGAL AND BOMBAY.)

1994. In no case is any cantonment land to be enclosed or occupied without the sanction of the Commander-in-chief, and Commanding Officers are strictly prohibited from allowing any one to occupy a site, under any circumstances whatever, until such sanction has been officially received; nor are the boundaries of compounds to be changed, old roads closed or new ones opened, without similar authority. Building-sites granted to officers in military cantonments should be no larger than is absolutely necessary, conforming as far as possible to the dimensions laid down in the Public Works Code.

1995. All applications for unoccupied ground for the purpose of being enclosed, built upon or to any way appropriated to private purposes, are to be forwarded, for transmission to the Officer Commanding the station, through the officer of the Quartermaster General's department at the station, or, in his absence, through the Cantonment Magistrate or Staff Officer of the station, as the case may be.

1996. The health and comfort of the troops are paramount considerations to which all others must give way, and the Commanding Officer will be held responsible that no ground is

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(The Second Schedule.—Extracts from Section XVII (Cantonments), Volume II (Discipline), Army Regulations, India.)

occupied in any way calculated to be injurious to either or to the appearance of the cantonment. In forwarding to the Quartermaster General any application for a grant, he must certify that it is not objectionable in these or any other respects.

1997. All such applications are to be made on Bengal Form No. 85 and must be accompanied by a sketch or rough plan of the site applied for, embracing the portion of the cantonment adjacent to it, and exhibiting the roads, public buildings or private estates by which it is bounded; also any line of railway proposed or actually passing through the cantonment; and, where the line of railway does not immediately abut on the ground applied for, the direction and distance are to be shown. This plan is to be authenticated by an officer of the Quartermaster General's department at the station, or, when no such officer is present, by the Executive Engineer of the division, to the effect that no departmental objection is known to the application, and that the grant, if made, does not seem likely to interfere with any building existing or likely to be required.

1998. All grants are to be registered (Public Works Code,* paragraph 62, page 201) by the Cantonment Magistrate where one is allowed, or otherwise by the Staff Officer of the station; and all grants are to be immediately noted in the plan of the cantonment in the Quartermaster General's office.

1999. No ground will be granted except on the following conditions, which are to be subscribed to by every grantee as well as by those to whom his grant may subsequently be transferred:—

(a) Government to retain the power of resumption at any time, on giving one month's notice and paying the value of such buildings as may have been authorised to be erected.

(b) The ground, being in every case the property of Government, cannot be sold by the grantee; but houses or other property thereon situated may be transferred by one military or medical officer or chaplain to another on a joint report being made to the Staff Officer, who will make the requisite entry in the register, except in the case of relief, when, if required, the terms of the sale or transfer are to be adjusted by a committee of arbitration.

(c) If the ground has been built upon, the buildings are not to be disposed of to any person who does not belong to the army, until the consent of the Officer Commanding the station has been previously obtained under his hand.

(d) When it is proposed with the consent of the Commanding Officer to transfer possession to a native, the procedure prescribed in section VII, paragraph 724, is to be adhered to. This rule

* Edition of 1878.

applies to officers and others in the service of Government only, but the sale or transfer of any house in cantonments must first receive the sanction of the local military authorities.

(e) The Commanding Officer has power to cancel the grant if the ground be not brought into use for the purpose specified within twelve months.

(MADRAS.)

2000. Applications for grants of land within the limits of cantonments or fortresses will be made in the first instance to the Officer Commanding the station in the following form. No grants of land will be made except for the purpose of erecting thereon officers' quarters or shops for the convenience of residents. It will be the duty of the Officer Commanding the station to see that this purpose is fulfilled.

TO

THE OFFICER COMMANDING

(STATION).

SIR,

I request you will have the goodness to take the necessary steps for my obtaining a Government grant for the ground herein described.

Situation of the ground. Since when enclosed.	Title under which it is held, and whether the property of Government or of individuals.	EXTENT OF THE GROUND.		Nature of the soil.	How laid out and whether buildings upon it.	BOUNDED ON THE			
		Square yards.	Acres.			North by	South by	East by	West by

[Here enter certificate of the Commanding Officer of the station that the ground does not interfere with any parade or military work.]

I am,

SIR,

Your most obedient servant,

2001. The Officer Commanding the station having satisfied himself that there is no objection in a military point of view to the occupation of the ground by the applicant, as also that it does not encroach on or interfere with any public road, parade or military work, will ascertain from the Collector of the district how the land, if the property of Government, is entered in his accounts, and what rent has hitherto been assessed on it; he will then submit the Collector's reply, and a sketch showing the boundaries of the ground and its vicinity, accompanied by the application pre-

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viously made to him, through the Officer Commanding the division, district or force, to the Quartermaster General, by whom it will be submitted for the consideration of the Commander-in-chief. In the event of its being sanctioned, a lease will be prepared by the Quartermaster General containing the following conditions:—

i.—To hold the lease for fifty years, renewable at the end of every ten years, at the option of Government.

ii.—To pay a yearly ground-rent as per Collector's valuation. To well and sufficiently repair, maintain, amend and keep the premises and appurtenances in such good and substantial repair as is necessary for the occupation of a tenant at rack-rent. To scour and cleanse all drains and water-courses belonging to the premises and keep the same free from obstruction. To remove from the premises and keep the same free from prickly-pea and aloe, and all causes of malaria. Hedges to be of a height not exceeding four feet from the level of the public road in front of, or leading to, the premises. To lop, and keep lopped, the branches of all trees, present and future, which shall grow lower than six feet from the ground.*

iii.—The premises, although maintained in the above order, to be given to Government at any time if required.

iv.—The premises to be open to the Government authorities, to take plans and examine the condition thereof.

v.—All or parts of requirements, if found necessary to be supplied, notice of which in writing to be left at the premises, to be attended to by the lessee within three calendar months.

vi.—Not to do, or willingly cause or suffer any act or thing to be done, in or upon the premises to the annoyance, grievance, damage or disturbance of Government or their tenants.

vii.—On assigning the premises to another, a notice in writing of the assignment to be given to the Officer Commanding the cantonment, with full particulars, within three calendar months.

viii.—The monthly rent should be limited to a sum equal to one-twelfth part of a sum equivalent to rupees fifteen per cent. per annum on the *bond fide* value of the building, to be certified by the local Engineer officer.

ix.—To officers the monthly rent to be limited to, and in no case to exceed, either the said sum or the sum of one hundred rupees, whichever of the said sums shall be least in amount; the meaning being that no more than one hundred rupees a month as rent can be demanded, although the *bond fide* value of the building may be more.

* Quit-rent is not charged in Rangoon, Tonghoo and Thyetmyo, but in Moulmein this yearly payment is levied by the civil authorities under the denomination either of quit-rent or house-tax.

x.—If at any time the tenant, being a military officer, shall consider the rent to exceed the amount mentioned in the foregoing clause, and if the Engineer certify to that effect, the lessee should reduce the rent to what the Engineer shall fix.

xi.—If at any time it is desired to let or sell, the preference should be given to military officers of the cantonment over anybody else.

xii.—If the house is required for the residence of any of the officers of the cantonment, notice in writing to be given to the owner, and after thirty days the house should be vacated for occupation by such officer.

xiii.—If the Government require the land at any time, it should be restored on payment of the fair value of the buildings, to be fixed by the Engineer. If dissatisfied with this value, the amount to be fixed by Government, which decision will be final.

xiv.—The lessee to conform to and obey all present and prospective orders and regulations of Government.

xv.—If the annual rent to Government is not paid within thirty days after the due date, or if the lessee become bankrupt or insolvent, and if there is any execution out against the lessee where the lease shall be seized, or in case of the breach or non-performance of any of the conditions contained in the lease, it shall be lawful for the Government to obtain re-possession of the premises on payment of their value.

xvi.—If the ground is not built upon or brought into use for the purpose specified within twelve months, the lease may be cancelled under the orders of His Excellency the Commander-in-chief.

2002. The grant in perpetuity of any piece of ground within the precincts of any fort or cantonment shall not hereafter be accorded to any individual. It is of course sufficient to reject any application for ground if it be ascertained that to grant it would interfere with the public convenience in any manner whatever. With respect to land not the property of Government within fortresses or cantonments, application shall be made through the Collector and Board of Revenue to Government, a certificate from the Commanding Officer being at the same time produced to the effect that the occupation of the land in the manner proposed is free from objection in a military point of view.

2003. All grants of land made by Government under the above provisions shall be entered in the office of the registrar of Government grants, who is to return them without delay, with his countersignature attached in acknowledgment of their having been recorded.

*The Cantonments Bill.**(The Second Schedule.—Extracts from Section XVII (Cantonments), Volume II (Discipline), Army Regulations, India.)*

in his office. No charge is to be made for this duty. The proportion of land allowed to officers of the army requiring it is as follows:—

Field Officers	...	22,500 square yards.
Captains	...	12,000 do.
Subalterns	...	7,000 do.

Although the above is to be considered the usual scale, yet it may occasionally happen that, from the inequality of ground or other local causes, there may be no objection to an extension of the scale.

2004. Officers occupying houses built upon ground for which a grant has been made, considering that they are overcharged for rent, are at liberty to apply to the Officer Commanding the division for a house board; should the house board be of the same opinion, the Engineer of the division will be called on to prepare an estimate of the value of the house or buildings agreeably to the terms of the grant. The Engineer will be guided by his departmental rules in making the estimate, taking into consideration the valuation of the materials composing each building,* its state of repair, accommodation and general convenience. Should the rent charged be found to exceed fifteen per cent. of the *bona fide* value of the buildings, it shall be reduced to that standard. It is to be understood that this percentage includes the cost of all annual and necessary repairs, &c., which the house-owner is bound to make. The proceedings of the board and estimate of the Engineer will be forwarded through the chan-

* That is, value of materials and labour at the time such building was erected.

nel above prescribed to the Quartermaster General, and eventually, if necessary, to Government.

2005. In the event of the house-owner refusing to lower his rent according to the terms of his lease he will be liable to have it cancelled. Should he decline to make the repairs required, a house board will be assembled to decide upon what is really required and what expense is to be incurred; the house will be repaired agreeably to its decision and the *bona fide* cost deducted from the rent.

2006. In the case of parties possessing buildings on land for which no grant has been issued, the Refusal of owners to act. above stipulations are equally binding; but, should they refuse to conform to them, they will be obliged to have the buildings removed from off the ground, within six months from the date of the receipt of the order to do so.

2007. No building of any kind is to be erected in a cantonment without the sanction of the Commander-in-chief, which must be applied for, through the station and divisional authorities, to the Quartermaster General. This applies to public departmental buildings as well as all others. Every application should state clearly the description and size of the building it is proposed to erect, and the purpose for which it is required, and should be accompanied by a sketch of the proposed site showing the buildings and roads, &c., in its immediate vicinity.

STATEMENT OF OBJECTS AND REASONS.

THE primary object of this Bill is to overcome the great and increasing difficulty which military officers experience in obtaining houses near their lines or other place of duty, or even within the limits of cantonments. This matter is dealt with in Chapter V of the Bill, which, while insisting generally on the prior claim of military officers to occupy houses in cantonments, specially provides that the claim is not to extend to houses which are occupied as banks or have been occupied for three years as hotels or shops, and that disputes respecting the amount of rent to be paid for houses claimed by military officers are to be settled by committees of arbitration in which the civilian element will be predominant if houseowners so desire. Such privileges with respect to residence in cantonments as members of the Civil Service and other civilians enjoy in some parts of India are to cease, the only houses which are not to be subject to the prior claim of military officers being those already mentioned and houses owned by or under the control of railway administrations or appropriated by the Government to the use of such officials as postmasters and telegraph-officers whose residence in cantonments is necessary for the public convenience.

Nearly all land occupied by houses in cantonments has been granted to houseowners, or their predecessors in interest, by the Government under the rules for the time being applicable to the cantonments and identical with or similar to those set forth in the second schedule to the Bill. Local Governments have been asked to state, for the purposes of Chapter V and section 35, what the exceptions, if any, are within the territories which they respectively administer.

2. Of the other portions of the Bill the following only appear to call for remark:—

(1) *Section 2.*—It is proposed to repeal all existing Cantonment Acts in force in British India and several obsolete enactments relating to cantonments and other military matters.

(2) *Section 3.*—The words "officer" and "soldier" are defined for the purposes of Chapters V and III, respectively; and the definition of the expression "spirituous liquor" is designed to remove difficulties which have arisen in the construction of that expression in existing enactments.

(3) *Sections 4-7.*—It is proposed that every cantonment be a subdivision of the district in which it is situated, and that the Subdivisional Magistrate be called the Cantonment Magistrate. If, as a Magistrate, the Cantonment Magistrate requires assistance, it can be given by the appointment of a Special Magistrate under section 14 of the Code of Criminal Procedure, 1882. If, as Judge of a Court of Small Causes, he requires assistance, it can be given to him under section 8 of the Provincial Small Cause Courts Act, 1887. Officers who are now invested with power to try breaches of rules, not as Magistrates but in pursuance of an order of the Local Government under section 28, Act III of 1880, section 20, Madras Act I of 1866, or section 12, Bombay Act III of 1867, must be appointed Special Magistrates and, as such, observe the few rules prescribed in Chapter XX of the Code of Criminal Procedure, 1882, for the trial of summons-cases.

(4) *Section 8.*—This section vests the administration of the cantonment police in the District Superintendent under the general control and direction of the District Magistrate. Commanding officers of cantonments are to be relieved of the duty, which is now unnecessarily imposed upon them, of serving processes issued by the Courts for execution in cantonments.

(5) *Sections 17-21.*—These sections give a legal status to cantonment funds and cantonment committees. The want of such a status has been a not infrequent cause of inconvenience.

(6) *Section 28.*—This section, which would make every cantonment a sub-district for the purposes of the Indian Registration Act, III of 1877, and the Cantonment Magistrate the Sub-Registrar of the sub-district, and require the provisions of the Transfer of Property Act, 1882, with respect to the registration of documents, to be observed in every cantonment, is designed to reduce the difficulties which now occur in the maintenance of registers of immoveable property in cantonments.

(7) *Section 29.*—Several of the powers which it is proposed to take for making rules are not given by enactments now in force.

The 12th October, 1888.

G. CHESNEY.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 12th October, 1888:

NO. 18 OF 1888.

A Bill to amend the Indian Marine Act, 1887.

WHEREAS it is expedient to amend the Indian Marine Act, 1887; It is hereby enacted as follows;

1. For sub-section (2) of section 2 of the Indian Marine Act, 1887, XIV of 1887, Amendment of section 2, Act XIV of 1887. the following shall be substituted, namely:

"(2) The Governor General in Council may, by notification in the Gazette of India, vary any of the definitions in clauses (b), (c) and (d) of sub-section (1) as occasion may appear to him to require, and the references to those clauses in the definition of the expression 'superior officer' in clause (e) of that sub-section shall be construed to be references to them as varied by any notification published under this sub-section and for the time being in force."

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to enable the Governor General in Council, as occasion may require, to vary the definitions of "gazetted officer", "warrant officer" and "petty officer" in clauses (b), (c) and (d) of section 2, sub-section (1), of the Indian Marine Act, 1887. Inconvenience has resulted from the present hard-and-fast rules with respect to the classification of officers of the lower grades of the Indian Marine Service.

The 12th October, 1888.

G. CHESNEY.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 20, 1888.

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

PART V.

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

GOVERNMENT OF INDIA. LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 18th October, 1888:

No. 19 OF 1888.

A Bill to amend the Law relating to Fraudulent Marks on Merchandise.

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Merchandise Marks Act,
Title, extent and commencement. 1889.

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

(3) It shall come into force on the first day of April, 1889.

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

(1) "trade mark" has the meaning assigned to that expression in section 478 of the Indian Penal Code as amended by this Act:

(2) "trade description" means any description, statement or other indication, direct or indirect,—

(a) as to the number, quantity, measure, gauge or weight of any goods, or

(b) as to the place or country in which any goods were made or produced, or

(c) as to the mode of manufacturing or producing any goods, or

(d) as to the material of which any goods are composed, or

(e) as to any goods being the subject of an existing patent, privilege or copyright,

and the use of any figure, word or mark which according to the custom of the trade is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act:

(3) "false trade description" means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act:

(4) "goods" means anything which is the subject of trade or manufacture: and

(5) "name" includes any abbreviation of a name.

Amendment of the Indian Penal Code.

3. For that part of Chapter XVIII of the Indian Penal Code which relates to Trade and Property Marks, the following shall be substituted, namely:—

"Of Trade and Property Marks."

"478. A mark used for denoting that goods have been made or manufactured by a particular person or at a particular time, or place or that they are of a particular quality is called a trade mark, and for the purposes of this Code the expression "trade mark" includes any

XLV of 1860.

[50 & 51 Vict., c. 28, s. 3 (1).]

XLV of 1860.

[50 & 51 Vict., c. 28, s. 3 (1).]

46 & 47 Vict.
c. 57.

trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under Order in Council, for the time being applicable.

"479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

"480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, were made or manufactured by a person by whom they were not made or manufactured, or that they were made or manufactured at a time or place at which they were not made or manufactured, or that they are of a particular quality of which they are not, is said to use a false trade mark.

"481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

"482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

"484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

"485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods were made or manufactured by a particular person or firm by whom they were not made or at a time or place at which they were not made or that they are of a particular quality of which they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

"486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

"488. Whoever makes use of any such false mark in the manner last aforesaid shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against the last foregoing section.

"489. Whoever removes, destroys or defaces any property mark, intending or knowing it to be like-ly that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

Trade Descriptions.

[50 & 51
Vict., c. 28,
s. 3 (2).]

4. (1) The provisions of this Act respecting the application of a false trade description to goods shall extend to the application to goods of any such figures, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are.

[50 & 51
Vict., c. 28,
s. 3 (3).]

(2) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

- (a) not being a trade mark, or part of a trade mark, and
- (b) being identical with, or a colourable imitation of, the name or initials of a person carrying on business in connexion with goods of the same description and not having authorised the use of such name or initials.

[New.]

(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description.

[50 & 51
Vict., c. 28,
s. 5.]

5. (1) A person shall be deemed to apply a trade description to goods who—

- (a) applies it to the goods themselves, or
- (b) applies it to any covering, label, reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or
- (c) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any covering, label, reel or other thing to which a trade description has been applied, or
- (d) uses a trade description in any manner calculated to lead to the belief that the goods in connexion with which it is used are designated or described by that trade description.

(2) A trade description shall be deemed to be applied whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(3) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression "label" includes any band or ticket.

6. If a person applies a false trade description to goods, he shall, unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in the case of a second or subsequent conviction with imprisonment which may extend to two years or with fine which may extend to five hundred rupees.

7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

- (a) that having taken all reasonable precautions against committing an offence against this section he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to two years or with fine which may extend to five hundred rupees.

Unintentional Contravention of the Law relating to Marks and Descriptions.

8. Where a person is accused under section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

- (a) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and
- (b) that he took reasonable precautions against committing the offence charged, and

(c) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and

(d) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,

he shall be acquitted.

Forfeiture of Goods.

[50 & 51 Vict., c. 28, s. 2 (3).
XLV of 1860.]

9. (1) When a person is convicted under section 482 of the Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(2) Nothing in sub-section (1) shall be construed to affect the provisions of Chapter XLIII of the Code of Criminal Procedure, 1882.

(3) Courts in the exercise of their discretion with respect to the direction of forfeiture under this section shall observe any instructions which the Governor General in Council may issue for their guidance.

Amendment of the Sea Customs Act, 1878.

[50 & 51 Vict., c. 28, s. 16 (2).
XLV of 1860.]

10. For clause (d) of section 18 of the Sea Customs Act, 1878, the following shall be substituted, namely:—

(d) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889:

(e) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be, or being a colourable imitation of, the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—

(i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

(ii) that place and the country in which it is situated are in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark."

11. The following shall be added after section 19 of the Sea Customs Act, 1878, namely:—

"19A. (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs-officer or other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported.

(2) The Governor-General in Council may make, revoke and vary regulations, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India.

(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

(5) The regulations may provide for the informant reimbursing any public officer and the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

(6) All regulations under this section shall be published in the Gazette of India."

Supplemental Provisions.

12. On the sale or in the contract for the sale of any goods to which a trade mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

[50 & 51 Vict., c. 28, s. 19.]

13. (1) This Act shall not exempt any person from any suit or other proceeding which might, but for the provisions of this Act, be brought against him.

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or

answer shall not be admissible in evidence against such person in any prosecution for an offence against this Act.

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master.

STATEMENT OF OBJECTS AND REASONS.

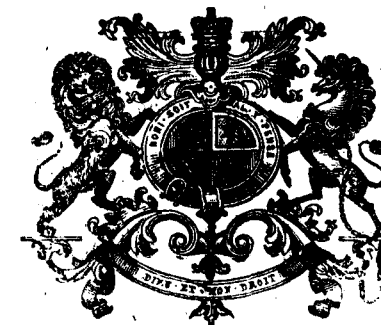
THE object of this Bill is to bring the law of India relating to fraudulent marks on merchandise into accord, as far as local circumstances admit, with the law of England as enacted in the Merchandise Marks Act, 1887. The Bill adopts the provisions of that Act with respect to false trade descriptions and recasts on the lines of that Act that part of the Indian Penal Code which relates to trade marks and property marks and that part of the Sea Customs Act, 1878, which relates to the prohibition of the importation into British India of goods bearing false descriptions or marks.

The 17th October, 1888.

ANDREW R. SCOBLE.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 27, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 27th October, 1888:

NO. 20 OF 1888.

THE INDIAN RAILWAYS BILL.

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A Bill to consolidate, amend and add to the law relating to Railways in India.

WHEREAS it is expedient to consolidate, amend and add to the law relating to railways in India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Railways Act, 1889. [Act IV, 1889, s. 1.]
Title, extent and commencement.

(2) It extends to the whole of British India and applies to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and to all Native subjects of Her Majesty without and beyond British India and those dominions; and

(3) It shall come into force on the first day of April, 1889.

2. (1) On and from that day the enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof. [Act IV, 1889, s. 2.]

(2) But all rules, declarations and appointments made, forms approved, powers conferred, directions given and notifications published under any of those enactments, or under any enactment repealed by any of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, approved, conferred, given and published under this Act.

*The Indian Railways Bill.**(Chapter I.—Preliminary.—Section 3. Chapter II.—Inspection of Railways.—Sections 4-6.)*

(3) Any enactment or document referring to any of those enactments or to any enactment repealed by any of them shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

[Act IV, 1879, s. 3.] 3. In this Act, unless there is something repugnant in the subject or context,—

[Twelfth Annual Report, Rail-ways Commrs., p. 4.] (1) "tramway" means a tramway constructed under the Indian Tramways Act, 1886, or any special Act relating to tramways:

(2) "ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry:

(3) "railway" means a railway, or any portion of a railway, for the public carriage of passengers, animals or goods, and includes—

(a) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway;

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

(c) all stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery and other works constructed for the purposes of, or in connection with a railway; and

[C. R. No. 6377 of 1881: U. O. Reg. No. 86 of 1885: Pros., Act IV, 1879, p. 45.] (d) all ferries, ships, boats and rafts which are used on rivers or other inland waters for the purposes of the traffic of a railway and are under the direct control of the authority administering the railway:

[34 & 35 Vict., c. 78, s. 2.] (4) "railway company" includes any persons, whether incorporated or not, who are owners or lessors of a railway or parties to an agreement for working a railway:

[Act IV, 1879, s. 3: cf. Chapter VII of this Bill.] (5) "railway administration" or "administration", in the case of a railway administered by the Government or a Native State, means the Manager of the railway and includes the Government or the Native State, and, in the case of a railway administered by a railway company, means the railway company:

[Act IV, 1879, s. 3.] (6) "railway servant" means any person employed by a railway administration in connection with the service of a railway:

[New.] (7) "Inspector" means an Inspector of Railways appointed under this Act:

[Of. 8 Vict., c. 30, s. 3.] (8) "goods" includes inanimate things of every kind:

[35 & 36 Vict., c. 50, s. 2.] (9) "rolling-stock" includes locomotive engines, tenders, carriages, wagons, trucks and trolleys of all kinds:

[17 & 18 Vict., c. 31, s. 1.] (10) "traffic" includes rolling-stock of every description as well as passengers, animals and goods:

[New.] (11) "through traffic" means traffic which is carried over the railways of two or more railway administrations:

[8 Vict., c. 20, s. 3.] (12) "rate" includes any fare, charge or other payment for the carriage of any passenger, animal or goods:

[51 & 52 Vict., c. 26, s. 55.] (13) "terminals" includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes and other similar matters, and of any services rendered thereat:

(14) "pass" means an authority given [New.] by a railway administration, or by an officer appointed by a railway administration in this behalf, and authorising the person to whom it is given to travel as a passenger on a railway gratuitously:

(15) "ticket" includes a single ticket, a return [New.] ticket and a season ticket: and

(16) "cattle" includes elephants, camels, [Act I, 1871, s. 3.] buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

CHAPTER II.

INSPECTION OF RAILWAYS.

4. (1) The Governor General in Council may [34 & 35 Vict., c. 78, s. 3.] appoint and appoint persons, by name or by virtue of their office, to be Inspectors of Railways.

(2) The duties of an Inspector of Railways shall be—

(a) to inspect railways with a view to determine whether they are fit to be opened for the public carriage of passengers, and to report thereon to the Governor General in Council as required by this Act;

(b) to make such periodical or other inspections of any railway or of any rolling-stock used thereon as the Governor General in Council may direct;

(c) to make inquiry under this Act into the cause of any accident on a railway;

(d) to perform such other duties as are imposed on him by this Act or any other enactment for the time being in force relating to railways.

5. An Inspector shall, for the purpose of any [Act IV, 1883, s. 2: and 34 & 35 Vict., c. 78, s. 4.] of the duties which he is required or authorised to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code, and, subject to the control of the Governor General in Council, shall for that purpose have the following powers, namely:—

(a) to enter upon and inspect any railway or any rolling-stock used thereon;

(b) by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration;

(c) to require the production of any book or document belonging to or in the possession or control of any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect.

6. A railway administration shall afford to the [Act IV, 1883, s. 2.] Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act.

*The Indian Railways Bill.**(Chapter III.—Construction and Maintenance of Works.—Sections 7-11.)*

CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WORKS.

[8 Vict., c. 20, s. 16.] 7. Subject to the provisions of this Act and of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and, subject also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may, for the purpose of constructing a railway or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force,—

(a) make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railways or tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper;

(b) alter the course of any rivers, brooks, streams or watercourses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or watercourses or any roads, streets or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the railway administration thinks proper;

(c) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway;

(d) erect and construct such houses, warehouses, offices and other buildings, yards, stations, wharves, engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper;

(e) alter, repair or discontinue such works as aforesaid or any of them, and substitute others in their stead; and

(f) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

[Act XIII, 1886, s. 14.] 8. A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas or water or the position of any drain not being a main drain:

Provided that—

(a) when the railway administration desires to alter the position of any such pipe or drain it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the local authority or company having control over the pipe or drain, or, when the pipe or drain is not under the control of a local authority or company, to the person under whose control the pipe or drain is;

(b) a local authority, company or person receiving notice under proviso (a) may send

a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent.

9. (1) The Governor General in Council may [5 & 6 Vict., c. 55, s. 14.] authorise any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

(2) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this subsection shall cease and determine if the Governor General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

10. A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and such compensation shall be paid to persons affected by the exercise thereof as may be agreed upon or as, in case of dispute, may be awarded under the Land-acquisition Act, 1870, or settled according to the procedure prescribed in that Act for the settlement of cases of disputed compensation.

11. (1) A railway administration shall make [8 Vict., c. 20, s. 68.] and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely:—

(a) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor General in Council, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and

(b) all necessary arches, tunnels, culverts, drains, watercourses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Governor General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(2) The works specified in clauses (a) and (b) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

*The Indian Railways Bill.**(Chapter III.—Construction and Maintenance of Works.—Sections 12-15.)*

(3) The foregoing provisions of this section are subject to the following provisos, namely:—

(i) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made;

[8 Vict., c. 20, s. 73.]

(ii) save as hereinafter in this Chapter provided, a railway administration shall not be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

[Suggested at Railway Conference, 1888.]

(iii) where a railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

[8 Vict., c. 20, s. 70.]

(4) The Governor General in Council may appoint a time for the commencement of any work to be executed under sub-section (1), and, if for fourteen days next after that time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor General in Council may execute it and recover from the railway administration the cost incurred by him in the execution thereof.

[8 Vict., c. 20, s. 71.]

12. If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, he may at any time require the railway administration to make at his expense such further works for that purpose as he thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorised by the Governor General in Council.

[Act IV, 1879, s. 52; 8 & 6 Vict., c. 55, s. 10; and bars. U. O. Register No. 2360 of 1881; and Proc. P.W.D., May, 1886, Nos. 12 to 17; January, 1888, Nos. 62 to 64; Despatch, para. 28; Oct., 1869, Nos. 818 to 843; and June, 1874, Nos. 11 and 12.]

[8 Vict., c. 20, s. 68.]

13. The Governor General in Council may require that, within a time to be specified in the requisition or within such further time as he may appoint in this behalf,—

(a) boundary-marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith;

(b) any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of a railway be provided or renewed by a railway administration for the purpose of preventing

danger to passengers on the road by reason of horses being frightened by the sight or noise of the rolling-stock moving on the railway;

(c) suitable gates, chains, bars, stiles or hand-rails be erected or renewed by a railway administration at places where a railway crosses a public road on the level;

(d) persons be employed by a railway administration to open and shut such gates, chains or bars.

14. (1) Where a railway administration has constructed a railway across a public road on the level, the Governor General in Council may at any time, if it appears to him necessary for the public safety, require the railway administration, within such time as he thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may appear to the Governor General in Council to be best adapted for removing or diminishing the danger arising from the level-crossing.

(2) The Governor General in Council may require, as a condition of making a requisition under sub-section (1), that the local authority, if any, which maintains the road shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Governor General in Council thinks just.

15. (1) In either of the following cases, namely:—

(a) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

(b) when a tree obstructs the view of any fixed signal,

the railway administration may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the railway administration avert the danger or remove the obstruction, as the case may be.

(2) In case of emergency the power mentioned in sub-section (1) may be exercised by a railway administration without the permission of a Magistrate.

(3) Where a tree felled or otherwise dealt with under sub-section (1) or sub-section (2) was in existence before the railway was constructed or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.

(4) Such an award, subject, where made in a presidency-town by any Magistrate other than the Chief Presidency Magistrate or where made elsewhere by any Magistrate other than the District Magistrate, to revision by the Chief Presidency Magistrate or the District Magistrate, as the case may be, shall be final.

*The Indian Railways Bill.**(Chapter IV.—Opening of Railways.—Sections 16-23.)*

CHAPTER IV.

OPENING OF RAILWAYS.

16. (1) A railway administration may, with the previous sanction of the Governor General in Council, use upon a railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby.

(2) But rolling-stock shall not be moved upon a railway by steam or other mechanical power until general rules for the railway have been made, sanctioned, published and notified under this Act.

17. (1) Subject to the provisions of sub-section (2), a railway administration shall, one month at least before it intends to open any railway for the public carriage of passengers, give to the Governor General in Council notice in writing of its intention.

(2) The Governor General in Council may in any case, if he thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (1).

18. A railway shall not be opened for the public carriage of passengers until the Governor General in Council, or an Inspector empowered by the Governor General in Council in this behalf, has by order sanctioned the opening thereof for that purpose.

19. (1) The sanction of the Governor General in Council under the last foregoing section shall not be given until an Inspector has, after inspection of the railway, reported in writing to the Governor General in Council—

(a) that he has made a careful inspection of the railway and rolling-stock;

(b) that the moving and fixed dimensions prescribed by the Governor General in Council have not been infringed;

(c) that the weight of rails, strength of bridges, general structural character of the works, and the size of and, maximum gross load upon the axles of any rolling-stock are in accordance with the standards prescribed by the Governor General in Council;

(d) that the railway is sufficiently supplied with rolling-stock;

(e) that general rules for the working of the railway have been made, sanctioned, published and notified under this Act; and

(f) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it.

(2) If in the opinion of the Inspector the railway cannot be so opened without danger to the public using it, he shall state that opinion together with the grounds therefor to the Governor General in Council, and the Governor General in Council may thereupon order the railway administration to postpone the opening of the railway.

(3) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall

direct the postponement of the opening of the railway until those requirements have been complied with or the Governor General in Council is otherwise satisfied that the railway can be opened without danger to the public using it.

(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor General in Council thinks necessary for the safety of the public.

(5) When sanction for the opening of a railway is given subject to conditions and the railway administration fails to fulfil those conditions, the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor General in Council.

20. (1) The provisions of sections 17, 18 and 19 with respect to the opening of a railway shall extend to the opening of the works mentioned in sub-section (2) when those works form part of, or are directly connected with, a railway used for the public carriage of passengers and have been constructed after the inspection which preceded the first opening of the railway.

(2) The works referred to in sub-section (1) are additional lines of railway, deviation lines, stations, junctions and crossings on the level, and any alteration or re-construction materially affecting the structural character of any work to which the provisions of sections 17, 18 and 19 apply or are extended by this section.

21. When an accident has occurred resulting in a temporary suspension of traffic, and either the original line and works have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored, or the temporary diversion, as the case may be, may, in the absence of the Inspector, be opened for the public carriage of passengers, subject to the following conditions, namely:—

(a) that the railway servant in charge of the works undertaken by reason of the accident has recorded an opinion that the opening of the restored line and works, or of the temporary diversion, will not be attended with danger to the public using the line and works or the diversion; and

(b) that notice by telegraph of the opening of the line and works or the diversion shall be sent to the Inspector appointed for the railway.

22. The Governor General in Council may make rules defining the cases in which, and in those cases the extent to which, the procedure prescribed in sections 17 to 20 (both inclusive) may be dispensed with.

23. (1) When, after inspecting any open railway used for the public carriage of passengers, or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor General in Council;

*The Indian Railways Bill.**(Chapter IV.—Opening of Railways.—Sections 24-25. Chapter V.—Railway Commissions and Traffic Facilities.—Sections 26-31.)*

and the Governor General in Council may thereupon order that the railway be closed for the public carriage of passengers, or that the use of the rolling-stock so specified be discontinued, or that the railway or the rolling-stock so specified be used for the public carriage of passengers only on such conditions as the Governor General in Council may consider necessary for the safety of the public.

[5 & 6 Vict., c. 55, s. 6.] (2) An order under the last foregoing subsection must set forth the grounds on which it is founded.

[Act IV, 1883, s. 2.] 24. (1) When a railway has been closed under the last foregoing section, it shall not be re-opened for the public carriage of passengers until it has been inspected, and its re-opening sanctioned, in accordance with the provisions of this Act.

[Act IV, 1883, s. 2.] (2) When the Governor General in Council has ordered under the last foregoing section that the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use and the Governor General in Council has sanctioned its use.

(3) When the Governor General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the Governor General in Council.

[Act IV, 1879, s. 5B (2).] 25. (1) The Governor General in Council may, by general or special order, under this Chapter to authorise the discharge of any of his functions under this Chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function or attach thereto any condition which the Governor General in Council might have imposed if the sanction or order had been given by himself.

(2) A condition imposed under sub-section (1) shall for all the purposes of this Act have the same effect as if it were attached to a sanction or order given by the Governor General in Council.

CHAPTER V.

RAILWAY COMMISSIONS AND TRAFFIC FACILITIES.

Railway Commissions.

[17 & 18 Vict., c. 31; 26 & 27 Vict., c. 46; and 31 & 32 Vict., c. 25.] 26. (1) For the purposes of this Chapter the Governor General in Council shall, as occasion may in his opinion require, appoint a commission, styled a Railway Commission (in this Act referred to as the Commissioners) and consisting of one Law Commissioner and two Lay Commissioners.

(2) The Commissioners shall sit at such times and in such places as the Governor General in Council appoints.

[1 of 1883.] (3) The Law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882, in the place where the Commissioners are to sit as, in the case of a High Court established under the Statute 24 and 25 Victoria, Chapter 104, the Chief Justice or, in the case of the Chief Court of the Punjab, the Senior

Judge or, in the case of the Court of the Recorder of Rangoon, the Chief Commissioner of Burma may, on the request of the Governor General in Council, assign by writing under his hand.

(4) The Lay Commissioners shall be appointed by the Governor General in Council, and one at least of them shall be of experience in railway business.

27. The Commissioners shall take cognizance of such cases only as are referred to them by the Governor General in Council.

28. In any of the following circumstances, namely:—

(a) where complaint is made to the Governor General in Council of anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter;

(b) where any difference referable to arbitration arises between railway administrations, and the railway administrations apply to the Governor General in Council to have it referred to the Commissioners; [Railway Commissioners' Eighth Report, p. 11, and Thirteenth Report, p. 5.]

(c) where any other difference to which a railway administration is a party arises, and the parties thereto apply to the Governor General in Council to have it referred to the Commissioners;

the Governor General in Council may, if he thinks fit, refer the case to the Commissioners for decision.

29. The three Commissioners shall attend at the hearing of any case referred to them for decision under this Chapter, and the Law Commissioner shall preside at the hearing.

30. (1) In hearing any such case the Commissioners shall have all the powers which may be exercised in the hearing of an original civil suit by the High Court of which the Law Commissioner is a member, and they or the majority of them may make any order in the case, by way of injunction, which may in the circumstances appear to them to be suitable.

[Twelfth Report, Railways Commission, p. 6; B. R. 11 App. Cas. 97.] (2) At the hearing the Commissioners may permit any person to appear before them either by himself or by any legal practitioner entitled to practise in any High Court.

31. (1) An appeal shall not lie from any order of the Commissioners upon any question of fact on which two of the Commissioners are agreed.

(2) Subject to the provisions of sub-section (1), an appeal shall lie from an order of the Commissioners—

(a) where the Law Commissioner was the Recorder or Additional Recorder of Rangoon, to the High Court of Judicature at Fort William in Bengal, and

(b) in any other case, to the High Court of which the Law Commissioner was a member.

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(3) Such an appeal must be presented within six months from the date of the order appealed from, and shall be heard by a bench of as many Judges, not being fewer than three, as the High Court may by rule prescribe.

[See section 40 of this Bill, which practically precludes re-mand.] XIV of 1882. (4) In the hearing of the appeal the High Court shall, subject to the other provisions of this Chapter, have all the powers which it has as an Appellate Court under the Code of Civil Procedure, and may make any order which the Commissioners could have made.

32. Notwithstanding any appeal to the High Court from an order of the Railway Commission, the order shall, unless the Commissioners or the majority of them see fit to suspend it, continue in operation until it is reversed or varied by that Court.

33. Subject to the foregoing provisions of this Chapter and to any direction of Her Majesty in Council, an order of the Commissioners shall be final and shall not be questioned in or restrained by any Court.

34. (1) The Commissioners, in the exercise of their jurisdiction under this Chapter, may from time to time, with the general or special sanction of the Governor General in Council, call in one or more persons of engineering or other technical knowledge to act as assessors.

(2) There shall be paid to such persons such remuneration as the Governor General in Council upon the recommendation of the Commissioners may direct.

35. The Governor General in Council may make rules regulating proceedings before the Commissioners and enabling the Commissioners to carry into effect the provisions of this Chapter, and prescribing fees to be taken in relation to proceedings before the Commissioners.

36. The costs of, and incidental to, any proceedings before the Commissioners or the High Court under this Chapter shall be in the discretion of the Commissioners or the High Court, as the case may be.

37. The High Court of which the Law Commissioner was a member shall, on the application of any person who was a party to the proceedings before the Commissioners or on appeal before a High Court, or of the representative of any such person, cause an order made by the Commissioners or by a High Court under this Chapter to be enforced or executed as if it were an order made by itself in the exercise of its original civil jurisdiction.

38. A document purporting to be signed by the Commissioners, or any of them, shall be received in evidence without proof of the signature, and shall, until the contrary is proved, be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

39. The Commissioners shall, as soon as may be after the disposal of each case referred to them, submit to the Governor General in Council a special report on the case, and the Governor General in Council shall cause the report to be published in such manner as he thinks fit for the information of persons interested in the subject-matter thereof.

40. Except for the purpose of the last foregoing section, a Railway Commission shall be deemed to be dissolved at the close of the last of the sittings of the Commissioners for the decision of the cases referred to them.

Traffic Facilities.

41. (1) Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding and delivering of traffic upon and from the several railways belonging to or worked by it and for the return of rolling-stock. [8 Vict., c. 20, s. 90; 17 & 18 Vict., c. 31, s. 2; 51 & 52 Vict., c. 25, s. 25; and Eighth Report, Railway Commissioners, p. 4.]

(2) A railway administration shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or railway administration, or any particular description of traffic, in any respect whatsoever or subject any particular person or railway administration or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any such respect.

(3) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within one mile of the terminus or station of another railway administration, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation may by means of such railways, be at all times afforded to the public in that behalf.

(4) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding and delivering by every railway administration, at the request of any other railway administration, of through traffic to and from the railway of any other railway administration at through rates: [Thirteenth Report, Railway Commissioners, p. 4.]

Provided as follows:—

(a) the railway administration requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration, stating both its amount and the route by which the traffic is proposed to be forwarded; and when an administration gives such notice it shall also state the apportionment of the through rate. The proposed through rate may be per truck or per maund;

(b) each forwarding railway administration shall, within the prescribed period after

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the receipt of such notice, by written notice inform the railway administration requiring the traffic to be forwarded whether it agrees to the rate and route, and, if it objects to either, the grounds of the objection;

- (c) if at the expiration of the prescribed period no such objection has been sent by any forwarding railway administration, the rate shall come into operation at the expiration of that period;
- (d) if an objection to the rate or route has been sent within the prescribed period, the Governor General in Council shall, on the request of any of the railway administrations, refer the case to the Commissioners for their decision;
- (e) if the objection is to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interest of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly or fix such other rate as may seem to the Commissioners to be just and reasonable;
- (f) if the objection is only to the apportionment of the rate, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective: in any other case the operation of the rate shall be suspended until the Commissioners make their order in the case;
- (g) the Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance or working of the route or any part of the route, as well as any special charges which any railway administration is entitled to make in respect thereof;
- (h) subject to the foregoing provisions of this sub-section, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly;
- (i) the prescribed period mentioned in this sub-section shall be one month, or such longer period as the Governor General in Council may by general or special order prescribe.

[51 & 52 Vict., c. 25, s. 27.]

Undue preference in case of unequal rates for like traffic or services.

or lower rates for the same or similar services, than it charges to other traders or classes of traders, or to the traders in another district or country, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration.

(2) In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made.

43. Where a railway administration is a party to an agreement for using on a river or other inland water for the purposes of the traffic of the railway any ferry, ship, boat or raft which is not under the direct control of the railway administration, the provisions of the two last foregoing sections applicable to a railway shall extend to the ferry, ship, boat or raft and to the traffic carried thereby.

44. A railway administration may charge reasonable terminals.

45. (1) The Governor General in Council may refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals.

(2) In deciding the question or dispute the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged, irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation.

46. (1) A railway administration shall keep at each of its stations a book or books showing every rate for the time being charged for the carriage of traffic, other than passengers and their luggage, from that station to any place to which the administration quotes a rate, and stating the distance from that station of every station, siding or place to which any such rate is charged.

(2) Every such book shall during all reasonable hours be open to the inspection of any person without payment of any fee.

47. (1) Where any charge is made by and paid to a railway administration in respect of the carriage of goods over its railway, the administration shall, on the application of the person by whom or on whose behalf the charge has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely:—

- the carriage of the goods on the railway;
- terminals; and
- demurrage, collection, delivery and other expenses;

but without particularising the several items of which the charge under each head consists.

(2) The application under sub-section (1) must be in writing and be made to the railway administration within one month after the date of the payment of the charge by or on behalf of the

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[The periods mentioned in the sub-section (2) are those suggested at the Railway Conference, 1888.]

applicant, and the account must be rendered by the administration within two months after the receipt of the application.

CHAPTER VI.

WORKING OF RAILWAYS.

General.

48. (1) Every railway company and, in the case of a railway administered by the Government, an officer to be appointed by the Governor General in Council in this behalf, shall make general rules consistent with this Act for the following purposes, namely:—

- for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled;
- for regulating the provision to be made for the accommodation and convenience of passengers;
- for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods;
- for regulating the conduct of the railway servants;
- for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner; and
- generally for regulating the travelling upon, and the use, working and management of, the railway.

(2) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees.

(3) A rule made under this section shall not take effect until it has received the sanction of the Governor General in Council and been published in the Gazette of India:

Provided that, where the rule is in the terms of a rule which has already been published at length in the Gazette of India, a notification in that Gazette referring to the rule already published and announcing the adoption thereof shall be deemed a publication of a rule in the Gazette of India within the meaning of this sub-section.

(4) The Governor General in Council may cancel any rule made under this section, and the authority required by sub-section (1) to make rules thereunder may, at any time, with the previous sanction of the Governor General in Council, rescind or vary any such rule.

(5) Every rule purporting to have been made for any railway under section 8 of the Indian Railway Act, 1879, and appearing from the Gazette of India to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section.

(6) Every railway administration shall keep at each station on its railway a copy of the general rules for the time being in force on the railway under this section, and shall allow any person to inspect it free of charge at all reasonable times.

49. Where two or more railway administrations whose railways have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication, are not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, the Governor General in Council, upon the application of either or any of the administrations, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively.

50. Any railway company, not being a guaranteed company within the meaning of the Statute 42 and 43 Victoria, Chapter 41, may from time to time make and carry into effect agreements with the Governor General in Council for the construction of rolling-stock, plant or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock.

51. Any railway company, not being a guaranteed company within the meaning of the Statute 42 and 43 Victoria, Chapter 41, may from time to time make with the Governor General in Council, and carry into effect, or, with the sanction of the Governor General in Council, make with any other railway administration, and carry into effect, any agreement with respect to any of the following purposes, namely:—

- the working, use, management and maintenance of any railway;
- the supply of rolling-stock and machinery necessary for any of the purposes mentioned in clause (a) and of officers and servants for the conduct of the traffic of any such railway;
- the payments to be made and the conditions to be performed with respect to such working, use, management and maintenance;
- the interchange, accommodation and conveyance of traffic being on, coming from or destined for the respective railways of the contracting parties, and the fixing, collecting, apportionment and appropriation of the revenues arising from that traffic;
- generally, the giving effect to any such provisions or stipulations with respect to any of the purposes mentioned in clause (a) as the contracting parties may think fit and mutually agree on:

Provided that the agreement shall not affect any of the rates which the railway administrations parties thereto are from time to time respectively authorised to demand and receive from any person, and that every such person shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of any railway administrations parties to the agreement, on the same terms and conditions, and on payment of the same rates, as he would be if the agreement had not been entered into.

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(Chapter VI.—Working of Railways.—Sections 52-59.)

[42 & 43 Vict., c. 41, s. 4.] 52. Any railway company, not being a guaranteed company within the meaning of the Statute 42 and 43 Victoria, Chapter 41, may from time to time exercise with the sanction of the Governor General in Council all or any of the following powers, namely:—

- it may establish, for the accommodation of the traffic of its railway, any ferry properly equipped with ships and boats or a bridge-of-boats and fixed and moveable machinery and plant of good quality and adequate in quantity to work the ferry;
- it may work any ferry established by it under this section for purposes other than the accommodation of the traffic of the railway;
- it may provide and maintain on any of its bridges roadways for foot-passengers, cattle, carriages, carts or other traffic;
- it may construct and maintain roads for the accommodation of traffic passing to or from its railway;
- it may provide and maintain any means of transport which may be required for the reasonable convenience of passengers, animals or goods carried or to be carried on its railway;
- it may charge tolls on the traffic using such ferries, roadways, roads or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor General in Council.

[3 & 4 Vict., c. 97, s. 3; 31 & 32 Vict., c. 119, ss. 3 & 4; and 34 & 35 Vict., c. 78, ss. 9 & 10.] 53. Every railway administration shall, in forms to be prescribed by the Governor General in Council, prepare and print, half-yearly or at such longer intervals as the Governor General in Council may prescribe, such returns of its capital and revenue transactions and of its traffic as the Governor General in Council may require, and shall forward a copy of such returns to the Governor General in Council at such times as he may direct.

Carriage of Property.

[5 & 6 Vict., c. 55, s. 16.] 54. (1) Every railway administration shall determine the maximum load for every wagon or truck in its possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck.

(2) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the maximum load for the wagon or truck.

(3) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor General in Council for the class of axle under the wagon or truck.

[New.] 55. (1) A railway administration may impose conditions, not inconsistent with this Act or with any general rule thereunder, with respect to the receiving, forwarding or delivering of any animals or goods.

(2) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (1)

at the station, and shall allow any person to inspect it free of charge at all reasonable times.

56. (1) If a person fails to pay on demand any rate, terminal or other charge due from him to a railway administration in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods, or, if they have been removed from the railway, any other animals or goods of such person then being in or thereafter coming into its possession.

(2) When any animals or goods have been detained under sub-section (1), the railway administration may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers or, where there are no such newspapers, in such manner as the Governor General in Council may prescribe, sufficient of such animals or goods to produce a sum equal to the charge and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, terminal or other charge has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub-section (1), or any animals or goods which have remained unsold after a sale under sub-section (2), the railway administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of the last foregoing sub-section.

(5) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

57. When any animals or goods have come into the possession of a railway administration for carriage or otherwise and are not claimed within a reasonable time by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration may sell them as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

58. If the railway administration has any doubt as to the person entitled to any animals, goods or proceeds under either of the two last foregoing sections, it may withhold delivery thereof until the person claiming them has established his title thereto in a Civil Court.

59. Where any animals or goods in the possession of a railway administration are claimed by two or more persons, or the ticket or receipt given therefor is not forthcoming, the railway administration may withhold delivery of the

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animals or goods until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the claims of any other person with respect to the animals or goods.

[Act IV, 1879, s. 15.] 60. (1) The owner or person having charge of any goods which have been carried upon a railway, or are brought upon a railway for the purpose of being

carried thereon, shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to him an exact account in writing signed by such owner or person of the quantity and description of the goods.

(2) If an account delivered under sub-section (1) is materially false with respect to the quantity or description of any goods to which it purports to relate, the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

[8 Vict., c. 20, s. 101.] (3) If any difference arises between a railway servant and an owner of or a person having the charge of any goods carried or to be carried on a railway, respecting the quantity or description of goods of which an account has been required or delivered under this section, the railway servant may detain and examine the goods.

(4) If an account has not been delivered under sub-section (1) on request made therefor under that sub-section, the person to whom the request was addressed or, if that person is not the owner of the goods, then that person and the owner jointly and severally shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination.

(5) If it appears from the examination that the quantity of the goods is larger than, or their description different from, that stated in an account delivered under sub-section (1), the person who delivered the account or, if that person is not the owner of the goods, then that person and the owner jointly and severally shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any such loss as aforesaid.

(6) If it appears that the quantity of the goods is not larger than, or their description not different from, that stated in an account delivered under sub-section (1), the railway administration shall pay the cost of the detention and examination and be responsible to the owner of the goods for any loss which may have been caused by the detention or examination thereof.

[Act IV, 1879, s. 16; Act XI, 1886, s. 18; and Despatch from Secretary of State to Government of India, No. 95, dated 18th July, 1882.] 61. (1) No person shall be entitled to take with him, or to require a railway administration to carry, any dangerous or offensive goods.

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the stationmaster or other railway servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside

of the package containing them or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

(3) Any railway servant may refuse to receive such goods for carriage and, when such goods have been so received without such notice as is mentioned in the last foregoing sub-section having to his knowledge been given, may refuse to carry them or may stop their transit.

(4) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(5) Nothing in this section shall be construed to derogate from the Indian Explosives Act, 1884, or any rule under that Act, and nothing in sub-sections (1), (3) and (4) shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government or to any goods which an officer, soldier, sailor or police-officer or a person enrolled as a volunteer under the Indian Volunteers Act, 1869, may take with him upon a railway in the course of his employment or duty as such.

Carriage of Passengers.

62. The Governor General in Council may require any railway administration to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between the passengers and the railway servants in charge of the train as the Governor General in Council has approved.

63. Every railway administration shall fix, subject to the approval of the Governor General in Council, the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages, as the Governor General in Council, after consultation with the railway administration, may determine.

[New.] 64. Every railway administration shall in every passenger-train reserve at least one compartment of the lowest class for the exclusive use of females.

65. Every railway administration shall cause to be posted in a conspicuous place at every station on its railway, in English and in a vernacular language in common use in the territory where the station is situated, a copy of the time-tables for the time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

[Act IV, 1879, s. 17.] 66. (1) Every person desirous of travelling on a railway shall, upon payment of his fare, be supplied with

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(Chapter VI.—Working of Railways.—Sections 67-71. Chapter VII.—Responsibility of Railway Administrations as Carriers.—Sections 72-75.)

a ticket, specifying the class of carriage for which, and the place from and the place to which, the fare has been paid, and the amount of the fare.

(2) The matters required by sub-section (1) to be specified on a ticket shall be set forth—

- (a) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway, and
- (b) if the class of carriage to be so specified is any other than the lowest class, then in English.

[Act IV, 1879, s. 18.] 67. (1) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued.

[New.] (2) A person to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued shall on returning the ticket within an hour after the departure of the train be entitled to have his fare at once refunded.

[Act IV, 1879, s. 19.] 68. No person shall enter any carriage on a railway for the purpose of travelling without pass or ticket, unless he has with him either a pass or a ticket.

[Act IV, 1879, s. 17.] 69. Every passenger by railway shall, on the requisition of any railway servant appointed by the railway administration in this behalf, present his pass or ticket to the railway servant for examination, and at the end of the journey for which the pass or ticket was issued or, in the case of a season pass or ticket, at the expiration of the period for which it is current deliver up the pass or ticket to the railway servant.

[English Bye-law No. 5: & U. O. Reg. No. 862 of 1876.] 70. A return ticket shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued.

[Act IV, 1879, s. 20: and English Bye-law No. 16.] 71. (1) A railway administration may refuse to carry a person suffering from any infectious disorder. (2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other railway servant in charge of the place where he enters upon the railway.

[New.] (3) A railway servant giving such permission as is mentioned in the last foregoing sub-section must arrange for the segregation of the person suffering from the disorder from other persons being or travelling upon the railway.

CHAPTER VII.

RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS CARRIERS.

[Act IV, 1879, s. 10: I. L. R. 3 B m. 109 and 10 Cal. 166: and U. O. Reg. No. 268 of 1879.] 72. (1) The responsibility of a railway administration for the loss, destruction or deterioration of animals or goods delivered to the administration to be carried by railway shall, subject to the other

provisions of this Act, be that of a bailee under Chapter IX of the Indian Contract Act, 1872.

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to affect such limitation, be void unless it—

- (a) is in writing signed by or on behalf of the person sending or delivering the animals or goods, and
- (b) is otherwise in a form approved by the Governor General in Council.

(3) Nothing in the common law of England or in the Carriers Act, 1865, with respect to the carriage of animals or goods, shall apply to their carriage by railway.

73. (1) The responsibility of a railway administration under the last foregoing section for the loss, destruction or deterioration of animals delivered to the administration to be carried on a railway shall not in any case exceed, in the case of elephants or horses five hundred rupees a head or, in the case of camels or horned cattle, fifty rupees a head or, in the case of sheep, goats, dogs or other animals, ten rupees a head, unless the person sending or delivering them to the administration caused them to be declared, or declared them, at the time of their delivery for carriage by railway, to be respectively of higher value than five hundred, fifty or ten rupees a head, as the case may be.

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against a railway administration for the recovery of compensation for the loss, destruction or deterioration of any animal the burden of proving the value of the animal and, where the animal has been injured, the extent of the injury shall lie upon the person claiming the compensation.

74. A railway administration shall not be responsible for the loss, destruction or deterioration of any luggage belonging to or in charge of a passenger unless a railway servant has booked and given a receipt for the luggage and the passenger has left the luggage to be carried by the railway administration in a wagon or other place appropriated for the carriage of luggage or of luggage and other goods.

75. (1) When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration, and the value of such articles in the parcel or package exceeds one hundred rupees, the railway administration shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway, and a railway servant on behalf of the administration has accepted a percentage on the value so declared by way of compensation for increased risk, or an engagement to pay such percentage.

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(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall lie on the person claiming the compensation.

[Act IV, 1879, s. 18.] 76. In any suit against a railway administration for compensation for loss, destruction or deterioration of animals or goods delivered to a railway servant for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

[New: U. O. Registrar No. 8474 of 1882.] 77. A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway.

[New: I. L. R. 8 Bom. 120.] 78. Notwithstanding anything in the foregoing provisions of this Chapter, a railway administration shall not be responsible for the loss, destruction or deterioration of any goods with respect to the quantity or description of which an account materially false has been delivered under sub-section (1) of section 60 and in respect of the carriage of which a special rate has not been charged under sub-section (2) of that section.

[Secy. of State's Despatch, Railway, No. 4, dated the 5th January, 1888.] 79. Where an officer, soldier or follower, while being or travelling as such on duty upon a railway belonging to the Government, loses his life or receives any personal injury in such circumstances that if he were not an officer, soldier or follower being or travelling as such on duty upon the railway compensation would be payable under Act No. XIII of 1855 (an Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong) or to him, as the case may be, the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military regulations to which he was immediately before his death or is subject, be determined in accordance with those regulations, and not otherwise.

[Pros., P. W. D., July, 1887, Nos. 1 to 141, No. 69: I. L. R. 5 Bom. 571.] 80. A suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods, where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, shall lie against the railway administration from which the passenger purchased his ticket, or to which the animals or goods were delivered by the consignor thereof, as the case may be.

81. (1) When a railway administration contracts to carry passengers, animals or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea from the act of God, the King's enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea, to the extent to which it would be responsible under the Merchant Shipping Act, 1854, and the Merchant Shipping Act Amendment Act, 1862, if the ship were registered under the former of those Acts and the railway administration were owner of the ship, and not to any greater extent.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by sea shall lie on the railway administration.

CHAPTER VIII.

ACCIDENTS.

82. When any of the following accidents occurs in the course of working a railway, namely:—

- (a) any accident attended with loss of human life, or grievous hurt as defined in the Indian Penal Code, or serious injury to property;
- (b) any collision between trains of which one is a passenger-train;
- (c) the derailment of any train carrying passengers or of any part of such a train;
- (d) any accident of a description usually attended with loss of human life or such grievous hurt as aforesaid or serious injury to property;
- (e) any accident of any other description which the Governor General in Council may notify in this behalf in the Gazette of India;

the railway administration working the railway and, if the accident happens to a train belonging to any other railway administration, the other railway administration also shall, without unnecessary delay, send notice of the accident to the Local Government and to the Inspector appointed for the railway; and the station-master nearest to the place at which the accident occurred or, where there is no station-master, the railway servant in charge of the section of the railway on which the accident occurred shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the Governor General in Council appoints in this behalf.

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[New.]

83. The Governor General in Council may make rules, consistent with this Act and any other enactments for the time being in force, for any of the following purposes, namely:—

- for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those forms are to contain;
- for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred;
- for prescribing the duties of railway servants, police-officers, Inspectors and Magistrates on the occurrence of an accident.

[Act IV, 1879, s. 7.] 84. Every railway administration shall send to the Governor General in Council a return of accidents occurring upon its railway, whether attended with personal injury or not, in such form and manner and at such intervals of time as the Governor General in Council directs.

[31 & 32 Vict., s. 119, s. 26.] 85. Whenever any person injured by an accident on a railway claims compensation on account of the injury, any Court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the costs of the examination as it or he thinks fit.

CHAPTER IX.

PENALTIES AND OFFENCES.

Forfeitures by Railway Companies.

[Act IV, 1879, s. 52.] 86. If a railway company fails to comply with any requisition made under section 13, it shall forfeit to the Government the sum of two hundred rupees for the default and a further sum of fifty rupees for every day after the first during which the default continues.

[Pros., P. W. 13, D., January, 1888, Nos. 60 to 64, E.I.R., 34-36.] 87. If a railway company moves any rolling-stock upon a railway by steam or other mechanical power in contravention of section 16, sub-section (2), or opens or uses any railway or work in contravention of section 18, section 19, section 20 or section 21, or re-opens any railway or uses any rolling-stock in contravention of section 24, it shall forfeit to the Government the sum of two hundred rupees for every day during which the motive power, railway, work or rolling-stock is used in contravention of any of those sections.

[Act IV, 1883, s. 4.] 88. If a railway company fails to comply with the provisions of section 46, section 48, sub-section (6), section 55, sub-section (2), or section 65, with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to

the Government the sum of fifty rupees for every day during which the default continues.

89. If a railway company fails to comply with the provisions of section 48 with respect to the making of general rules, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

90. If a railway company fails to comply with the provisions of section 53 or section 54 with respect to the submission of any return, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

91. If a railway company contravenes the provisions of section 54 or section 63, with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the wagon or truck or of such number on the compartment, or knowingly suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the Government the sum of twenty rupees for every day during which either section is contravened.

92. If a railway company fails to comply with any requisition of the Governor General in Council under section 62 for the provision and maintenance in proper order, in any train worked by it which carries passengers, of such efficient means of communication as the Governor General in Council has approved, it shall forfeit to the Government the sum of twenty rupees for each train run in disregard of the requisition.

93. If a railway company omits to give such notice of an accident as is required by section 82 and the rules for the time being in force under section 83, it shall forfeit to the Government the sum of one hundred rupees for every day during which the omission continues.

94. (1) When a railway company has through any act or omission forfeited any sum to the Government under the foregoing provisions of this Chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

(2) The suit must be instituted with the previous sanction of the Governor General in Council, and the plaintiff therein shall be the Secretary of State for India in Council.

(3) The Governor General in Council may remit the whole or any part of any sum forfeited by a railway company to the Government under the foregoing provisions of this Chapter.

*The Indian Railways Bill.**(Chapter IX.—Penalties and Offences.—Sections 95-107.)*

[New.]

95. Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceeding instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a railway company to discharge any obligation imposed upon it by this Act.

Offences by Railway Servants.

[Act IV, 1879, s. 25: and 5 & 6 Vict., c. 55, s. 17.] 96. If a railway servant—
(a) is in a state of intoxication whilst actually employed upon a railway in the discharge of any duty, or
(b) negligently or wilfully omits to perform his duty,

he shall, on complaint made by the railway administration or by a railway servant appointed by the railway administration in this behalf, be punished with fine which may extend to fifty rupees.

[Act IV, 1879, s. 26: 3 & 4 Vict., c. 97, ss. 13 & 14: and 5 & 6 Vict., c. 55, s. 17.] 97. If a railway servant, when on duty, endangers the safety of persons—
(a) by disobeying any general rule made, sanctioned, published and notified under this Act, or
(b) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice, or
(c) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

[Act IV, 1879, s. 28.] 98. If a railway servant compels or attempts to compel any passenger to enter a compartment which already contains the maximum number of passengers exhibited thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

[Act IV, 1879, s. 24.] 99. If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 82 and the rules for the time being in force under section 83, he shall be punished with fine which may extend to fifty rupees.

[26 & 27 Vict., c. 92, s. 5.] 100. If a railway servant without lawful excuse allows any rolling-stock to stand across a place where the railway crosses a public road on the level, he shall be punished with fine which may extend to twenty rupees.

[34 & 35 Vict., c. 78, s. 10.] 101. If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

Other Offences.

102. If a person requested under section 60 [Act IV, 1879, s. 29: 8 Vict., c. 20, s. 99.] Not giving account to give an account of the quantity and description of any goods neglects or refuses to give the account, or gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall be punished with fine which may extend to ten rupees for every maund or part of a maund (of three thousand two hundred tolas) of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

103. If a person in contravention of section 61 [Act IV, 1879, s. 30: 8 Vict., c. 20, s. 152: 1 L.R. 1 All. 60.] Unlawfully bringing takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway.

104. If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees.

[Act IV, 1879, s. 39.] 105. (1) If a passenger, having entered a compartment already full or resisting entry into a compartment not full, refuses to leave it when required to do so by any railway servant, he shall be punished with fine which may extend to ten rupees.

(2) If any person resists the lawful entry of any other person into a compartment not already containing the maximum number of passengers exhibited thereon under section 63, he shall be punished with fine which may extend to fifty rupees.

[Act IV, 1879, s. 35.] 106. (1) If a person, without the consent of his fellow-passengers, if any, in the same compartment, smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees.

(2) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability mentioned in sub-section (1), be removed by any railway servant from the carriage in which he is travelling and from the railway.

(3) Where a person is removed from the railway under the last foregoing sub-section, he shall forfeit any fare which he has paid and any pass or ticket which he has obtained or purchased.

[8 Vict., c. 16, s. 146.] 107. If a person, without authority in this behalf, pulls down or injures any board or document set up or posted on a railway by order of a railway administration, or obliterates any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees.

*The Indian Railways Bill.**(Chapter IX.—Penalties and Offences.—Sections 103-115.)*

[Act IV, 1879, ss. 31 & 32: L. R. 1 Bom. 52 and 12 Cal. 192: and French and German Rail-way Law.]

108. (1) If a passenger travels in a train without having a pass or ticket with him, or, being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the penalty hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, were last examined.

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorised by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the penalty hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made.

(3) The penalty referred to in sub-section (1) and sub-section (2) shall,—

(a) where the passenger has immediately after incurring the penalty and before being detected by a railway servant notified to the railway servant in charge of the train the fact of the penalty having been incurred, be one rupee, two annas or eight annas, and

(b) in any other case, be six rupees, one rupee or three rupees,

according as the passenger is travelling or has travelled or has attempted to travel in a carriage of the highest class or in a carriage of the lowest class or in a carriage of any other class or kind.

(4) If a passenger liable to pay the penalty and fare mentioned in sub-section (1), or the penalty and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on demand being made therefor under one or other of these sub-sections, as the case may be, he may, if in the train, be removed therefrom, and the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a fine imposed on the passenger by the Magistrate and shall, as it is recovered, be paid to the railway administration.

[English Bye-law No. 2: Act IV, 1879, s. 32.]

109. If a person uses or attempts to use a pass or ticket on any day for which the pass or ticket is not available, or uses or attempts to use a single pass or ticket which has already been used on a previous journey or, in the case of a return ticket, a half thereof which has already been so used, he shall be punished with fine which may extend to one hundred rupees,

in addition to the amount of the single fare for any distance which he has travelled.

110. If a person sells or attempts to sell, or Transferring return parts or attempts to part half of return ticket. with the possession of, the return half of a return ticket in order to enable any other person to travel therewith, or purchases such half of a return ticket or travels or attempts to travel therewith, he shall be punished with fine which may extend to fifty rupees, in addition to the amount of the single fare for the return journey authorised by the ticket.

111. That portion of any fine imposed under Disposal of fines under either of the two last foregoing sections. the two last foregoing sections. presents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government.

112. If a passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punished with fine which may extend to fifty rupees.

113. If a person suffering from an infectious disorder enters or travels upon a railway in contravention of section 71, sub-section (2), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant.

114. (1) If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.

(2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees and may be removed from the railway by any railway servant.

115. If a male person, knowing a carriage, compartment, room or other place reserved for females. to be reserved by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed by any railway servant from the place and from the railway.

*The Indian Railways Bill.**(Chapter IX.—Penalties and Offences.—Sections 116-124.)*

[Act IV, 1879, s. 36.]

Drunkenness or nuisance on a railway.

116. If a person in any railway carriage or upon any part of a railway—

- (a) is in a state of intoxication, or
- (b) commits any nuisance or act of indecency, or uses obscene or abusive language, or
- (c) wilfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp,

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed by any railway servant from the railway.

[Act IV, 1879, s. 38: & 3 & 4 Vict., c. 97, s. 16.]

117. If a person wilfully obstructs or impedes any railway servant in the discharge of his duty, he shall be punished with fine which may extend to one hundred rupees.

[Act IV, 1879, s. 41: 3 & 4 Vict., c. 97, s. 16: U. O. Reg. No. 899 of 1883: & Pros. P. W. D., January, 1866, Nos. 60 to 64, Despatch, para. 16.]

118. (1) If a person wilfully trespasses upon a railway, he shall be punished with fine which may extend to twenty rupees.

(2) If a person so trespassing refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person.

[Act IV, 1879, s. 47.]

119. If a driver or conductor of a tramcar, omnibus, carriage or other vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police-officer, he shall be punished with fine which may extend to twenty rupees.

[Act IV, 1879, s. 48: and 8 Vict., c. 20, s. 75.]

120. In either of the following cases, namely:—

- (a) if a person, knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any vehicle, animal or other thing across the railway,

(b) if, in the absence of a gatekeeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any vehicle, animal or other thing under his charge have passed through the gate,

the person shall be punished with fine which may extend to fifty rupees.

[Act IV, 1879, s. 42.]

121. (1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(2) If any cattle are wilfully driven, or knowingly permitted to be, on a railway provided with fences suitable for the exclusion of cattle, or are wilfully driven, or knowingly permitted to be, on a railway not so provided otherwise than for the purpose of lawfully crossing the railway at an

authorised crossing or for any other lawful purpose, the person in charge of the cattle or, at the option of the railway administration, the owner of the cattle shall be punished with fine which may extend to ten rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the Cattle-trespass Act, 1871.

(4) The expression "public road" in sections 11 and 26 of the Cattle-trespass Act, 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

(5) If the Governor General in Council has, by notification in the Gazette of India, declared, with respect to any railway, that it is provided with fences suitable for the exclusion of cattle, a Court shall, so long as the declaration remains uncancelled, presume the suitability for that purpose of the fences referred to in the declaration.

122. If a person unlawfully and maliciously—

- (a) puts or throws upon or across any railway any wood, stone or other matter or thing, or
- (b) takes up, removes or displaces any rail, sleeper or other matter or thing belonging to any railway, or
- (c) turns, moves or diverts any points or other machinery belonging to any railway, or
- (d) makes or shows, or hides or removes, any signal or light upon or near to any railway, or
- (e) does or causes to be done any other matter or thing in relation to any railway,

with intent, or with knowledge that he is likely, to endanger the safety of any person travelling or being upon the railway, he shall be punished with transportation for life or for any term not less than seven years, or with imprisonment for a term which may extend to two years.

123. If a person unlawfully and maliciously throws or causes to fall or strike at, against, into or upon any rolling-stock forming part of a train any wood, stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling-stock or in or upon any other rolling-stock forming part of the same train, he shall be punished with transportation for life or for any term not less than seven years, or with imprisonment for a term which may extend to two years.

Maliciously hurting or attempting to hurt persons travelling by railway.

Maliciously endangering safety of persons travelling by railway by wilful act or omission.

124. If a person, by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling, or being upon any railway, or obstructs or causes to be obstructed any rolling-stock upon any railway, he shall be punished with imprisonment for a term which may extend to two years.

*The Indian Railways Bill.**(Chapter IX.—Penalties and Offences.—Sections 125-130. Chapter X.—Supplemental Provisions.—Sections 131-132.)*

[Act IV, 1879, s. 46.] 125. If a person rashly or negligently does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway, he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

[Act IV, 1879, s. 44.] 126. (1) If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed to have committed an offence, and the Court convicting him may, if it thinks fit, in addition to any punishment to which it may sentence the minor, require his father or guardian, within such time as the Court may fix, to execute a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of these acts or omissions.

[Act XLV, 1860, ss. 82 & 83.] (2) The amount of the bond, if forfeited, shall be recoverable by the Court as if it were a fine imposed by itself.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be punished with fine.

Procedure.

[Act IV, 1879, s. 49: U. O. Register No. 2582 of 1880: Pros. P. W. D., Jan., 1868, Nos. 60, 96, 97, 115, 116, 117, 122, 123, 124, 125 or 126, to 64. E. I. R. 19, 20 & 25.] 127. (1) If a person contravenes a general rule the breach whereof has been made punishable with fine under section 48, sub-section (2), or commits any offence mentioned in section 96, 97, 115, 116, 117, 122, 123, 124, 125 or 126, he may be arrested without warrant or other written authority by any railway servant or police-officer, or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, without unnecessary delay, be taken before a Magistrate having authority to try him or commit him for trial.

[Act IV, 1879, s. 48: and 8 Vict., c. 16, s. 156.] 128. (1) If a person commits any offence under this Act other than an offence mentioned in the last foregoing section, or incurs any penalty or other liability under section 108, and there is reason to believe that he will abscond, or his name and address are unknown and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer, or any other person whom such railway servant or police-officer may call to his aid, may, without warrant or other written authority, arrest him and take him with all convenient despatch to the nearest police-station.

[86 W. R. 387.] (2) When the person is taken to the police-station he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction, unless his true name and address are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate when required.

129. No Magistrate other than a Presidency Magistrate or than a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

130. (1) Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be found or which the Local Government may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the local official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the Local Government may direct.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

131. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities, namely:—

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor General in Council has, by an order in writing, declared the railway administration to be liable to pay the tax.

(2) While an order made by the Governor General in Council under clause (1) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the order or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Governor General in Council may at any time revoke or vary an order under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the General Clauses Act, 1887, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river.

132. (1) None of the rolling-stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to

*The Indian Railways Bill.**(Chapter X.—Supplemental Provisions.—Sections 133-140.)*

be taken in execution of any decree or order of any Court without the previous sanction of the Governor General in Council.

(2) Nothing in sub-section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

[Act IV, 1879, s. 27: Pros., Foreign Dept., Ext., Nov., 1887, Nos. 145 to 158.] 133. (1) Every railway servant shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.

(2) In the definition of "legal remuneration" in section 161 of that Code the word "Government" shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

(3) A railway servant shall not—

(a) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 56 or section 57, or,

(b) in contravention of any direction of the railway administration in this behalf, engage in trade.

(4) Notwithstanding anything in section 21 of the Indian Penal Code, a railway servant shall not be deemed to be a public servant for any of the purposes of that Code except those mentioned in sub-section (1).

[8 Vict., c. 20, s. 106.] 134. If a railway servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow, or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration, or to a person appointed by the railway administration in this behalf, any station, dwelling-house, office or other building, with its appurtenances, or any books, papers or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Magistrate may, on application made by or on behalf of the railway administration, order any police-officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf.

[Railway and Canal Traffic Bill, 1887, s. 44: and 51 & 52 Vict., c. 25, s. 53.] 135. Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the Governor General in Council, for any of the purposes of, or in relation to, this Act, or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by a Secretary, Deputy Secretary, Under Secretary or Assistant Secretary to the Government of India, or by any other officer or servant authorised to act on behalf of the Governor General in Council in respect of the matters to which the same may

relate, and the Governor General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

136. Any notice or other document required or authorized by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a Native State, on the Manager and, in the case of a railway administered by a railway company, on the Agent in India of the railway company—

(a) by delivering the notice or other document to the Manager or Agent, or

(b) by leaving it at his office, or

(c) by forwarding it by post in a prepaid letter addressed to the Manager or Agent at his office and registered under Part III of the Indian Post Office Act, 1866.

XIV of 1866.

137. Any notice or other document required or authorized by this Act to be served on any person by a railway administration may be served—

(a) by delivering it to the person, or

(b) by leaving it at the usual or last known place of abode of the person, or

(c) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and registered under Part III of the Indian Post Office Act, 1866.

XIV of 1866.

138. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

139. (1) A rule under section 22, section 35 or section 83, or the cancellation, rescission or variation of a rule under any of those sections or under section 48, sub-section (4), shall not take effect until it has been published in the Gazette of India.

(2) Where any rule made under this Act, or the cancellation, rescission or variation of any such rule, is required by this Act to be published in the Gazette of India, it shall, besides being so published, be further notified to persons affected thereby in such manner as the Governor General in Council, by general or special order, directs.

(3) The Governor General in Council may cancel or vary any rule made by him under this Act.

140. (1) The Governor General in Council may, by notification in the Gazette of India, invest any Local Government with any of the powers or functions of the

Delegation of powers of Governor General in Council.

[New: Pros. P. W. D., Jan., 1888, Nos. 60 to 64.]

*The Indian Railways Bill.**(Chapter X.—Supplemental Provisions.—Sections 141-145.)**The First Schedule.—Enactments repealed. The Second Schedule.—Articles to be declared and insured.)*

the Governor General in Council under this Act with respect to any railway, and may, by that or a like notification, declare what Local Government shall, for the purposes of the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway.

(2) The provisions of section 135 with respect to proceedings of the Governor General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers or discharging the functions of the Governor General in Council in pursuance of a notification under sub-section (1).

[New.]

141. (1) The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorise any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal or other Court.

(2) A person authorised by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, as regards such prosecutions, be deemed to be a Public Prosecutor for the purpose of section 495 of the Code of Criminal Procedure, 1882.

X of 1882.

[Act IV, 1879, s. 54 and Act XI, 1886, s. 49.]

142. The Governor General in Council may, by notification in the Gazette of India, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power.

[Act XI, 1887.]

143. The Governor General in Council may, by a like notification, exempt any railway from any of the provisions of this Act.

[Act IV, 1879, s. 3; U.O. Reg. No. 1622 of 1878.]

144. (1) For the purposes of section 3, sub-sections (4) and (5), and sections 4 to 19 (both inclusive), 48, 53, 61, 79, 82 to 85 (both inclusive), 90, 93 to 97 (both inclusive), 99, 103, 107, 114, 118, 120 to 128 (both inclusive), 130 to 134 (both inclusive), 136, 137, 140, 141 and 143, the word "railway", whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3, sub-section (2).

(2) For the purposes of sections 82, 96, 97, 99, 117, 118, 121 and 133, sub-sections (1), (2) and (4), and section 134, the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

145. In sections 194 and 195 of the Indian Penal Code, for the words "by this Code or the law of England" the words "by the law of British India or England" shall be substituted.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
III of 1865.	Carriers Act, 1865.	Section 10.
IV of 1879.	Indian Railway Act, 1879.	The whole.
IV of 1883.	Indian Railway Act, 1883.	The whole.
XI of 1886.	Indian Tramways Act, 1886.	Section 49.

Act of the Lieutenant-Governor of Bengal in Council.

II of 1882.	Bengal Embankment Act, 1882.	Section 16, and in section 17 the proviso to the first paragraph of that section and the words "or railroad" wherever they occur.
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THE SECOND SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED.

(See section 75.)

- (a) gold and silver, coined or uncoined, manufactured or unmanufactured;
- (b) plated articles;
- (c) cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police-officer or person enrolled as a volunteer under the Indian Volunteers Act, 1869, or of any public officer, British or foreign, entitled to wear uniform;
- (d) precious stones, jewellery and trinkets;
- (e) watches, clocks and timepieces of any description;
- (f) Government securities;
- (g) Government stamps;
- (h) bills of exchange, hundis, promissory-notes, bank-notes and orders or other securities for payment of money;
- (i) maps, writings and title-deeds;
- (j) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art;
- (k) art pottery and all articles made of glass, china or marble;
- (l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;
- (m) shawls;
- (n) lace and furs;
- (o) opium;
- (p) ivory, ebony, coral and sandalwood;
- (q) musk, sandalwood-oil and other essential oils used in the preparation of it or other perfume;
- (r) musical and scientific instruments.

[Act IV, 1879, Sch. II.]

[K. W. No. 4, Procs. A. Mar. 1883, Nov. 1 to 82, Leg. Dept.]

XX of 1889.

[4 Bom. H. C. R. O. C. J. 120; I. L. R. 6 Mad. 430.]

[Addition of "coral" suggested by Railway Conference, 1888.]

STATEMENT OF OBJECTS AND REASONS.

The preparation of an Indian Railway Code consistent, so far as public interests permit, with the letter of the contracts subsisting between the Government and railway companies has been under consideration for many years, and the Indian Railways Bill has been drawn with special reference to the objections to which the drafts prepared in 1866 and in 1884 were considered both in India and in England to be open.

2. The references in the margin indicate generally the documents which have been considered in the preparation of the Bill. But some of those documents are not accessible to the public, and partly for this reason, and partly for the purpose of explaining the changes which it is proposed to introduce into the law relating to railways in India, the following portions of the Bill appear to call for special remark:—

- (1) *Section 2, sub-section (1).*—Among the enactments to be repealed are section 10 of the Carriers Act, 1865, which was superseded by the last paragraph of section 2 of the Indian Railway Act, 1879, and will be rendered unnecessary by section 72, sub-section (3), of the Bill. As regards section 16 of the Bengal Embankment Act, 1882, it is considered that the retention by the Collector of the power conferred upon him by that section will be undesirable if sections 11 and 12 of the Bill become law. Section 3, sub-section (1), and section 142 of the Bill take the place of section 54, Act IV of 1879, and section 49, Act XI of 1886.
- (2) *Section 3, clause (3), sub-clause (d).*—Sub-clause (d) of the definition of "railway" has been restricted to such vessels as are used on rivers and other inland waters within the local extent of the Act. It has been held that the corresponding clause in Act IV of 1879 must be read in this restricted sense, as, apart from the local extent of that Act, a wider construction of the clause might bring the Railways Act into collision with the Merchant Shipping Acts and the provisions of the general law relating to the carriage of passengers and goods by sea.
- (3) *Section 3, clauses (3) and (6).*—These clauses are supplemented by sub-section (1) of section 144, which applies certain portions of the proposed Act to railways under construction and to railways not used for the public carriage of passengers, animals or goods, and by sub-section (2) of the same section, which declares the expression "railway servant" in certain sections of the Act to include the servants of railway contractors.
- (4) *Section 3, clause (5).*—For the purposes of Chapter VII of the Bill, relating to the responsibility of railway administrations as carriers, it is proper to define the expression "railway administration", in the case of a railway administered by the Government or a Native State, to include the Government or State, as the case may be.
- (5) *Section 3, clause (13), and sections 44 et seqq.*—These provisions are in the terms of sections 55 and 24, respectively, of the Railway and Canal Traffic Act, 1888.
- (6) *Section 5, clause (c).*—In accordance with a suggestion made by one of the railway companies with reference to the draft Bill of 1884, communications between railway companies and their legal advisers have been expressly excepted from the documents of which an Inspector of Railways may require the production.
- (7) *Section 7.*—This section follows generally the terms of an English enactment, but supersedes any local enactments which prohibit the construction of railways over gas-pipes and the like without the previous permission of municipal commissioners. The expense of diverting the course of a railway for the purpose of avoiding a gas-pipe would usually be out of all proportion to any damage which might possibly be caused by the railway passing over the pipe.
- (8) *Section 8.*—This section confers on railway administrations a power which the telegraph authority has under the Indian Telegraph Act, 1885.
- (9) *Sections 11 and 12.*—The former of these sections imposes on the railway administration the duty, subject to certain exceptions, of constructing such accommodation works for the use of owners and occupiers of lands as are proved to be necessary within ten years from the date on which the railway passing through the lands was first opened for public traffic. Under the latter section an owner or occupier may require any reasonable accommodation work to be constructed by a railway administration at his expense after the expiration of the ten years.
- (10) *Section 13.*—This section provides for the erection of fences in pursuance of express requisitions by the Governor General in Council, instead of under rules which can hardly be so drawn as to be applicable to all cases. The section also empowers the Governor General in Council to require the construction of screens in places where there is danger of horses being frightened by the sight or noise of rolling-stock moving on a railway.

- (11) *Section 14.*—This section reproduces the substance of section 7 of the Railways Clauses Act, 1863, and, following section 16 of the Railway and Canal Traffic Act, 1888, reserves to the Governor General in Council power to require as a condition of an order being made on a railway administration for the construction of works at a level-crossing that the local authority, if any, which maintains the road crossed on the level shall undertake to pay the whole or a fair share of the cost of the works.
- (12) *Section 15.*—In permitting a railway administration to act in a case of emergency without the permission of a Magistrate, and so going beyond the provisions of the corresponding section of the Indian Telegraph Act, 1885, this section confers a power which it is deemed essential that railway authorities should possess.
- (13) *Chapter II.*—Section 16, sub-section (2), is designed to prevent the recurrence of the very serious accidents which have from time to time occurred from the unregulated use of locomotive power on railways under construction.

Provision has been made in sections 21 and 22 for the opening of a railway, without the sanction of the Governor General in Council or an Inspector, where there has been an accident resulting in a temporary suspension of traffic or where works are of so unimportant a character that the application to them of the general law relating to the opening of railways is unnecessary.

- (14) *Chapter V.*—This Chapter is the most important part of the Bill, and in its preparation careful regard has been had to the Railway and Canal Traffic Act, 1888, and to the Annual Reports of the Railway Commissioners.

Closely following the law in England, the Chapter imposes on railway administrations the general duty of arranging to receive, forward and deliver traffic without unreasonable delay and without partiality or undue preference, and the special duty of so treating through traffic at through rates. If the Governor General in Council is satisfied that any person has just ground of complaint against a railway administration for breach of either duty, he may refer the case to a Railway Commission for decision. Such a Commission is to be appointed only when there are cases to be referred to it, and it will be deemed to be dissolved as soon as it has decided those cases. It is to consist of a Law Commissioner who is to be a Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882, in the place where the Governor General in Council has ordered the Commission to sit, and of two Lay Commissioners, of whom one must be an expert in railway business and one may be a representative of the mercantile community or any other person whom the Governor General in Council sees fit to appoint. The Commission so constituted may in any case referred to it make any order, by way of injunction, which may in the circumstances appear to the Commissioners to be suitable. If two of the Commissioners concur upon a question of fact, their decision on that question is to be conclusive. From other decisions of the Commissioners an appeal will lie to a bench of not less than three Judges of the High Court of which the Law Commissioner was a member or, from a decision of a Railway Commission in Burma, to such a bench of the High Court of Judicature at Port William in Bengal. Orders made by a Railway Commission are to be enforced by the High Court of which the Law Commissioner was a member as if they were orders made by the High Court in the exercise of its original civil jurisdiction.

Sections 46 and 47, following English law, require railway administrations to keep open to the inspection of the public a book showing the rates for the time being charged for the carriage of animals and goods, and to comply with requisitions for details of gross charges made by and paid to them for the carriage of goods.

Clauses (b) and (c) of section 28 provide for the reference to Railway Commissions of other differences than such as relate to traffic facilities.

- (15) *Section 48.*—This section will remove any doubt as to the validity of any existing rules, and provides that, when rules have once been published in the Gazette of India, they may be extended to a railway by a reference to that Gazette and an announcement of their adoption for the railway, without being again published at length in the Gazette.
- (16) *Section 49.*—This section provides for the settlement by the Governor General in Council of differences between railway administrations respecting the use of any common terminus or line of rails where the differences are such as to be likely to affect the safety of the public.
- (17) *Sections 50, 51 and 52.*—The effect of these sections will be to confer on railway companies domiciled in India the same privileges as are enjoyed by Indian railway companies domiciled in the United Kingdom.

- (18) *Section 55.*—Some such clause is considered necessary for the purpose of covering the conditions which all railway administrations in India do in fact impose and in their quarterly handbooks of fares and rates publish for the information of the public.
- (19) *Sections 57, 58 and 59.*—The first of these sections legalizes the existing practice with respect to the disposal of unclaimed property. The second and third of them have been suggested partly by existing practice, partly by the case of *Eagleton v. The East Indian Railway Company* (8 B. L. R. 581), and partly by the proposal to give railway receipts the same effect as bills of lading.
- The proposal to give such an effect to railway receipts has not been adopted in the Bill, because railway administrations are understood to be averse to it and it is not justified by existing legislation elsewhere.
- (20) *Sections 60, 78 and 102.*—The very common practice of falsely and fraudulently classifying goods is held to justify these clauses.
- (21) *Section 64.*—This section requires every railway administration to reserve in every passenger-train at least one compartment of the lowest class for the exclusive use of females.
- (22) *Section 67.*—The provisions of section 18 of the Indian Railway Act, 1879, respecting the preferential rights of ticket-holders have been omitted as being unnecessary and in practice unworkable. The carriage of troops on railways administered by companies is regulated by the contracts between the Government and the companies.
- (23) *Sections 70 and 110.*—These sections prohibit the transfer of return tickets.
- (24) *Chapter VII.*—This Chapter follows the rule embodied in section 10 of the Indian Railway Act, 1879. There have been very few complaints against the practical operation of this rule, which is based upon a judgment of the Bombay High Court reported at I. L. R. 3 Bom. 109; and, though the soundness of that judgment has been questioned, the Government of India, as at present advised, is of opinion that experience does not justify any material modification of existing legislation.

Section 73, respecting the carriage of animals, reproduces the substance of section 7 of the Railway and Canal Traffic Act of 1854; and section 75, following section 1 of the Carriers Act (1 Will. IV, c. 68), restricts the obligation of declaring the contents of parcels containing gold, silver and other precious articles to cases in which the value of the articles exceeds one hundred rupees.

Section 77 is designed to prevent the preferring of stale claims against railway administrations; section 79 saves certain military regulations; section 80 provides for suits for compensation for injury to through-booked traffic; and section 81 limits, substantially in accordance with the law of England, the liability of a railway administration in respect of accidents happening at sea to passengers, animals or goods which the administration has contracted to carry partly by railway and partly by sea.

- (25) *Section 94.*—This section provides that penalties incurred by railway administrations must be recovered in a District Court at the suit of the Secretary of State for India in Council, and authorises the Governor General in Council to remit such penalties.
- (26) *Section 100.*—The object of this section is to abate the nuisance caused by rolling-stock being kept standing on level-crossings.
- (27) *Sections 108 and 128.*—In the framing of these sections regard has been had to both French and German law. The provisions of sections 31 and 32 of the Indian Railway Act, 1879, are, like the English bye-laws on which they were based (36 W. R. 726), ineffective for their purpose, the difficulty of proving fraud under the latter section, even when it clearly exists, being often found in practice to be insuperable.
- (28) *Section 131.*—In this section it is proposed to deal with the question of the taxation of railways by municipal committees, cantonment committees, district boards and other like authorities. In the opinion of the Government of India the exemption which Guaranteed and State railways enjoy in some provinces from assessment to local rates on land should be extended to all railways throughout India. As regards municipal taxes, it is considered that such as have been levied hitherto in any municipality or cantonment may generally continue to be levied there, though possibly in a commuted form.
- (29) *Section 132.*—The necessity of such a section was illustrated recently by the attachment, in the North-Western Provinces, at the instance of a private decree-holder, of the engine attached to a mail-train.

- (30) *Section 133.*—The expansion of section 27 of the Indian Railway Act, 1879, has been suggested by a case in which a railway servant engaged in trade in contravention of rules which were binding on him and to the prejudice of the railway administration which he was serving.
- (31) *Section 134.*—Much inconvenience to railway administrations in India is said to result from there being no means of summarily ejecting from railway buildings persons who have ceased to be entitled to occupy them.
- (32) *Section 141.*—There have been instances of subordinate Courts objecting to the manager of a State railway appearing before them by deputy even where the attendance of the representative of the railway is required for purely formal purposes. There have also been many instances of great and unnecessary expense being imposed on railway administrations by reason of subordinate Courts refusing to allow petty prosecutions to be conducted by railway servants.
- (33) *Section 145.*—This section is suggested by section 122 of the Bill.

The 22nd October, 1888.

ANDREW R. SCOBLE.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th October, 1888:

NO. 21 OF 1888.

A Bill to provide for the appointment of a Financial Commissioner for Burma and for the definition of his functions.

WHEREAS it is expedient that there should be a Financial Commissioner for Burma; It is hereby enacted as follows:—

1. (1) This Act shall extend to the whole of Burma (inclusive of Upper Burma), except the Shan States; and

(2) It shall come into force on such day as the Local Government, with the previous sanction of the Governor General in Council, appoints in this behalf.

2. (1) There shall be a Financial Commissioner for Burma, and he shall be appointed, and may be removed, by the Local Government with the previous sanction of the Governor General in Council.

(2) Any person appointed by the Local Government or by the Governor General in Council to the office of Financial Commissioner since the first day of April, 1888, shall be deemed to have been appointed under sub-section (1).

3. The Financial Commissioner shall be subject to the control of the Local Government and shall, subject to the provisions of this Act and of any other enactment for

the time being in force, discharge such functions as that Government may assign to him.

4. In any enactment for the time being in force in which the expression "Chief Revenue-authority" or "Chief Controlling Revenue-authority" is used, the expression shall, subject to the provisions of any enactment passed after the commencement of this Act and to any conditions and restrictions which the Local Government, with the previous sanction of the Governor General in Council, may prescribe, be construed as referring to the Financial Commissioner.

5. The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, delegate to the Financial Commissioner, subject to such condition and restrictions, if any, as that Government, with such sanction as aforesaid, may prescribe, all or any of the functions assigned to that Government by any enactment for the time being in force.

6. All acts and proceedings done and taken after the first day of April, 1888, and before the commencement of this Act, by any person appointed by the Local Government or the Governor General in Council to the office of Financial Commissioner, or by any person acting under the authority of a person so appointed, shall be as valid and operative as they would have been if they had been done and taken in exercise of powers conferred by or conferable under this Act.

7. The enactments specified in the schedule shall be modified to the extent and in the manner mentioned in the third column thereof.

THE SCHEDULE. ENACTMENTS MODIFIED.			Number and year.	Title.	Modifications.
Number and year.	Title.	Modifications.			
I of 1879	Indian Stamp Act, 1879.	In section 3, clause (7), insert the words "and Burma" after the word "Punjab".			words "in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of Burma": in section 10 omit the words "British Burma": and in all other sections in which those words occur, except section 1, substitute the word "Burma" for them.
III of 1879.	Destruction of Records Act, 1879.	In section 7 insert the words "and Burma" after the word "Punjab".			
XXII of 1881.	Excise Act, 1881.	In section 3, clause (a), omit the words "British Burma", and for the words "in the territories administered by the Lieutenant-Governor of the Punjab" substitute the	XX of 1886.	Upper Burma Laws Act, 1886.	In the second schedule, first part, for "(ss. 2, 4 and 8)" against Act III of 1879, substitute "(ss. 2, 4, 5, 7 and 8)".

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to legalise and extend the powers of the officer whom, under the title of Financial Commissioner for Burma, it has been found necessary to appoint to aid the Chief Commissioner of Burma in the discharge of the very heavy duties which at present devolve upon him as the Chief Revenue-authority in that province.

The 23rd October, 1888.

C. U. AITCHISON.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th October, 1888:

NO. 22 OF 1888.

A Bill to amend the Burma Municipal Act, 1884.

WHEREAS it is expedient to amend the Burma Municipal Act, 1884; It is hereby enacted as follows:—

XVII of 1884. 1. In section 2 of the Burma Municipal Act, 1884, between the definition of "municipality" and the definition of "inhabitant", the following shall be inserted, namely:—

"owner" includes the person who is receiving the rent of any building or land, whether on his own account or as agent or trustee, or who would so receive the rent if the building or land were let to a tenant, but except in sections 74 and 75 does not include the Government:—

2. For sections 58 and 59 of the said Act the following shall be substituted, namely:—

"58. Every tax payable under section 41, clause (a), (b) or (c), or section 42, 43 or 44, in respect of any building or land, shall be payable jointly and severally by all persons who have been either owners or occupiers of the building or land at any time during the year of assessment, or, when the tax is payable by instalments, at any time during the period in respect of which the instalment is payable.

"59. (1) In the absence of any agreement to the contrary between an owner and an occupier of any building or land, any tax payable under section 41, clause (a), (b) or (c), which is paid by or recovered from the occupier, shall be recoverable by him from the owner, and any tax payable under section 42, 43 or 44, which is paid by or recovered from the owner, shall be recoverable by him from the occupier.

(2) A sum recoverable under sub-section (1) by an occupier from an owner may be deducted by the occupier from any rent due or afterwards accruing due from him to the owner."

3. Act XI of 1885 (*an Act to correct an error in the Burma Municipal Act, 1884*) is hereby repealed.

XVII of 1884.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to overcome a difficulty which has arisen from the fact that very many buildings in Rangoon are let out in apartments by the day, and that it is therefore almost impossible to levy from occupiers the taxes leviable under sections 42, 43 and 44 of the Burma Municipal Act, 1884. The only course open to the municipal authorities is to hold owners responsible for all taxes. Owners can, and do, take taxes into consideration in determining the rents of tenements.

The 23rd October, 1888.

C. U. AITCHISON.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th October, 1888:

NO. 23 OF 1888.

A Bill to provide for the Establishment of a Village-system and amend the Law relating to Rural Police in Lower Burma.

WHEREAS it is expedient to provide for the establishment of a village-system and amend the law relating to the rural police in Lower Burma; It is hereby enacted as follows:—

1. (1) This Act may be called the Lower Burma Rural Police Act, 1888.
Title, extent, commencement and repeal.

(2) It extends to the whole of Lower Burma; and

(3) This section and sections 11 to 23 (both inclusive) shall come into force at once.

(4) The other sections shall not come into force in any part of Lower Burma until the Local Government extends them thereto.

(5) Such extension shall be by notification in the Burma Gazette, describing the part of Lower Burma to which the sections are extended and the day on which they are to take effect therein.

(6) On and from that day sections 12 to 21 (both inclusive) of the Burma District Cesses and Rural Police Act, 1880, shall be repealed as regards that part.

[Reg. XIV, 1887, s. 2.]

2. (1) For the purposes of this Act "village" includes—

- (a) village-lands,
- (b) rivers passing through or by, and lakes adjacent to, those lands, and
- (c) a group of villages.

(2) The Deputy Commissioner may determine the limits of a village for the purposes of this Act.

[Reg. XIV, 1887, s. 3.]

Appointment of headman.

3. (1) The Deputy Commissioner shall appoint a headman in every village.

(2) In appointing a headman the Deputy Commissioner shall have regard, so far as circumstances admit, to any established custom which may exist respecting the right of nomination or succession or otherwise and to claims based thereon.

(4) When in any village there are two or more headmen, the Deputy Commissioner shall decide which of them is to be the headman for the purposes of this Act, and, with the previous sanction of the Commissioner, may make rules to define and regulate their relations to each other.

(4) The Deputy Commissioner may appoint a rural policeman or more than one such policeman in any village.

4. For clause (a) of section 9 of the Burma District Cess and Rural Police Act, 1880, the following shall be substituted, namely:—

"(a) the remuneration of the headmen and the maintenance of the rural police appointed under the Lower Burma Rural Police Act, 1888".

5. For section 45 of the Code of Criminal Procedure, 1882, the following shall be substituted, namely:—

"45. (1) A headman appointed under the Lower Burma Rural Police Act, 1888, shall forthwith communicate to the nearest Magistrate, or to the officer in charge of the nearest police-station or military post, whichever is the nearer, any information which he may obtain respecting—

- (a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in his village;
- (b) the resort to any place within, or the passage through, his village of any person whom he knows, or reasonably suspects, to be a dacoit, robber, escaped convict or proclaimed offender;
- (c) the commission of, or attempt or intention to commit, within his village any of the following offences, namely:—
 - (i) murder,

- (ii) culpable homicide not amounting to murder,
- (iii) dacoity,
- (iv) robbery,
- (v) offence against the Indian Arms Act, 1878, and
- (vi) any other offence respecting which the Deputy Commissioner by general or special order, made with the previous sanction of the Commissioner, directs him to communicate information:

(d) the occurrence in his village of any sudden or unnatural death, or of any death under suspicious circumstances.

"(2) In sub-section (1) 'village' has the meaning assigned to that word in the Lower Burma Rural Police Act, 1888."

[Reg. XIV,
1887, s. 5.]

6. (1) The headman of a village shall be bound—

- (a) to investigate every offence respecting which he is required by section 45 of the Code of Criminal Procedure, 1882, to communicate information;
- (b) to search for and arrest any person whom he has reason to believe to have been concerned in the commission or attempted commission of any such offence, and to recover, if possible, any property taken by any such person;
- (c) to arrest any person found lurking within the limits of the village who cannot give a satisfactory account of himself;
- (d) to forward as soon as may be to the nearest police-station or military post any person arrested by him or made over to his custody, together with any weapon or other article likely to be useful as evidence;
- (e) to resist any unlawful attack made upon the village;
- (f) to take such measures and execute such works for the protection of the village and for keeping open the communications between it and adjacent posts as the Deputy Commissioner may direct;
- (g) on the written order of the Deputy Commissioner, or other Magistrate not below the rank of Myoók, to collect and furnish on payment supplies of food or carriage for troops or police posted in or near, or marching through, the village.
- (h) on the requisition of any Magistrate not below the rank of Myoók, to furnish labourers for the making or repair of roads, embankments or other public works;
- (i) to collect or aid in collecting revenue and other money due to the Government from residents of the village or persons holding land therein;
- (j) to allot unoccupied land within the village for cultivation or house-building up to such limit and on such conditions as the Deputy Commissioner may direct;
- (k) if so ordered, and in accordance with such rules as may be made in this behalf by the Commissioner with the previous

sanction of the Local Government, to register all births and deaths which take place within the village, and any other vital statistics which may be prescribed by such rules;

- (l) to take such measures for the prevention of public nuisances and for the general sanitation of the village as may be prescribed in any rules made in this behalf by the Commissioner with the sanction of the Local Government;
- (m) to supply to the best of his ability any local information which any Magistrate or officer of police may require; and,
- (n) generally, to assist all officers of the Government in the execution of their public duties.

(2) Every rural policeman shall be bound to perform such duties similar to those imposed on a headman by sub-section (1) as may be imposed upon him by rules made by the Local Government in this behalf.

7. (1) If any of the offences mentioned in the Disposal of petty next following sub-section criminal cases by headman is committed in a village, the headman of the village may, on complaint made to him within eight days from the date of the commission of the offence, take cognizance of it and try any person accused thereof.

(2) The offences referred to in sub-section (1) are the following, namely,—

- (a) assault;
- (b) theft when the value of the property stolen does not exceed five rupees;
- (c) mischief when the mischief causes damage to an amount not exceeding five rupees;
- (d) criminal trespass; and
- (e) any other offence which the Local Government may, by notification in the Burma Gazette, declare to be triable by a headman under sub-section (1).

(3) If the accused is convicted, he may be sentenced to fine not exceeding five rupees or, if the offence was theft or mischief, twice the value of the property stolen or twice the amount of the damage caused, as the case may be, or to confinement in such place as the Deputy Commissioner may appoint in this behalf for a term not exceeding twenty-four hours, or to both.

(4) A headman specially empowered by the Local Government in this behalf may, on complaint, try any person accused of theft or mischief when the value of the property stolen or the amount of the damage caused does not exceed fifty rupees, and may, in any case so triable by him, sentence the accused, on conviction, to fine not exceeding fifty rupees, or to confinement in any place appointed as aforesaid for a term not exceeding fifteen days, or to both.

(5) Proceedings under this section shall be held in the presence of the complainant and the accused.

(6) The offence out of which the proceedings have arisen may be compounded at any time before the headman pronounces his decision.

X of 1882.

(7) The proceedings need not be reduced to writing, but such record shall be kept of the cases decided as the Deputy Commissioner directs.

(8) Any fine imposed for an offence referred to in this section may be awarded as compensation to any person injured by the offence.

(9) A fee of one rupee may be levied on a complaint under sub-section (1) and of two rupees on a complaint under sub-section (4).

(10) No other fee shall be leviable in any case under this section.

(11) If the accused is convicted, the amount of any fee paid in respect of the complaint shall be recovered from him and repaid to the complainant.

[Reg. XIV,
1887, s. 7.]

8. If a headman or a rural policeman neglects to perform any of the duties imposed upon him by this

Penalty for neglect of duty or abuse of authority by headman or rural policeman.

Act or any rule thereunder, or abuses any of the powers conferred upon him by this Act or any such rule, he shall be liable, by order of the Deputy Commissioner, to pay a fine not exceeding fifty rupees, or to be suspended from office for a period not exceeding six months, or to be dismissed from office.

[Reg. XIV,
1887, s. 8.]

9. (1) Every person residing in a village shall, on the requisition of the headman or of a rural policeman, be bound to assist him in the execution of his public duties.

Obligation on villagers to aid headman and rural policeman.

(2) If any such person refuses or neglects to comply with the requisition of the headman or rural policeman, he shall, in the absence of reasonable excuse, be liable, by order of the headman, to fine not exceeding five rupees, or to confinement in such place as the Deputy Commissioner may appoint in this behalf for a term not exceeding twenty-four hours, or to both, or, on conviction by a Magistrate, to fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

[cf. Reg. VIII
of 1886.]

10. (1) The Local Government may, by notification in the Burma Gazette, invest any headman with the powers of a Civil Court

Civil jurisdiction of headman.

for the trial of suits between persons of whom both or all, as the case may be, reside within his village, and may, by general or special order notified in the Burma Gazette, specify the classes, and the value not exceeding twenty rupees, of the suits which such headman may try.

(2) The Local Government may at any time cancel or vary any such notification or order.

(3) In any suit tried in exercise of powers conferred under sub-section (1), the decision of the headman shall, subject to revision by such authority as the Local Government may appoint in this behalf, be final.

XIV of 1882.

(4) Notwithstanding anything in the Code of Civil Procedure, a person shall not be bound to institute a suit in the Court of a headman.

(5) A fee of ten per centum of the value of the suit shall be paid on its institution in the Court of a headman, and no other fee shall be paid for the issue of processes or otherwise.

II. (1) The Deputy Commissioner may, with the sanction of the Com- [Reg. XIV, 1887, s. 9.]

Fine on villagers accessory to crime. missioner, impose fines on all or any residents of a village if after enquiry he has found—

(a) that they have colluded with or harboured or failed to take all reasonable means to prevent the escape of any criminal;

(b) that they have suppressed or combined to suppress evidence in any criminal case;

(c) that, stolen property having been tracked to their village, they have failed or neglected to restore the property or to take on the track beyond the limits of their village.

(2) In either of the following cases, namely:—

(a) when a fine is imposed on the ground stated in clause (a) or in clause (b) of sub-section (1), and the offence of which the criminal is accused, or to which the criminal case relates, is mischief by fire, dacoity, robbery or cattle-theft,

(b) when a fine is imposed on the ground stated in clause (c) of sub-section (1),

a sum not exceeding the amount of any damage caused or the value of the property stolen may be given out of the fine as compensation to the owner of the damaged or stolen property.

12. When within any village a person is [Reg. XIV, 1887, s. 10.]

Fine on villagers where homicide is committed or attempted. dangerously or fatally wounded by unlawful attack, or the body is found of a person believed to have

been unlawfully killed, the residents of the village shall be deemed to have committed an offence under the last foregoing section unless they can show that they—

(a) had not an opportunity of preventing the offence or arresting the offender, or

(b) have used all reasonable means to bring the offender to justice.

13. (1) If any person comes into a village of [Reg. XIV, 1887, s. 11.]

Notification of residence of strangers in villages. which he is not a resident, he or the person, if any, in whose house he is living shall, within twelve

hours of his coming to the village, report to the headman his arrival, his name and occupation, and the name of the place where he last resided.

(2) The departure from a village of a person whose arrival has been reported under sub-section (1) shall also be reported by the person, if any, in whose house he has been living.

14. A person who is not a resident of a village [Reg. XIV, 1887, s. 12.]

Prohibition of unauthorized settlement of strangers in villages. shall not build any house, hut or enclosure, or take up his residence in the village, without the permission of the headman.

[Reg. XIV, 1887, s. 13.] 15. (1) When the Deputy Commissioner has reason to believe, on the report of a headman or otherwise, that a person residing in any place is in the habit of harbouring, aiding or abetting dacoits, robbers or cattle-thieves, or has taken up his residence in that place for the purpose of such harbouring, aiding or abetting, he may require that person to leave that place and to reside in such other place as the Deputy Commissioner may direct.

[Reg. XIV, 1887, s. 14.] 16. (1) If a person contravenes the provisions of section 13 or section 14, he shall be punished, on conviction by a Magistrate, with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to fifteen days, or with both.

(2) If a person disobeys a requisition under section 15, he shall be punished, on conviction by a Magistrate, with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

[Reg. XIV, 1887, s. 15.] 17. (1) A fine imposed under this Act may be recovered as if it were an arrear of land-revenue.

(2) A fine imposed under section 11 may, with the previous sanction of the Local Government, be commuted into an annual addition to the capitation-tax payable by the residents of the village or to the land-revenue payable in respect of the village-lands, or, in the case of revenue-free lands, to an annual assessment at such rates and for such term of years as the Local Government may direct.

[Act XVII, 1887, s. 30.] 18. (1) The emoluments of a headman or rural policeman shall not be liable to attachment in execution of a decree or order of any Civil Court.

(2) An assignment of, or charge on, or an agreement to assign or charge, any such emoluments shall be void.

[New.] (3) Where the emoluments of a headman consist wholly or in part of a grant of land, the title to the grant shall pass with the office of headman, and the Deputy Commissioner may enforce the surrender of the land to the person for the time being holding that office.

[Act II, 1880, s. 20.] 19. (1) No prosecution shall be instituted against any headman or rural policeman for any act done by him in such capacity under the authority of a warrant issued by a Magistrate, notwithstanding any defect of jurisdiction in the Magistrate.

[Act II, 1880, s. 16.] (2) No complaint against a headman or rural policeman of any act or omission punishable under this Act shall be entertained by any Court unless the prosecution is instituted by order of or under authority from the Deputy Commissioner.

20. (1) An appeal shall not lie from any order made under this Act.

(2) But the Deputy Commissioner may revise any such order made by any officer subordinate to him, and the Commissioner may revise any such order made by the Deputy Commissioner.

(3) Save as provided by this section, an order made under this Act shall be final and shall not be liable to be contested by suit or otherwise.

21. The Local Government may authorise any Assistant Commissioner, by name or by virtue of his office, to exercise in any district or part of a district all or any of the powers of the Deputy Commissioner under this Act.

22. (1) The Local Government may, subject to the control of the Governor General in Council, make rules consistent with this Act—

(a) conferring on rural policemen any powers or privileges which may be exercised or are enjoyed by police-officers under any enactment for the time being in force;

(b) prescribing the duties to be performed by rural policemen, including any duties imposed upon police-officers by any enactment for the time being in force;

(c) regulating the exercise, enjoyment and performance of those powers, privileges and duties by rural policemen;

(d) prescribing the procedure to be observed by a headman trying a suit in exercise of powers conferred under section 10, sub-section (1), the record which he is to make and the mode in which it is to be disposed of, the manner in which a decree made by him may be executed by himself, and the manner, circumstances and conditions in and on which such a decree may be sent for execution to, and be executed by, another headman or a Civil Court;

(e) for the disposal of fees levied under section 7, sub-section (g), and section 10, sub-section (j); and,

(f) generally, for carrying into effect the purposes of this Act.

(2) All such rules shall be published in the Burma Gazette and may be varied as the Local Government thinks fit.

23. This Act shall take effect notwithstanding anything in any enactment for the time being in force.

STATEMENT OF OBJECTS AND REASONS.

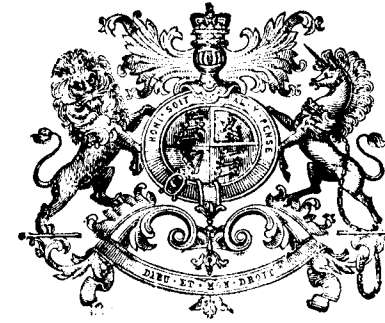
The primary object of this Bill is to increase the authority of village-headmen in Lower Burma, and, the social conditions of Upper and Lower Burma being very similar, it is considered by the most experienced local authorities that the best means of attaining this object will be to extend to Lower Burma the provisions of the Upper Burma Village Regulation, 1887. That Regulation, which gave to headmen several of the powers exercisable by patels in the Bombay Presidency and to Deputy Commissioners some of the powers exercisable by Deputy Commissioners on the Punjab Frontier, has been in force in Upper Burma for nearly a year, and its operation there has proved to be entirely beneficial.

Provision, similar to that in the Punjab Land-revenue Act, 1887, has been made with respect to the inalienability of the emoluments of village-officers.

The 23rd October, 1888.

C. U. AITCHISON.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 22, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st December, 1888 :—

No. 24 OF 1888.

A Bill to Abolish the Office of Coroner of Madras.

WHEREAS it is expedient to abolish the office of Coroner of Madras and for this purpose to amend the Coroners Act, 1871, the Coroners Act, 1881, and the Code of Criminal Procedure, 1882; It is hereby enacted as follows :—

1. The Act shall come into force on such day as the Governor of Fort St. George in Council may by notification in the Fort St. George Gazette appoint in this behalf.

2. For section 3 of the Coroners Act, 1871, the following shall be substituted, namely :—

“3. Within the local limits of the ordinary original civil jurisdiction of each of the High Courts of Judicature at Fort William and Bombay there shall be a Coroner. Such Coroners shall be called respectively the Coroner of Calcutta and the Coroner of Bombay.”

3. (1) For the preamble to the Coroners Act, 1881, the following shall be substituted, namely :—

“Whereas it is expedient to amend the Coroners Act, 1871, in manner hereinafter appearing; It is hereby enacted as follows :—”

(2) Sections 2, 3 and 4 of the Coroners Act, 1881, are hereby repealed.

Amendment of the Code of Criminal Procedure.

4. (1) Clause (e) of section 1 of the Code of Criminal Procedure, 1882, is hereby repealed.

(2) Sections 174, 175 and 176 of that Code shall, in their application to the area comprised within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras, be read as follows, namely :—

Enquiry into violent or suspicious death to be ordinarily conducted by officer in charge of police-station, “174. (1) An officer in charge of a police-station, on receiving information that a person—

- (a) has committed suicide, or
- (b) has been killed by another, or by an animal, or by machinery, or by an accident, or
- (c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the Commissioner of Police and, in the absence of any rule or order under the next following section to the contrary, proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

“(2) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the office of the Commissioner of Police.

“(3) In any of the following cases, namely :—

- (a) in any case in which the Local Government may by rule so require,
- (b) in any case in which there is any doubt regarding the cause of death,
- (c) in any other case in which the police-officer considers it expedient so to do,

he shall cause the body to be examined by a medical officer, appointed in this behalf by the Local Government.

“(4) The police-officer may, by order in writing, summon two or more persons as aforesaid for the purpose of the investigation under this section, and any other person who appears to be acquainted with the facts,

of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

"(5) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Power to make rules and orders with respect to investigations by other authorities than officers in charge of police-stations.

"175. (1) The Local Government may make rules, and the Commissioner of Police may from time to time make general or special orders consistent with those rules, defining—

(a) the circumstances in which an officer in charge of a police-station, after giving intimation to the Commissioner of Police of any such event as is mentioned in clause (a), clause (b) or clause (c) of sub-section (1) of the last foregoing section, is not to proceed to discharge any of the further functions of such an officer under that section, and

(b) the circumstances in which, and in such circumstances the authority by whom, those further functions are to be discharged.

(2) The authority to whom the discharge of such further functions may be entrusted by rules or orders

under sub-section (1) may be the Commissioner of Police or any of his Deputies or Assistants or any other police-officer of rank not below that of Inspector, and such authority, in discharge of those functions, may exercise any of the powers and shall perform the duties which, but for such rules or orders, might be exercised and should be performed by the officer in charge of the police-station.

"176. (1) The Chief Presidency Magistrate, or such other Presidency Magistrate as the Chief Presidency Magistrate may depute in this behalf, shall, when any person dies while in the custody of the police or in prison, and may in any other case mentioned in section 174, sub-section (1), clause (a), clause (b) or clause (c), hold an inquiry into the cause of death, either instead of, or in addition to, the investigation under either of the two last foregoing sections; and, where he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence, and shall record any evidence taken by him in the course of the inquiry as nearly as may be in the manner prescribed in section 362.

"(2) Whenever the Commissioner of Police or a Presidency Magistrate considers it expedient, for the discovery of the cause of the death of a deceased person whose body has been interred, that an examination should be made of the dead body, such Commissioner or Magistrate, as the case may be, may cause the body to be disinterred and examined."

STATEMENT OF OBJECTS AND REASONS.

THE Governor of Fort St. George in Council having, after consultation with the High Court, decided to abolish the office of Coroner of Madras, it has become necessary to introduce this Bill for the purpose of amending the Coroners Acts of 1871 and 1881 and accommodating to the circumstances of a presidency-town the provisions of the Code of Criminal Procedure, 1882, which relate to inquests, in so far as those provisions are to have effect in the Town of Madras.

The 21st December, 1888.

P. P. HUTCHINS.

S. HARVEY JAMES,

Secretary to the Government of India.

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